

An Historical Perspective on the Juvenile Court Movement in Chicago (1890-1930), and Its Impact and Continuing Social and Legal Implications

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“[I]f we are ever going to fulfill the possibility of life for all men, not only in Chicago, but in America and in the world, the spirit of youth must not be neglected.” -- Jesse Binford¹

The development of protective legislation for youth—the so-called “history of child-saving”—slowly emerged along with the evolution of modern theories of criminology, penal reform, and the reformatory system. Its earliest roots go as far back as Tudor England. The need was accentuated in the era of Charles Dickens when incarcerated juveniles suffered in deplorable

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¹Studs Terkel. *Division Street: America*, “Epilogue: Jesse Binford”, 381 (New York: The New Press, 1993). Born in 1876, Binford moved to Chicago and in 1906 became a resident of Hull House for sixty years. From 1916 to 1952, she was the director of the Juvenile Protective Association, remaining a living link to Jane Addams who had founded Hull House and first established the Juvenile Court Committee in 1901. *The National Archives Learning Curve*, <http://www.spartacus.schoolnet.co.uk/USAWbinford.htm>. (See also, Terkel, 378, 380).

conditions. While reform accelerated during the settlement house movement of the nineteenth century, in America there had been efforts from the Puritans to various innovations in Massachusetts and New York in the 1840s and 1850s, including juvenile reformatories, house of refuge, mandatory schooling with supporting taxes, and various aid societies.² This movement reflected the view that wayward juveniles were the “object of pity and social concern” to be treated as “misguided rather than wicked or vicious”.³ The Progressive reformers, as “earnest Christians who believed in voluntary and private charity and the power of free will as an agent for good” followed suit, advancing a “social gospel” rooted in the Protestant belief in “an organic human brotherhood of Christ” in which public sympathy would be stimulated to confront the plight of the poor and the immigrant.⁴ The first jurisdiction to create a well-developed system of probation officers was Buffalo, New York. Various reforms were instituted in New York, Massachusetts, and South Australia in the mid-1880s to lessen the punitive nature of proceedings against juveniles.⁵ Nonetheless, the police generally treated juvenile offenders in America “based on a doctrine of fear, degradation, and punishment”.⁶

Similarly, “there was the demoralizing irresponsibility with which juvenile offenders were treated in Chicago. It was not uncommon that “children were arrested, kept in police stations, tried by police justices, and sentenced to fine and imprisonment”. Even when it was determined that “imprisonment for the child was plainly demoralizing” the alternative was

²Graham Parker. “The Juvenile Court Movement,” University of Toronto Law Journal Vol. 26, 140-172 (1976); Michael Grossberg, “Changing Conceptions of Child Welfare: 1820-1935” in Margaret K. Rosenheim, Franklin E. Zimring, David S. Tanenhaus, and Bernardine Dohrn (eds.). A Century of Juvenile Justice at 14-19 (Chicago and London: University of Chicago Press 2002).

For further insight into the complex and often surprisingly thoughtful and, for its day, enlightened view of child-rearing and their nurture, discipline, education, and protection in Puritan society, see Edmund S. Morgan, The Puritan Family: Religion and Domestic Relations in Seventeenth Century New England 87-108, 136-140, 169-186 (New York and London: Harper Torchbooks, The Academy Library 1944, 1966).

³Parker, supra note 2, at 140 (first quotation); Mark F. Testa and Frank F. Furstenberg, “The Social Ecology of Child Endangerment” in Rosenheim, et al, supra note 2, at 240 (second quotation).

⁴Parker, supra note 2, at 141.

⁵ Id., at 169-172. Prominent efforts in this regard were the Society for the Prevention to Cruelty to Children and the New York Children’s Aid Society. Grossberg, supra note 2, at 18-20, 25-26.

⁶Benjamin J. Lindsey, “The Boy and the Court,” Charities, Vol. 13 (Jan. 7, 1905). The author was one of the most respected juvenile court judges in America at the turn of the 20th Century.

equally oppressive. “[The] payment of the fine by a father whose poverty was obviously a factor in his child’s waywardness and neglected condition, only aggravated that poverty”.⁷

Nevertheless, Chicago deserves “the honor of having established the first juvenile court, on 1 July 1899. The pressing need was generally felt, the country was ripe for the movement, and there quickly followed the inauguration of juvenile courts in Denver, Indianapolis, New York, Philadelphia, Washington, until some thirty cities [had] them”. The leaders of the national movement were psychologists like G. Stanley Hall (who believed “institutionalization destroyed individual development”) and “female activists” in Illinois (where “members of the Chicago women’s Club teamed up with the women of the Hull House settlement to navigate a juvenile court law through the state legislature”) and in Pennsylvania (where Hannah Kent Schoff and the National Congress of Mothers “mobilized thousands of women on behalf of child-saving”). In neighboring Iowa, these “three circles of reform interacted”: “early developmental psychology”, “child-saving efforts”, and an ideology of “acting in the best interest of children”.⁸

The concept rapidly spread abroad to Australia, Belgium, Canada, England, France, Germany, Hungary, Ireland, Italy, and Sweden.⁹ The Chicago effort was unique because it was a fundamental structural change –“a separate docket, a separate court” with separate judges possessing full jurisdiction over all juvenile cases and exercising independent discretion with access to separate detention facilities.¹⁰ Thus, “when Chicago established a special juvenile court and Rhode Island, Massachusetts, and Indiana began to employ the common law doctrine of parens patriae to authorize their legislatures to protect children from themselves and their parents”¹¹ and virtually the rest of the world followed, systemic reform took hold.

THE FIRST FORMAL LEGISLATIVE INITIATIVE

The very first law in the nation to provide a comprehensive approach to juvenile justice was passed in Illinois to authorize the creation of a special juvenile court in Chicago was entitled

⁷Memorandum of Julia Lathrop (3 May 1917), Juvenile Protective Association Collection [Hereafter, JPA], University of Illinois at Chicago Special Collections, Supplement 1, Box 3, folder 18, at 2. University of Illinois at Chicago, Juvenile Protective Association Records Inventory, <http://www.uic.edu/depts/lib/specialcoll/services/rjd/findingaids/JPAAb.jtml>; http.

⁸See generally, “The Passage of the Juvenile Court Law in Iowa, 1904” at 1-3, <http://web.grinnell.edu/courses/His/s02/his354-01/CBH-JC04/Intro2.htm>

⁹DeLacy, William W. “The Juvenile Courts,” 3-4 in The Catholic Encyclopedia. New York: Robert Appleton Company, 1910, <http://www.newadvent.org/athen/0858c.htm>; Julian W. Mack, “The Juvenile Court,” Harvard Law Review, Vol. 23, 104-123 (107) (1909).

¹⁰Parker, supra note 2, at 171-172.

¹¹Smith, Harold, “Juvenile Justice” in Kermit L. Hall (ed.), The Oxford Companion to the Supreme Court of the United States 478 (Oxford and New York: Oxford University Press, 1992).

“An Act to Regulate the Treatment and Control of Dependent, Neglected and Delinquent Children.”¹² After much opposition by the industrial school community since those institutions received children as wards from the courts without criminal convictions¹³, a concerted effort to keep the reforming woman away from the debate, and a last minute long distance telephone call from influential Hull House, it was passed. Recognized as monumental, it had the support of the Chicago Bar Association, several reform groups (including the Chicago Women’s Clubs), a coalition of judges (including the main drafter, Judge Harvey B. Hurd), and prominent community leaders and activists.¹⁴

The statutory scheme was truly ground-breaking for its time. “Males under 17 and females under 18” who were “destitute, homeless, abandoned”, or “dependent upon public support” or “without proper parental care or guardianship” were brought under its authority in Section 169. Then, Section 171 empowered counties of “500,000 or more in population [i.e. Cook County]” to appoint “one or more judges to specifically “hear all cases” in a “special court room to be designated as the juvenile court room”. Further, the court was to maintain separate and distinct “juvenile court record books”.¹⁵

A “*dependent or neglected*” child is one that “habitually begs”, is found in a “house of ill-repute”, a victim of “neglect, cruelty or depravity”, housed in an “unfit place” or engaged in “begging, peddling or selling”. A “*delinquent*” child was one who is “incorrigible”; “knowingly associates with thieves, vicious or immoral persons”; “grows up in idleness or crime”; is “absent from the home” without permission; frequents a “house of ill repute”, “dram shop”, or “pool rooms”; “wanders about the streets”; “habitually uses vile, profane, vulgar or obscene language”; “jumps trains”; or engages in “immoral conduct in any “public place” or “school house”.

The Court could entrust a “*dependent or neglected*” child “to the care of some suitable state institution”, “some reputable person or good moral character”, “a training school or industrial school” or a “hospital or institution for treatment or special care”. Sections 175 and 176 permitted a “guardianship” to any association or individual”.

Under section 177, a “*delinquent*” child could be placed under the care of a “probation officer or any other person”, in a “training or industrial school” or with the State Home for Female Juvenile Offenders or “any suitable institution”. While section 174 created probation

¹²Illinois Laws 1899, p. 131; Illinois Revised Statutes (Hurd 1905-1906), Chapter 23, Sections 169 - 179, pp. 264-270.

¹³See In re Ferrier, 103 Ill. 367 (1882).

¹⁴ Memorandum of Julia Lathrop (3 May 1917), JPA Box 1, folder 19, 4-5.

¹⁵During the period of 1894 to 1898, “[t]here were no records of cases coming to all courts so that the same child could be let off by one judge and punished by another again and again without any knowledge of the child’s history”. Memorandum of Julia Lathrop (3 May 1917), JPA Supplement 1, Box 3, folder 18, at 2-3.

officers, there was as yet no public funding.¹⁶ Pending and future cases were transferred from “justice, police, or magistrate courts” to the new Juvenile Court (Section 178). No child under the age of 12 could be sentenced to jail and “it shall be unlawful to confine such child in the same building with such adult offenders” (Section 179). Every single provision was remarkable.

The Act represented a sea change in thinking by not only creating the “first statewide juvenile court act”¹⁷ but also by “incorporating judicial discretion and a social welfare approach.”¹⁸ The great innovation was “making the court permissive, not compulsory, and thereby avoiding the constitutional difficulty” of providing all of the due process rights of a formal trial “so that judges could be empowered to “dispose of the child as the child’s best interest required and not be mere automatons”.¹⁹ It “revolutionized the treatment of dependent, neglected, and delinquent children” with an approach which “emphasized individualized treatment of cases”²⁰ as “the juvenile court would act as a nurturing parent”.²¹

The premise of this court system was that “treatment [be] differentiated to suit his special needs; [and] that courts should be agencies for the rescue as well as the punishment of children”²². But latter became secondary to asking these fundamental questions about the youthful offender: “What is he, how has become what he is, and what may best be done in his interest and in the interest of the State to save him from a downward career?”²³ However, to truly understand the Act, and its subsequent history, we must step back into the Progressive Era of 1880 to 1920 and closely consider the driving economic, social, and political forces at play, as well as both the cause itself and the personalities involved.

¹⁶Eventually, funding would be provided by the JPA. See Lathrop, *id* and Karl Detzer, “Miss Jessie Fights for the Kids,” Readers Digest (December 1950), condensed from the Christian Herald (December 1950). In fact, Jessie Binford worked full time for JPA for seven years. She raised funds to pay for probation officers and other court costs, and supported “the nation’s first psychopathic clinic”. After she had become Executive Director in 1916, the circuit court actually asked JPA to pick the probation officers. JPA Box 11, folder 153.

¹⁷“Juvenile Court,” Black’s Law Dictionary. St. Paul: West Publishing, 8th Ed. 2004.

¹⁸“Juvenile court”, Encyclopedia of Children and Childhood in History and Society, <http://www.faqs.org/childhood/In-Ke/Juvenile-Court.html>

¹⁹Memorandum of Julia Lathrop (3 May 1917), JPA Supplement 1, Box 3, folder 18, at 4.

²⁰“Juvenile courts”, <http://www.encyclopedia.chicagohistory.org/pages/682.html>

²¹Nicolle Bettis, “Jane Addams, 1860-1935”—Women’s Intellectual Contributions to the Study of Mind and Society at 6, <http://www.webster.edu/~woolflm/janeaddams.html>.

²²Mack, *supra* note 9, at 104.

²³*Id.*, at 119-120. These very questions posed in this article were quoted by the United States Supreme Court fifty-seven years later. See In re Gault, 387 U.S. 1, 15, and fn. 16 (1966).

THE PROGRESSIVE CAUSE AND THE DESTRUCTIVE URBAN ENVIRONMENT

The two most prominent moving forces behind the Illinois Juvenile Court law were the Chicago Woman's Club and the Hull House²⁴ Community. Although united in their goals, they had differing motivations, sensibilities, and world views.

The Chicago Woman's Club members "were prompted by their identification as mothers and the perceptions of family life and childhood". As "true maternalists", they were committed to "ideals of motherhood and domesticity" of middle class women of the late 19th century. They sought to extend "their maternal instincts beyond their homes and to apply their domestic values to society at large". White, married, middle class, Protestant, conservative, socially elite, mothers of older or grown children, and gender-conscious, they were community minded reformists channeling their domestic roles into public activism in their leisure hours. These society women, or so-called "Gilded Age Patrons, were a generation of female philanthropists who generously supported a city's charitable institutions."²⁵

²⁴"Hull House", <http://www.encyclopedia.chicagohistory.org/pages/615.html>. The influence of Hull House cannot be understated in any discussion about the fight for more progressive approaches to child protection in particular and the improvement of urban life in general. This excerpt provides an excellent summary of the breadth of the Hull House commitment to reform.

"On the municipal level, they helped establish the first juvenile court in the United States, fought for neighborhood parks and playgrounds, agitated for branch libraries, and initiated housing reform. At the state level, Hull-House residents initiated and lobbied for protective legislation for women and children, child labor laws, occupational safety and health provisions, compulsory education, protection of immigrants, and Illinois' pioneer mothers' pension law. On the federal level, Hull House residents joined with settlement house leaders and reformers nationwide to fight for national child labor laws, women's suffrage, the establishment of a Children's Bureau, unemployment compensation, workers' compensation, and the many other reforms that made up the Progressive agenda in the first two decades of the twentieth century".

See also, Larry Bennett, The Third City: Chicago and American Urbanism 124-125 (Chicago and London: University of Chicago Press 2010)(kindergartens, boys and girls clubs, art camps, adult education classes, securing government insurance and widow's pensions; promoting social, housing, working condition reforms and support services).

²⁵Elizabeth J. Clapp (University of Leichester) "The Chicago Juvenile Court Movement in the 1890s," at 2," <http://www.le.ac.uk/hi/teaching/papers/clapp1.html>. (The author is a professor of American studies.); David S. Tanenhaus, "The Evolution of Juvenile Courts in the Early Twentieth Century: Beyond the Myth of Immaculate Construction," in Rosenheim, et al., supra note 2, at 47.

For these women, “rapid industrialization and urbanization of American society, especially obvious in Chicago, was having an unwholesome and detrimental effect upon the family. Dire economic conditions only aggravated tensions.²⁶ Moreover, the vast influx of immigrants from Eastern and Southern Europe from the 1880s onwards, led to fears that traditional American ideals based on Protestantism would be eroded. Especially, as these, mainly Catholic, families seemed to produce large numbers of children who did not behave in the way in which middle class Americans were expected to behave”. Juvenile delinquency, child labor, two working parents, and unattended children on the streets “horrified” them²⁷.

During the 1880s alone some 5,200,000 people emigrated to the United States.²⁸ That decade saw a substantial migration of Polish, Slavic, Italian, Hungarian, and Yiddish peoples. “The peasants from these lands beyond the Alps lived much closer to serfdom than did the folk of western Europe.”²⁹ In the forty year period from 1880 through 1920, during which the United States became an industrial and agricultural giant and the world’s greatest creditor nation, total immigration to this country exceeded 23,500,000.³⁰ “Chicago more than doubled its population in a single decade from 1880 to 1890.”³¹ The year 1907 alone, saw 1,285,000 immigrants. “By

²⁶Clapp, supra note 26, at 2-3. In the Panic of 1893, the national and local economy had suffered a very significant general downturn. Interest rates were high. The value of securities was low. It was the worst year since 1871 for insurance losses. Thirteen percent of all railroad mileage was in receivership. Sugar prices were down as were cattle and horse sales. The retail clothing market had declined 15 to 20%. Chicago Daily News Almanac and Year Book for 1893 at 360, 362, 364, 366 (Chicago: Chicago Daily News 1894).

It was a “grave industrial crisis”. Businesses faltered with “startling rapidity” and “idle men thronged the streets hunting for work” as “the prices of wheat and corn dropped to a ruinous level”. Charles A. Beard and Mary Beard. History of the United States 465 (New York: Macmillan Company 1924). Nationwide, there were “15,000 commercial failures with aggregate liabilities of \$347,000,000”. Some 575 banks closed and 156 railroads fell into financial danger. W.E. Woodward. A New American History 674 (New York: Garden City Pub. Co.1938).

²⁷Clapp, supra note 26, at 3. See John Higham, “Origins of Immigration Restriction, 1882-1897: A Social Analysis 77-78, Mississippi Historical Review, Vol. 39 (June 1952), on the fear that unrestricted immigration and universal suffrage would undermine ethnic homogeneity.

²⁸John F. Kennedy, A Nation of Immigrants 39 (New York: Popular Library Revised Edition 1964).

²⁹ John Higham, Strangers in the Land: Patterns of American Nativism 1860 to 1925, at 65 (New York, Atheneum College Edition 1975).

³⁰Kennedy, supra note 29, at 53-54.

³¹Richard Hofstadter, The Age of Reform From Bryan to F.D.R., 173 (New York: Alfred A. Knopf 1955, seventh printing 1966). Each decade from 1880 through 1930 saw Chicago increase its population by at least 487,000. Bennett, supra note 24, at 185; 223, note 17.

1910, 13,345,000 foreign-born persons were living in the United States, or almost one-seventh of the total population.” Familiar English, Irish, German, and Scandinavian faces were giving way to those of Czechs, eastern European Jews, Italians, Hungarians, Poles, Russians, and Slovaks.³²

Confronted with such a significant change in demographics, this maternalist view was similar to the “Eastern patrician intellectuals” of the day who “convert[ed] a doctrine that defined their own sense of nationality into censure of an immigrant throng that displayed very few common traits except the indubitable fact that it was not Anglo-Saxon.”³³

Judged against western European standards, “the masses of southern and eastern Europe were educationally deficient, socially backward, and bizarre in appearance.” In particular, the Italians (“swarthy, more than half of them were illiterate, and almost all the victims of a standard of living lower than that of any other prominent nationalities”) and eastern European Jews (“impoverished, undernourished refugees [who] wore long black coats and untamed beards, practiced a distinctive religious ritual, and spoke their own language—Yiddish—with vivid gesticulations”) bore the brunt of the prejudice born of stereotype.³⁴

Generally speaking, “[t]he native was horrified by the conditions under which the new Americans lived—their slums, their crowding, their unsanitary misery, their alien tongues and religions” and their allegiance to urban political machines.³⁵ By 1914, ideologues railed against them as “strikebreakers and scabs”, “unhygienic and alcoholic” peoples who “reduced living standards”, “raised the rate of illiteracy and insanity”, and “fostered crime and bad morals.”³⁶

The Hull House reformers were “not ‘true maternalists’”. Often college educated (with degrees in the social sciences) and actually living within the community³⁷, they intended to

³²*Id.*, at 176. In 1890 Chicago “approximately three quarters of [its] 1,099,000 residents were either foreign-born or had at least one foreign-born parent.” Bennett, *supra* note 24, at 186.

³³Higham, *supra* note 29, at 95.

³⁴*Id.*, at 65, 66.

³⁵Hofstadter, *supra* note 31, at 176.

³⁶ *Id.*, at 178. Continuing: “[T]hey threatened the position of women with their ‘coarse peasant philosophy of sex’, and debased the educational system with parochial schools . . . [T]hey bred in such numbers that they were increasingly dominant over native stock and thus threatened to overwhelm the ‘American blood’ and bastardize American civilization”. *Id.* at 179, citing Edward A. Ross, *The Old World in the New*, 219, 220, 226-227, 272, 279-280, 286-287 (New York 1914).

³⁷Clapp, *supra* note 26, at 5. See also “Passage of Juvenile Court Law in Iowa,” *supra* note 9, at 2: The reformers were “largely white, middle-class females” who “looked to the juvenile courts to provide working-class children and their families with a measure of the sympathy and social justice denied them in the harsh world of industrial capitalism”.

“apply what they had learnt at college to the practical problems of slum life” through “the use of more ‘scientific’ methods” and social science research in charitable work³⁸. Mostly single, professional, and relatively well-born, they emphasized “compassion, nurture, and sympathy” and “rejected a sentimental view of motherhood in favor of a more ‘scientific’ approach”. Women like Jane Addams believed that youth naturally sought adventure. Thus, their attitude towards delinquency reflected a general “social responsibility in a moral approach” which for the first time exhibited a “contextualized regard for young people”.³⁹

“Their involvement in compiling social surveys of the area gave them a more realistic understanding of the problems these families faced.” To them the “pressures of slum life” and the “increase in the incidence of crime” led to these conclusions. “[I]mmigrant and working families were on the point of breakdown”. In their minds, immigrant parents and their Americanized children” were inevitably at odds. Consequently, “dependent and delinquent children were the result of a maladjustment to city life”⁴⁰. “The settlement house women sought to perform their new roles as social teachers with every device at their disposal—nurseries, evening classes, lectures and lunch programs, health care, and slum clearance”.⁴¹

In the slums of Chicago, New York, and other cities, the 1890s settlement house movement “went beyond traditional humanitarianism in two respects: in wanting to work with the people of the slums as well as for them, and in wanting to learn from them as well as to teach them.” Since most “the poorest sections of the cities were the foreign quarters, most of the people with whom settlement dwellers worked were the immigrants.” So, those workers “gained the fullest understanding, compassion, and respect” for the immigrant community.⁴²

Jane Addams and her ilk sought to tackle the “foreigner’s problems in an empirical way” and to “check family disorganization” by “conserving and celebrating the holidays, customs, folksongs, and languages of the nationalities in the neighborhoods”. By saving the “best” of

³⁸Clapp, supra note 26, at 6; Hofstadter, supra note 31, at 153-155, 198-200.

³⁹Maurice Harrington. The Social Philosophy of Jane Addams 60 (Urbana: University of Illinois Press 2009). For example, Florence Kelley, a contemporary reformer and resident Hull House graduated of Cornell with her thesis addressing the causes and effects of the changing status of children. Tanenhaus, supra note 25, at 46.

⁴⁰Clapp, supra note 26, at 7. Or as Julian Mack had expressed the sentiment with regard to “wayward youth” who had “gone astray”: “Why is it not just and proper to treat these juvenile offenders as we deal with the neglected children, as a wise and merciful father handles his own child?” Quoted in Elizabeth S. Scott, “The Legal Construction of Childhood” in Rosenheim, et al, supra note 2, at 132.

⁴¹Bernard Bailyn, et al. The Great Republic: A History of the American People 963 (Boston and Toronto: Little Brown & Co., 1977).

⁴²Higham, supra note 29, at 119-120.

their own traditions, these new arrivals “had a tangible contribution to the building of American culture” while transitioning into American ways. Thus, “a more genuinely cosmopolitan society might emerge out of the mingling of the old and the new.”⁴³ The reformist model sought to “temper as well as to improve the ordinary course of assimilation” and it “concentrated less on changing the newcomers than on offering them a home.”⁴⁴ In this, they recognized the harsh truism of the day. In the great cities of the East and Midwest—Boston, Chicago, Cleveland, New York, Philadelphia, Pittsburgh, and St. Louis—the original “native stock” was “considerably outnumbered by the foreign-born and their children of the first generation.”⁴⁵

Through collaboration with various charitable organizations both groups established the juvenile courts “across the United States” as “one of the earliest social welfare reforms of the Progressive Era”⁴⁶. Despite their differences, both the Chicago Woman’s Club and Hull House reformers attacked “the inadequacies of the existing system of treating problem children” by making the State “recognize its duty toward these children”. To both, every child deserved “proper life and nurture”. For both groups, modern urban society needed a “legal sanction for informal practices” in order to guarantee that “the state should take responsibility for protecting family life”⁴⁷.

Consequently, when necessary, society could remove children “from a degrading family life”.⁴⁸ Why was there such a consensus among reformers on this practical solution? Very

⁴³*Id.*, at 121. See Testa and Furstenberg in Rosenheim, *supra* note 3, at 247, on “conflict of cultures”; the “Old World’s emphasis on child obedience and wage contributions” and the “New World’s emphasis on personal autonomy and investments in secondary education.”

⁴⁴*Id.*, at 236.

⁴⁵Hofstadter, *supra* note 31, at 176.

⁴⁶Clapp, *supra* note 26, at 1. This approach was consistent with a view that “the middle class citizen” was charged with “personal responsibility to all kinds of social ills. It was his business to do something about them.” Hofstadter, *supra* note 31, at 210.

⁴⁷*Id.*, at 10. The “Juvenile Court Committee”, then the “Juvenile Protective League”, and finally the “Juvenile Protective Association” pressed for institutions which would enhance and support family life such as “parks, playgrounds, free bath, vacation school, communal social centers and the like.” See Amendment to Articles of Association of the Juvenile Court Committee (22 November 1907): JPA Box, 1, folder 10. Conversely, JPA monitored trends viewed as disruptive of traditional family life. See e.g. Howard Moore, “The Care of Illegitimate Children in Chicago,” *Pamphlet* published by the Juvenile Protective Association (December 1912), revealing that during the six months ending May 1, 1912, there were 1,350 illegitimate births in Chicago and only forty-five adoptions. JPA Box 10, folder 130, at 7-8.

⁴⁸“A Plea to take the Small Boy and Girl from the City Street,” *Pamphlet* published by the Board of Education, Children’s League, and the Juvenile Protective Association (n.d.)(circa 1910), JPA Collection, Box 5, folder 82.

simply because wasn't it self-evident that, "After all, caring for children is the world's greatest business,"⁴⁹ and the goal was "to build character—to make good citizens rather than useless criminals."⁵⁰

To place the entire movement into context, we need to recognize this simple "truth": to the reformers of this era the "enemy" was the urban environment itself. Industrialized urban America of the 1880s through the 1930s was a dangerous, threatening, unwholesome, perverted, and perverting world. The city was, by its very nature, destructive to youth.

The Progressives in Chicago, Dallas, Los Angeles, Milwaukee, and New York had a goal of "assimilation" that would be achieved through "tuition free kindergartens, playgrounds and juvenile courts". They believed that poor, immigrant, and minority children "lacked a proper family environment". Kindergartens would encourage "Americanization" and "middle-class values". Playgrounds would offer "wholesome supervised activity" and isolation from "unsavory places". Juvenile courts would rescue youth from abusive families.⁵¹ In this fundamental way, Progressivism sought to confront the dual dangers of plutocracy and poverty.⁵²

The ethnic polyglot of the Harrison-Halsted neighborhood in the 1890s typified this urban setting. This was the "Chicago ghetto"—with "thousands of Jews from Russia and eastern Europe" the Irish, Poles, Bohemians, Italians, Mexicans, Greeks, Blacks, and Sicilians. Crowded tenements, ethnic stores, endless push carts, teaming streets, curb-siding buying and selling all created "wonderful ruckuses". So, "Hull House, founded by Jane Addams, was planted there because no where was it needed more".⁵³

Period photographs, with their descriptions, capture the scene: teenage boys throwing dice in the street; newspaper boys ("ill-fed, ill-housed, illiterate, and wholly unfitted for any occupation") aimlessly wandering about; "filthy and rotten tenements, dingy courts and tumbled down sheds"; outdoor wooden privies; and putrid rubbish strewn alleys with "infrequent and slipshod" garbage collection, haphazardly provided by political contracts. The caption for one photograph, depicting six pathetic children in a dangerous workplace, vividly recounts: "In the

⁴⁹"Report of Work Done by Volunteer Friendly Visitors of Juvenile Court," JPA Pamphlet (March 15, 1906), JPA Collection, Box 9, folder 125(b).

⁵⁰Judge Benjamin Lindsey quoted in Mack, supra note 9, at 122.

⁵¹Judith R. Raftery, "Review of Jacquelyn Masur McElhaney, Pauline Periwinkle and Progressive Reform in Dallas" at 3-4, <http://www.h-net.org/reviews/shorev.php?id=3173>. The author is a history professor at California State University.

⁵²A. J. Beitzinger, A History of American Political Thought 462 (New York: Dodd Mead 1972).

⁵³Jack Lait and Lee Mortimer. Chicago Confidential 49-50 (New York: Crown Publishing Company 1950). See also, Humbert S. Nelli, Italians in Chicago, 1890-1930: A Study in Ethnic Mobility 43 (New York: Oxford University Press, 1970), on the migration of Italians and eastern Europeans to the area after the Chicago Fire of 1871.

neighborhood factories, children risked throat disease during frame gilding, lung disease in boiler-plate, cutlery, and metal-stamping works, nicotine poisoning in tobacco factories, and in neighborhood bakeries ‘children slowly roast before the ovens’ ”.⁵⁴ The early 1890s were also a time in which it was argued that there were perhaps 120 men in America with personal wealth exceeding \$10,000,000, over 4,000 reputed millionaires, and “nine percent of the nation’s families controlling seventy-one percent of the wealth.”⁵⁵

The panoramic view, in text and photographs, of the Near West Side and Maxwell Street was no better. Everywhere were foreign language newspapers, kosher meat stores, bakeries, and sausage shops. Maxwell Street “every morning took on the appearance of a sprawling Medieval fair”. Young boys played stick ball, threw dice or gambled, met “working girls”, engaged in lewd “entertainment”, and frequented dance halls. “Tax assessments favored the rich; prostitution was planted and protected near schools and churches”. There were “unqualified police”, and “unsanitary housing conditions” and the political system placed a disproportionate number of the Irish on the public payroll.⁵⁶

This is Jane Addams’ own assessment of her Hull House neighborhood circa 1906: There is a “cheap collection of tobacco stands, saloons, old iron establishments and sordid looking fancy shops”. Buildings with “furnished rooms” abound and “houses [were] tucked like babies under the arms of industry.” Everywhere were signs in Italian, Bohemian, Russian, and German. Overall, conditions were foul and depressing.⁵⁷

Less than a mile away, at 12th Street and Jefferson, her observations are no less stark: “Rear tenements flourish; many houses have no water supply save the faucet in the back yard; there are no fire escapes, and garbage and ashes are placed in wooden boxes fastened to the street pavements”.⁵⁸ She continued: “The streets are inexpressibly dirty, the number of schools inadequate, sanitary legislation un-enforced, the street lighting bad, the paving miserable and altogether lacking in alleys and smaller streets, and the stable foul beyond description. Hundreds of houses are unconnected with the street area”.⁵⁹ Dingy, dangerous, and depressing,

⁵⁴Peggy Glowacki and Julia Hendon. Images of America: Hull House 38, 43 (Charleston, S.C: Arcadia Publishing 2004).

⁵⁵Hostadter, supra note 31, at 136.

⁵⁶Donald K. Miller. City of the Century: The Epic of Chicago and the Making of America 462, 463, 465 (New York: Simon & Schuster, 1996). See also, John Paul Boccock, “The Irish Conquest of Our Cities,” 186-195, Forum, Vol. 27 (April 1894).

⁵⁷Harold M. Mayer and Richard C. Wade. Chicago: Growth of a Metropolis 258, 259, 261 (Chicago: University of Chicago Press, 1969).

⁵⁸Id., at 258. See also, Bennett, supra note 24, at 123 for another similar description.

⁵⁹ Id., at 259.

the urban landscape was seen as a bleak, challenging, and difficult world waiting to prey upon the unwary newcomer. The settlement movement, in this context, was seen as a welcome refuge.

Three years later, Addams would claim, “Never before in civilization have such numbers of young girls been suddenly released from the protection of the home and permitted to walk unattended upon city streets and to work under alien roofs”.⁶⁰ Then in 1913, she reflected on the fact that “Many a working girl at the end of the day is so hysterical and overwrought that her mental balance is plainly disturbed”.⁶¹ Such was this most malicious of scourges on the life of young women.

Most telling is this summary from the 1910 Chicago Vice Crime Commission Report. That report had concluded, by offering what it characterized as an “ultra-conservative” estimate, that the annual profit of commercialized vice in Chicago was \$15,700,000.

“In a period of six weeks of intensive work the Commission held ninety-eight special conferences, at which there appeared representatives of more than thirty philanthropic, civic, social, reform, and business organizations of such diverse interests as the Anti-Cigarette League, Hull House, and the Retail Liquor Dealers’ Protective Association. Prominent citizens, clergymen, professional reformers, and social workers were heard, and so were city and police officials, patrolmen, detectives, saloon-keepers, brewers, distillers, and keepers and inmates of brothels. Agents employed by the Commission visited bordellos, assignation houses, wine-rooms, saloons, dance halls, amusement parks, excursion steamers, even ice-cream parlors and nickel movie shows, observing conditions and interviewing madams, inmates, streetwalkers, pimps, factory girls, white-

⁶⁰Jane Addams. The Spirit of Youth and the City Streets 5 (New York: Macmillan Co. 1909). In this context, consider Erik Larson. The Devil in the White City: Murder, Magic, and Madness at the Fair that Changed America (New York: Vintage Books, Random House, 2003). Set during the Columbian Exposition, this is a story of a mass murderer preying on young women drawn by employment, personal freedom, and big city excitement. The “lure” of the Fair lies at the heart of what the reformers feared had bred a treacherous environment for women.

An extensive resource for the 1893 World’s Fair (including information on buildings, participants, admission costs, and attendance), the simultaneous World Congress (regarding sessions, speeches, papers, and attendance), and the vision and expectations of its organizers and the public is Norman Bolotin and Christine Laing. The World’s Columbian Exposition: The Chicago World’s Fair of 1893. Urbana and Chicago: University of Illinois Press, 2002.

Also informative is The World’s Fair, being a pictorial history of the Columbian Exposition (Chicago: Chicago Publishing and Lithograph Co. 1893), one of the officially sanctioned publications detailing the buildings, exhibits, and attractions together with the organizing, financial, and construction particulars, its grand nature, and its “promise”.

⁶¹Jane Addams. A New Conscience and an Ancient Evil ix, 72-73 (New York: Macmillan 1913).

slavers, and bartenders. Despite the lack of sufficient funds, every phase of the problem was investigated from the danger to respectable immigrant women to the effect of vice upon the lives of children who lived in areas adjacent to the segregated districts.”⁶²

The full flavor of this volatile mixture of vice, perversion, and squalor is captured in the statistical and sociological reports compiled by the Chicago Juvenile Protective Association and its “confidential agents” from 1910 through the late 1920s. JPA’s formal mission was “safeguarding the children by dealing with conditions which demoralize them and promote delinquency, such as the selling of liquor to minors, indecent shows, disreputable dance halls, obscene postal cards, and the traffic for houses of prostitution”.⁶³ Bolstered by reports from “confidential agents” and armed with statistics, they fought for the children of the streets.

Just how daunting a challenge was it? In one Chicago area of one mile by one and one half miles, with a population of 92,392, there were 32 pool rooms, 27 dance halls, 20 five cent theaters, 30 “bad” hotels, and 513 “saloons”—but only 5 playgrounds, one settlement house, and ten elementary and one high school.⁶⁴ An intriguing analysis of reporting in the eight major Chicago newspapers of the day concluded that only 1-2% of print columns were devoted to “social welfare” or “civic duties”. By contrast, 5-15% addressed “crime and vice”. JPA believed that such lopsided coverage warped the worldview of youthful readers. The papers scrutinized were: Chicago Daily Tribune, Chicago Examiner, Chicago Record Herald, Inter Ocean, Chicago American, Chicago Daily News, Chicago Daily Journal, and Chicago Evening Post. Altogether, there were 157 separate stories covering 962 column inches “given over to reports on crime”.⁶⁵

A study of boys employed by messenger services revealed that “the family life of seven boys out of ten was such as to discourage, depress and degrade. Poverty stricken most of the families were, but the evidences of poverty were accentuated and rendered more harsh and repellant by dirt, disorder and an utter lack of hygienic knowledge.” Most of these boys had one “a scant meal” after work, and lived in “surroundings unspeakably wretched” and “90% were

⁶²Herbert Asbury. The Gangs of Chicago: An Informal History of the Chicago Underworld 288-289, 294 (estimate) (New York: Thunder’s Mouth Press (Alfred Alfred Knoph, Inc. 1940) and Northern Illinois University Press 1986).

⁶³(11 November 1910): Letter of Louise de Koven Bowen to George F. Stone, Esq., JPA Box 1, folder 2.

⁶⁴(20 January 1910): List of Pool-rooms, Dance-Halls, 5 cent Theater Bounded on the South and West by Chicago River; East by the Lake and North by North Avenue, JPA Box 1, folder 16.

⁶⁵(15 November 1913): JPA Box 1, folder 3.

from foreign families”. Of the 32 boys investigated, four or five each were Austrian, German, Polish or Russian.⁶⁶

Vice in penny arcades was commonplace. An agent reported: “7 small boys in knee trousers—11 years old and up—were in the place looking at the pictures. After viewing one of the worst ones, a boy said to his companions, ‘Gee, it’s swell.’ ” Then, “3 small boys in knee trousers about 12 years old and up” were looking at “smutty” pictures. “The proprietor willingly showed them how to operate the machine.” The next day, the JPA informant added that he saw “a boy 12 or 13 looking at “*A Hot Night*,” “*A Sure Winner*,” and “*A French Beauty*”, all depicting women “in various states of undress going through highly indecent and suggestive motions—some being on beds and couches.”⁶⁷

In 1916 the JPA issued a scathing attack on the widespread immorality, dangers, schemes, and unsavory conditions that surround youth in Chicago’s Lake Michigan excursion boats, amusement parks, theatres, dance halls, and cabarets. Prostitution, lewd dancing, suggestive advertising, underage drinking, indecent movies, unscrupulous barkers, obscene music and pictures, police indifference, and unregulated licensing of businesses were all rampant. The “grossest temptations” were everywhere present to lead youth “on the road to destruction”.⁶⁸ Contemporary accounts are replete with a combination of both shock and outrage as well as a disappointing resignation that most people apparently had a callous disregard for the welfare of young people.⁶⁹

⁶⁶(10 March 1914): Report by G.A. Mitchell, JPA Box 1, folder 16, at 4-5.

⁶⁷(12-13 February 1920): Albert E. Webster, JPA Box 8, folder 108.

⁶⁸Louise DeKoven Bowen, “The Road to Destruction Made Easy in Chicago” in Speeches Addresses, and Letters of Louise DeKoven Bowen: Reflecting Social Movements in Chicago 385-400 (Ann Arbor, Michigan: Edwards Brothers, 1937), and available at <http://tiger.uic.edu/depts/hist/hull-axwell/vicinity/nws1/documents/html.dekovenbowen>

⁶⁹Consider this comment by Isadore Minor Callaway, the first women’s editor of the Dallas Morning News from 1896 to 1916. Her columns as “Pauline Periwinkle” championed progressive causes. In conjunction with the Texas Federation of Women’s Clubs (TFWC), she pressed for legislation to would establish a Texas juvenile court. When the first effort in 1904-1905 failed, she scoffed that:

“The very house that killed the bill framed to protect the boy passed one to protect goats and squirrels. Texas is way behind the procession of states that have cast aside the hide-bound, medieval method of treating wayward children as criminals”.

Rafferty, supra note 51, at 2. Undaunted, she brought the TFWC convention to Dallas in 1905, launched another legislative initiative, and challenged candidates in the 1906 elections to support the juvenile court reform. Finally, the bill passed in 1909. “Progressives were full of indignation, but their indignation was more qualified by a sense of responsibility, often even of

A series of reports various correspondence from 1923 to 1926 bemoan “the terrible state of commercialized vice” in Chicago. They claim that it “could not go on 24 more hours” unless the “authority to crush it [the police] had not been handsomely paid”⁷⁰. And, they castigate the Chief of Police Charles C. Fitzsmorris for “exposing Chicago to the mercy of criminals as the price of exterminating vice”.⁷¹ Here are but four examples: In “Chicago’s worst vice district . . . [t]he indecent dancing in these resorts still continues to attract large crowds, among them young men, many of whom are not over seventeen years of age”.⁷² A few months later, it was the same. “There was no supervision on the floor. There was some indecent dancing, but not as much as might be expected. That which was indecent, of course, went by uncorrected.”⁷³ Among a compilation of short case studies, the one of “John A. Jacques, age 14”, is noteworthy in its brutal honesty—“the boy was very well dressed and is quite accustomed to perverted practices.”⁷⁴ Similarly disturbing was that “largest house of prostitution” in Cook County located in Stickney, employed “25 girls many under 20”.⁷⁵

Their prodding, probing, and snooping generated research leading to pragmatic and practical solutions. As such, Progressives “drew from the hopeful atmosphere of the early twentieth century a larger confidence in the capacity of ordinary people to set things aright if given the means to do so.” Because evil inevitably lurked in the urban economic environment itself, “they could respond to the immigrant as the innocent victim of bad conditions.”⁷⁶

THE DRIVING FORCE OF GREAT INDIVIDUALS

People matter. In any movement, there are those individuals who loom large on the landscape; persons whose mere presence and indomitable persistence make a profound

guilt, and it was supported by a greater capacity [than the earlier Populists] to organize, legislate, and administer”. Hofstadter, supra note 31, at 134.

⁷⁰(4 February 1923): Letter of Anne Ralph to Mrs. Bowen, JPA Box 41, folder 2.

⁷¹(18 March 1923): Letter of F. Zeta Youmans to Jessie Binford, JPA Box 1, folder 1.

⁷²(30 April 1923): “Summary”, JPA Box 8, folder 108.

⁷³(28 December 1923): JPA agent Daniel Russell observing the Palace De Arts Dance Hall, JPA Box 7, folder 103.

⁷⁴(20 May 1926): “Memorandum for Miss Youmans”, JPA Box 1, folder 1.

⁷⁵(n.d circa 1928): “A Brief Summary of Report Submitted to Board of Directors of the Juvenile Protective Association” by Jessie Binford, JPA Box 7, folder 104.

⁷⁶ Higham, supra note 30, at 117. See also, Hofstadter, supra note 31, at 133-134.

difference. In the Chicago juvenile court movement four women and two men emerge as the critical dynamic driving forces behind the reform. We will now consider each in turn.

Jane Addams

Jane Addams is larger than life. Like the other “sheltered and well brought up young Americans of her generation, reared on the ideal of social justice and on Protestant moral imperatives” she and her contemporaries “had grown uncomfortable about their own sincerity, troubled about their uselessness, and restless about being ‘shut off from the common labor by which they live and which is a great source of moral and physical health’ ”.⁷⁷ After visiting Toynbee Hall, the East London settlement house, Addams vowed to return to attack Chicago’s poverty and injustice. She described her epiphany: “I had confidence that although life itself might contain many difficulties, the period of mere passive receptivity had come to an end, and I had at last finished with the everlasting ‘preparation for life’, however ill-prepared I might be.”⁷⁸

Addams had empathy for the circumstances and living conditions of immigrants and the working class but always strove to assimilate them as “better Americans”⁷⁹. She also had little tolerance for corruption in local politics and even unsuccessfully attempted to oust the 19th Ward alderman, Johnny Powers.⁸⁰ She abhorred the putrid filth, dismal living conditions, inadequate

⁷⁷ Hofstadter, supra note 31, at 208, drawing upon Addams’ own essay “The Subjective Necessity for Social Settlements” in Philanthropy and Social Progress 1-26 (New York 1893).

⁷⁸Jane Addams. Twenty Years at Hull House with Autobiographical Notes 57 (Mineola, NY: Dover Books 2008). Addams’ retrospective autobiography and social commentary was originally published in 1910. It is the only one of her books that has remained in continuous and uninterrupted publications. See also Robbin W. Allen, MSW, PhD and Denice Goodrich Liley, MSW, PhD. “Jane Addams”, for a four page synopsis of her life and accomplishments, a photograph of her surrounded by children in her later years, and her statement of resolve after the Toynbee Hall visit, <http://www.boisestate.edu/socwork/dhuff/history/eimage/addams.htm>.

In all, Addams wrote twelve books and received fourteen honorary degrees. June Skinner Sawyers. Chicago Portraits: Biographies of 250 Famous Chicagoans 5 (Chicago: Loyola University Press, 1991).

⁷⁹Louise Knight. Citizen: Jane Addams and the Struggle for Democracy 150-151, 171-172, 205-207, 221-222, 369, 371, 385-386, 399-401 (Chicago and London: University of Chicago Press 2005). For these reasons, her view of the role of the settlement house was enhanced because it was “situated in the midst of these foreign colonies.” Addams, Hull House, supra note 78, at 59.

⁸⁰Id., at 364-366, 385-387. See also Florence Kelley, “Hull House,” New England Magazine, Vol. 18: 550-566 (July 1898), another prominent Chicago reformer who describes neighborhood politics at the turn of the century and that failed challenge to the political machine and Bailyn, supra note 41, at 964 (Progressives’ head-on confrontations with local politicians

sanitation, closed dirty dingy places, overcrowded tenements, poor ventilation, misery and disease, physical want, dangerous working conditions, and child labor.⁸¹

On a personal level she was a person who loved to eat, struggled with her weight throughout her life, so much so that despite keeping a daily record, eventually she reached nearly 200 pounds⁸². She had a “long memory” and was not shy about reminding people to keep their promises and twice fell from a step ladder, once breaking an arm⁸³. Most of her money and possessions (including her \$60,000 inheritance, \$ 46,000 Nobel Prize, and Christmas gifts) she gave away or invested in Hull House⁸⁴. She was well paid for her public speeches, earning \$25.00 plus travel expenses⁸⁵. Raised a Methodist as a child, but adult baptized a Presbyterian, Addams often said she was a Quaker⁸⁶. She fancied elbow length white gloves⁸⁷.

From the 1890’s until 1935, she wrote about 500 articles and several books. Her personal favorite, The Spirit of Youth and the City Streets (1909), explains the relationship between urban life and juvenile delinquency. It was well received by sociologists, politicians, and the public. Addams praised the spirit, energy and enthusiasm of youth but decried the demoralizing urban conditions with its corrupting influences.⁸⁸ “Over the years Jane Addams built a bridge between the immigrants and the old-stock Americans, between the working classes and the immigrants, between the amateur reformers and the professional politicians, even between private

over “garbage removal, street lighting, police protections or the location of a neighborhood park” of which the Powers episode was a notable example).

⁸¹Knight, supra note 80, at 199-201, 203-206, 266-268, 331-332, 390-391. For her own descriptions of the Hull House environs, see Addams, Hull House, supra note 78, at 63-66 and notes 57, and 58, supra.

⁸²Judith Bloom Frandin and Dennis Brindell Frandin. Jane Addams: Champion of Democracy 101-102 (New York: Clarion Books, 2002).

⁸³Id., at 102-103.

⁸⁴Id., at 104. She was the first woman Nobel Prize laureate (Sawyers, supra note 77, at 5) and one of only ten women to win the Peace Prize (Burton Feldman. The Nobel Prize: A History of Genius, Controversy, and Prestige 308, 326, 397, 403-404 (New York: Arcade Publishing, 2000)). See also Bonnie Carmen Harvey. Jane Addams: Nobel Prize Winner and Founder of Hull House (Berkley Heights, N.J.: Enslow Publishing Inc.—Historical American Biography Series, 1999), a fine book for young readers.

⁸⁵Frandin, supra note 82, at 106.

⁸⁶ Id., at 114-155.

⁸⁷ Id., at 104.

⁸⁸ Id., at 116-117.

philanthropy and government. She made Hull House a clearinghouse for every kind of social service, an experimental laboratory in social reform, in art and music and drama and education as well; she made it a school of citizenship and a university of social service”.⁸⁹ As another famous Chicago community activist in her own right would later say: “[W]hen Jane Addams founded Hull House among the poor, she brought honor to this city. The programs at Hull House saved and enriched thousands of lives. Its presence stimulated growth and stability in the area.”⁹⁰

Addams’ passionate support for the juvenile court crusade conveys the essence of the Progressive Era reform psyche. This 1908 speech provides a succinct summary of her model for a system in which youth is nurtured, helped, and reformed:

“Take the boy who is arrested and brought into the Juvenile Court in Chicago. Such a child is examined very carefully by a physician—all of the things which Dr. Barnes has been advocating for the ordinary school children are being showered upon incorrigible children while they are waiting for trial. During the period of detention every child is subject to the medical treatment which he specially needs; he is put into school and given a chance to do all of this advance homework which has been so much emphasized in this meeting. The results are simply amazing. Sometimes one actually fails to recognize the boy after he has been in this school a short time, such is the result of good food, of baths and all the rest of the things . . . The mother recognizes that which she always knew was there although she had no power to bring it out; the father, who was said not to be fond of him, suddenly swells with a new sense of pride. The onlooker wonders: why this hasn’t been done before the child was arrested, before he had to be brought to this preliminary disgrace.”⁹¹

The following year, in another speech she reiterated her view that the delinquent child was much more the product of his or her environment and a victim of the cruelty of the streets:

“We know in Chicago, from ten years’ experience in a juvenile court, that many young boys are arrested from sheer excess of animal spirits, because they do not know what to do with themselves after school. The most daring thing the leader of the gang of boys can do is to break into an empty house, steal the plumbing fixtures and sell them for money with which to treat the gang. Of course that sort of thing gets a boy into very

⁸⁹Julie Johnson, “Jane Addams”, <http://nlu.nl.edu/academics/cas/ace/resopurces/addams.Cfm?RenderForPrint=1>.

⁹⁰Florence Scala, “Haymarket House deserves praise, not fear,” Letter to the Editor, Chicago Sun Times (8 August 1991).

⁹¹Jane Addams, “The Home and the Special Child,” National Education Association, Journal of Proceedings and Addresses 99-102 (1908), reprinted in Jean Bethke Elshtain (ed.), The Jane Addams Reader, 224-228 at 227-228 (New York: Basic Books, 2002).

serious trouble, and is almost sure to land him in the reform school. It is obvious that a little collective study of the needs of the boys, a sympathetic understanding of the conditions under which they go astray, might save hundreds of them”.⁹²

Settlement house founder, activist, and reformer, she led the fight for “the first factory inspection laws, model tenement code, and juvenile court for Chicago.”⁹³ She founded or served as an officer in the Chicago Federation of Settlements, National Federation of Settlements and Neighborhood Centers, General Federation of Women’s Clubs, Campfire Girls, National Playground Association, National Child Labor Committee, NAACP, and the ACLU.⁹⁴ The work of the Juvenile Court Foundation which bears her name continues to this day.⁹⁵

Julia Lathrop

She was the daughter of a successful attorney and a child advocate who came to Hull House as an “official visitor” to the poor people of Cook County. Appointed by reform Governor John Peter Altgeld in 1893 to the State Board of Charities, she inspected all 102 county

⁹²Jane Addams, “Women’s Conscience and Social Amelioration,” in “Social Application of Religion, Merick Lectures” (Ohio Wesleyan University 1908), reprinted in Elshtain, The Jane Addams Reader, *id.*, 252-263 at 258. During this time, however, Chief Probation Officer Thurston had expressed concern that “the repeat offender” would imperil the public support for the system as all “right-minded people” are willing to give “boys and girls chances to do the right thing, but after they persistently throw chances away” more serious measures might be needed. Nonetheless, remaining committed to the cause, in 1905 alone he delivered seventy lectures on the merits of the juvenile court program. Tanenhaus, supra note 25, at 56.

⁹³Sawyers, supra note 77, at 5.

⁹⁴Julie Greiner, “Jane Addams Hull House Museum,” <http://jane-addams-hull-house-museum.visit-chicago-illinois.com>. A similar list may be found at “Visiting Hull House Museum: UIC College of Architecture & the Arts. <http://www.uic.edu/jaddams/hull/newdesign/ja.html>.

⁹⁵The Foundation’s mission is “to maintain an effective, respectful, fair and responsive court system that will promote positive opportunities and outcomes for individual children, families and communities. The strategic plan has five goals: to “maintain a commitment to keeping children in their families”; “expand knowledge of, and access to, resources to meet the needs of the children and families served by the Court”; “foster a culture of respect, responsiveness and fairness to the needs of children, families, victims, communities and colleagues involved with the Juvenile Court”; “promote a culture of shared responsibility”; and “enhance effectiveness and responsiveness to the community”. For each goal, there are three or four enunciated “action steps”. There are also five “implementation teams” created by the presiding judges of the Court: “Community Partnership”, “Service Information”, “Court Culture”, “Cross Systems Planning”, and “Court Effectiveness”. Jane Addams Juvenile Court Foundation, “Strategic Plan Implementation: 21st Century Plan Cook County Juvenile Court, <http://www.janeaddamsfdn.org/strategic-impl.html>.

institutions for the sick, homeless, and insane during her many years of service (1893-1901, 1905-1909). The first president of the Juvenile Court Committee, she later served as Chief of the Federal Children's Bureau (1912-1921) where she strove to attack the problems of infant mortality, juvenile delinquency, child labor, and deficient mother's pensions.⁹⁶

A confidant and associate of Jane Addams, she was the treasurer of Hull House and the Vice President of United Charities. In the 1890s, she worked to establish the juvenile court and was president of the Juvenile Court Committee. Lathrop supported erection of a court building and detention home near Hull House. In 1907 she helped form the Juvenile Protective Association "to keep children out of court by removing many of the demoralizing conditions which surround them". Ahead of her day, she advocated stronger punishment for rapists and medical certificates for marriage⁹⁷. Addams herself praised her for her commitment to reform as "the executive head of a national organization which has for years urged and secured better conditions for working women and children, both through legislation and voluntary effort".⁹⁸

Louise DeKoven Bowen

Acting in coalition with county judges, the Chicago Bar Association, and activists such as Jane Addams, Mary Bartelme, Lucy Flower, and Julia Lathrop, Bowen led the way for the creation of a statute in 1899 to create a juvenile court. However, since there was no provision for paying probation officers, as Vice Chair and then by 1904 as Chair, she led the Juvenile Court Committee in a fund-raising effort not only to pay for the officers but also to find suitable homes for the children and build a detention building and home.⁹⁹

⁹⁶Rima Lunin Schultz and Adele Hast (eds.). Women Building Chicago, 1790-1990: A Biographical Dictionary 490-491 (Bloomington: Indiana University Press, 2001); Tanenhaus, supra note 25, at 49-50.

Decades later, the Superintendent of Chicago's Mercy Home for Boys and Girls would echo this "broader, longer view" to "ensure success and growth". Giving "shelter for a couple of nights, a new set of clothes, and a hot meal" together with "an unrealistic few hours with a social worker, psychologist, psychiatrist [or] a school counselor" cannot "undue a lifetime of problems and neglect", especially when the child is returned home "to the setting which caused" the dysfunction. Rev. James A. Close, No One to Call Me Home 62-63 (Chicago: Mission of Our Lady of Mercy, Inc. 1990).

⁹⁷Sawyers, supra note 78, at 132. See notes 14 and 18 supra. Lathrop lamented that "the great primary service of the court is that it lifts up the truth and compels us to see that wastage of human life whose sign is the child in court." Cited in Tanenhaus, supra note 25, at 63.

⁹⁸Jane Addams. "Need a Woman Over Fifty Feel Old," Ladies Home Journal, Vol. 31, reprinted in Elshain (ed.), The Jane Addams Reader, supra note 91, at 434.

⁹⁹Schultz, supra note 96, at 101. On the critical role of Lucy flowers, see Tanenhaus, supra note 25, at 47-51,

Her 1916 JPA report and biting tongue left no doubt about her intolerance of the demoralizing impact of poverty, vice, and corruption.¹⁰⁰ Jane Addams noted that she “brought into her public services the resources of large wealth” and as president of the Juvenile Court Committee of Chicago for seven years, she spearheaded the formation of the Juvenile Protective Association.¹⁰¹

Bowen’s fundraising efforts on behalf of the actual court building itself and the related youth detention center with the separate children’s quarters were prodigious. Her benefit events brought together a veritable Who’s Who of Chicago society women: Field, McCormick, Palmer, and Rosenwald. Bowen’s form letter sought contributions “to have a headquarters at the Juvenile Court Building, whose duty shall be to secure the efficient cooperation of the various relief agencies and child helping services, and to render such assistance as will obviate the necessity of breaking up families which are in temporary distress and whose children are brought to the attention of the Juvenile Court”.¹⁰²

Further, Bowen suggested that the JPA choose a small Illinois town in which to replicate its Chicago model for a six month trial period. Trained JPA “officers” who had not only “knowledge of the laws and the machinery” of state agencies but also “have ability and personality which would command the respect of the men and women of the community” would seek out “all conditions which are demoralizing to children and young people and of all children who are in danger of difficulty”. In addition, “conditions dangerous to children or young people”, “sinister situations”, “evil practices” or “dangers which constantly surround their young people” would be identified. Depending upon the circumstances, children “ill treated” by their parents or otherwise at risk would be brought into Court or placed into the supervision of “a good police woman” or “protective officers”.¹⁰³

¹⁰⁰See notes 63, 68, and 69 *supra*. See also (24 January 1923): Letter of E[dith] Abbot to Jessie Binford: “If we had a few more people with the courage Mrs. Bowen in these parts, Chicago would have reason to hope”. JPA Box 1, folder 2.

¹⁰¹Jane Addams, “Need a Woman Over Fifty Feel Old,” reprinted in Elshtain (ed), The Jane Addams Reader, *supra* note 90, at 434; Tanenhaus, *supra* note 25, at 51. Daughter of a banker, granddaughter of a Chicago Loop real estate developer, she lived at 1430 Astor Street.

¹⁰²Tanenhaus, *supra* note 25, at 52; (7 November 1907): Letter of Louise DeKoven Bowen, JPA Box 1, folder 2. (Circa 1907-1908): Juvenile Court Committee records verify that the Detention Home was located at 625 W. Adams and the court building at 202 South Ewing. The courtroom was on the first floor, and the second and third floors had separate quarters for the children. Chicago was the “first city to possess a building designed and devoted to” such uses (15). JPA Box 9, folder 125(b). By 1925, special detention homes also had been built in Buffalo, Denver, Los Angeles, Saint Louis, and San Francisco, but none in Boston, D.C., Minneapolis, and New Orleans. Tanenhaus, *supra* note 25, at 52.

¹⁰³(18 March 1920): Letter of Louise De Koven Bowen to Dr. Herman Adler at the Psychopathic Clinic containing a dozen pencil corrections in the author’s own hand. While it is

The JPA, and its predecessor court committee, had always maintained that it is the preventative character of probation which makes the “child-saving” effort worthwhile. Not only does the probation officer relieve the child from the inevitable stigma of the reformatory institution, but even more important, “many children are kept from ever appearing in Court by the use of such a friend”.¹⁰⁴ Bowen¹⁰⁵ (and Jesse Binford¹⁰⁶) apparently kept in contact with other reformers trying to export these Chicago innovations to other cities.¹⁰⁷

uncertain if the final version was actually sent, one suspects that it was because such care and attention was given to it.

Her view of “dangerous” places, demoralizing conditions”, and “sinister situations” echoes Jane Addams’ determination that Hull House be located in a “low and dangerous neighborhood” (“an unexplored and darkly threatening place”) in order to do the most good. Bennett, *supra* note 24, at 123; Knight, *supra* note 79, at 194-195.

Thus, the Chicago model emphasized probation officers (funded by philanthropic organizations) and a more sympathetic understanding of the nature of children. See David Wolcott, “ ‘ The Cop Will Get You ’ ”: The Police and Discretionary Juvenile Justice, 1890-1940” at 2-4, *Journal of Social History* (Winter 2001), http://findarticles.com/particles/mi_m2005/is_2_35/ai_82066734/?tag+content;coll.

See this statement of a twelve year old boy named “Frank” (n.d. circa 1924-1925): “I knowed the cops would git me sometime but we had one swell time. Me and my pal went to the show every night or afternoon. Sometimes, we’d sleep days with a guy I know over on Wabash.” He was truant from school, living on the street by selling newspapers underage, and smoked two packs of cigarettes each day. JPA Box 5, folder 82.

¹⁰⁴Juvenile Court Committee”, (n.d.)(circa 1903-1904), *Pamphlet*, JPA Supplement 1, Box 3, folder 17. By 1914 some 9,104 cases had been referred from the courts. JPA took 6,623 and forty other institutions (twenty-one private and nineteen public) handled the remainder. “Superintendent’s Annual Report of the Juvenile Protective Association, Year End September 30th 1914.” JPA Box 9, folder 125(a).

¹⁰⁵(22 January 1923): Letter of Bascom Brown to Mrs. Bowen discussing prostitutes leaving Chicago for New York City: “I am leaving tomorrow for Toledo where I shall speak in the Mayor’s office before a committee he has chosen to grapple with a situation in that city somewhat similar to yours.” JPA Box 1, folder 2.

¹⁰⁶(30 April 1917): “Letter of Jessie Binford to Evelina Belden” discloses that JPA planned to send “our literature to some women in Washington D.C. as they were thinking of organizing a JPA there”. Binford was then JPA superintendent. JPA Box 1, folder 1. From 1916 to 1952, she was director. See note 1, *supra*.

¹⁰⁷Differing models apparently took hold in Detroit and Los Angeles (c. 1890-1940). Detroit juvenile arrests reflected the “traditional mission of maintaining public order”. “Arresting juvenile offenders was less a means of introducing them into the criminal justice system for punishment or rehabilitation, than of satisfying aggrieved citizens and of officially

Richard Stanley Tuthill

A Civil War veteran and Law graduate of St. Ignatius College, he was “chosen by his brother judges to organize and hold juvenile court” under the newly adopted 1899 statute and served in that capacity until 1905. Tuthill was a close and loyal political confidant of Ulysses S. Grant and remained active in Civil war associations throughout his life.¹⁰⁸ His assessment speaks volumes about the treatment of young offenders at the turn of the twentieth century who, he argued, when submitted to the judicial system, “were well fitted to become the expert criminals and outlaws who have crowded our penitentiaries and jails”:

“No matter how young, these children were indicted, prosecuted, and confined as criminals, in prisons, the same as adults pending and after a hearing, and thus were branded criminals before they knew what crime was. The State kept these little ones police cells and jails among the worst men and women to be found in the vilest parts of city and town . . . The State had educated innocent children in crime, and the harvest was great.”¹⁰⁹

Judge Tuthill engaged in a “kind of interpersonal exchange” with children at the initial hearing. “Once the trust had been won, [he] would ask the child directly about alleged offenses. Witnesses were seldom called into court.”¹¹⁰ Although he had his personal conflicts with Jane Addams,¹¹¹ his approach to break down barriers and build confidence with the young people brought before him was widely regarded as both successful and in keeping with both the letter and the spirit of the reform legislation. “I have always felt and endeavored to act in each case,”

reprimanding disorderly youth. Wolcott, *supra* note 103, at 8. Whereas, in Los Angeles, heavy emphasis was given to “crimes against persons and property”, particularly gang activity and vehicle thefts, especially involving Hispanic youth. There the police “retained little of the all-purpose public order function” nor “demonstrated much of the social welfare ethos”. Rather, LAPD “mainly arrested serious delinquents, disproportionately of minority backgrounds, and petitioned them to juvenile court to fight crimes like auto theft that were of particular concern to the public. In so doing, it placed police authorities and citizen’s demands above the goal of saving children” *Id.*, at 8-10.

¹⁰⁸Leonard, John (ed.). The Book of Chicagoans: A Biographical Dictionary of Leading Living Men of the City of Chicago 578 (Chicago: A.N. Marquis & Co. 1905).

¹⁰⁹Quoted in Franklin E. Zimring, “Diversion in the Jurisprudence of Juvenile Courts,” in Rosenheim, et al., *supra* note 2, at 145.

¹¹⁰Sanford J. Fox, “The Future of Children” (1996), <http://www.alchemyofbones.com>.

¹¹¹ Gioia Diliberto. A Useful Woman: The Early Life of Jane Addams 251-253 (New York: A Lisa Drew Book/Scribner, 1999).

he later recounted, “as I would were it my own son who was before me in my library at home charged with misconduct”.¹¹² He also assisted the Juvenile Court movement in Iowa.¹¹³

Julian William Mack

Born in San Francisco in 1866 and educated at Berlin, Leipzig, and Harvard Universities, Mack was Professor of Law at Northwestern University (1895-1902) and thereafter at the University of Chicago and the Chicago Institute of Social Science. A member of the American, Chicago and Illinois State Bar Associations, as well as the American Historical Association and the Law Club of Chicago, he was the judge of the Juvenile Court for six years (1903-1909) and then served in the Illinois Appellate Court for two years. After appointment by President William Howard Taft to the short-lived U.S. Commerce Court (1911 to 1913), he ended his illustrious career on the United States Court of Appeals for the Second District from 1929 to 1940.¹¹⁴

Mack admired, and emulated, one of his contemporaries Judge Benjamin Lindsey of Denver, Colorado for his “love for the work and his personality [which] has enabled him to exert a powerful influence on the boys and girls that are brought before him”.¹¹⁵ In his Harvard Law Review article, Mack quoted Lindsey’s own philosophy set out in a Colorado court pamphlet:

“Juvenile court workers must not be sentimentalists any more than brutalists [Success lies in the] cooperation of the child, the home, the school, the neighborhood, the church, and the businessman [The goal must be] to help all it can and to hurt as little as it can; it seeks to build character—to make good citizens rather than useless criminals”.¹¹⁶

¹¹²DeLacy, supra note 9, at 2-3. Consider these biblical overtones: 1 Cor. 11:32 (God “disciplines us as his own sons.”) and Heb. 12:7 (God “disciplines those he loves”).

¹¹³“The Passage of the Juvenile Court Law in Iowa, 1904”, supra note 8. The Iowa Act, “Enlarging the Powers of the District Court, and to Regulate the Treatment and Control of Dependent, Neglected and Delinquent Children”, was an effort to “protect children” that was driven by “women’s groups” and spearheaded by Cora Bussey Hillis of Des Moines (Id., at 1).

Hillis was the daughter of a Union general and the wife of a prominent lawyer and former Des Moines mayor (Id., at 2). Dismayed that Iowa children were jailed “with adult criminals and fed an adult diet of coffee, bread, and molasses”, she organized a campaign in 1904 which included “visits and lectures by prominent juvenile court reformers such as Judge Ben Lindsey of Denver, Colorado, and Judge Richard Tuthill of Chicago” (Id., at 3).

¹¹⁴ Leonard, supra note 108, at 382; Tanenhaus, supra note 25, at 55; “Julian William Mack”, The Political Graveyard: Index to Politicians, <http://politicalgraveyard.com/bio/mack>. h

¹¹⁵Mack, supra note 9, at 109.

¹¹⁶ Id., at 121-122. Lindsey was probably the first juvenile court judge to act as a “therapeutic agent”. Thomas F. Geraghty and Steven A. Drizin, “The Debate over the Future of

Mack's own approach, epitomized by his famous three questions ("What is he, how has become what he is, and what may best be done in his interest and in the interest of the State to save him from a downward career?"), reflects the same empathetic view.¹¹⁷ During his service in the Chicago Juvenile Court, the Supreme Court of Utah published an opinion with which he would have undoubtedly agreed:

"To administer juvenile laws in accordance with their true spirit and intent require a man of a broad mind of almost infinite patience, and one who is the possessor of great faith in humanity and thoroughly imbued with that spirit. The judge of any court, and especially of a juvenile court, should be willing at all times not only to respect, but to maintain and preserve, the legal and natural rights of men and children alike."¹¹⁸

In 1911, Judge Mack found himself in New York and was interviewed by the Sunday Times along with Judge Franklin Hoyt of New York's Children's Court. Mack by then had left the Illinois judiciary and was the head of the National Conference of Charities and Corrections, and according to the article, "his is the voice of authority". Judge Hoyt was quoted as saying that "they handle the problem better in Chicago". Judge Hoyt wanted his Court to abandon the seven judge rotation system in favor of four being "exclusively" devoted to juvenile matters. Because one judge did not sit year round, Mack agreed that "The Children's Court in New York has not reached its full development partly on this account." Mack personally admired Hoyt. However, he emphasized that the Juvenile "Court is a human rather than a legal institution." The judge must be a "lover of children and child life" who is "willing to devote himself to the strain of the work". The real questions to be decided are not guilt or innocence. They must be, "Is this child in need of the care of the State, in view of all of the conditions surrounding him? Is it the duty of the State to intervene here? What are you and why have you become what you are?" Judge Mack alluded to the court in St. Petersburg (Russia) that "had realized many of the best ideals of the American Children's Court". Hearings were convened in "sunlit rooms" and the "judge sat informally behind a little table" in what Mack characterized as a "quiet un-terrifying court room".¹¹⁹ An actual period photograph of the Chicago courtroom presents a similar comfortable setting: the judge is not wearing a robe; the room is well lit; and the court personnel are both men

Juvenile Courts: Can We Reach Consensus?' Journal of Criminal Law and Criminology, Vol. 88, No. 1, 1-13, at 1 note 1 (1997).

¹¹⁷See note 23, supra at 121-122.

¹¹⁸Mill v. Brown, 88 Pac. Rep.609 (1907).

¹¹⁹"A Very Human Judge Needed for Children (He Should be a Student of PhilanthropicProblems, says Judge Mack)" New York Times (Monday, December 18, 1911), query.nytimes.com/gst/abstract.html?res,superbites.nytimes.com/free_1911/Articles_1911_12_0001.html.

and women. Three boys stand before the “bench” (which is two long connected tables/desks) and the youngest child is actually behind it talking with the judge.¹²⁰ For Mack the proper mindset and environment were the keys to successfully saving children in trouble.

Mary Margaret Bartelme

She is the giant, the one person who eclipses all others in the Chicago Juvenile Court movement. It had been said that she and Jane Addams were the “two most famous women” in America.¹²¹ Bartelme’s portrait hangs conspicuously with honor at Northwestern University School of Law¹²² and another photograph may be found among distinguished women of the law on the fourth floor of the Chicago Bar Association. They are both a testament to her place in American judicial history for her pioneering work in the juvenile courts.

Mary Bartelme was born on July 24, 1866, graduated West Division High School with honors at age 16, and continued her education at the County Normal School. By age nineteen, she had become a teacher and continued for five years. She was encouraged by none other than Myra Bradwell to pursue legal studies.¹²³ Her final year thesis was published in the Chicago

¹²⁰Glowacki, supra note 54, at 50.

¹²¹Alice Schalek, “The Two Most Famous American Women—Jane Addams and Mary Bartelme (n.d)” in Mary Bartelme University of Illinois at Chicago Special Collections [Hereafter Bartelme], Box 9, folder 9-144. See University of Illinois at Chicago, Mary Bartelme Papers Inventory, <http://www.uic.edu/lib/specialcoll/services/rjd/findingaids>.

(December 1940): The Chicago Visitor published pictures and a one paragraph biographical sketch of four men under the title of “Six Limelight Chicagoans”. The men were the chairman of the rapid transit line, a banker, the presidents of Armour & Co. and the Chicago Safety Council. The two women were Jane Addams and Mary Bartelme. Bartelme Box 9, folder 9-143.

¹²²“Judge Mary Bartelme”: Oil Portrait hanging on the west wall of Lowden Hall at Northwestern University School of Law in Chicago with this inscription: “NU Law 1894. Co-founder of the First Juvenile Court 1899. First woman elected judge in Illinois 1923. Presiding Judge of the Juvenile Court 1927-1933.” Her diary contains this entry for January 21, 1929: “A busy day in court. Sat for Christian Abrahamson artist for picture for Medill.” Bartelme Box 1, folder 1-6.

Throughout her life, she remained close to Northwestern. See Letter of Mary E. Goodlove, Registrar to Hon. Mary J. Bartelme (11 March 1933) indicating that the law school would be “honored” to host a meeting of her organization and that it would place “Lincoln Hall [the school’s premier lecture hall] at your disposal”. Bartelme Box 6, folder 6-74.

¹²³Brian I. Hays, Michael N. Levy, and Gwen Hoerr McNamee, “Judge Mary Bartelme,” Chicago Bar Record, Vol. 12, No. 1, 26-27 (June 1978).

Legal News¹²⁴ and she won a \$75.00 prize from the American Law Reporter and Review of Philadelphia for the best case annotation for 1894.¹²⁵ Upon graduation from Northwestern University Law School in 1894, as the sole woman in her class, she was admitted to the Illinois Bar that same year and then to the United States Bar two years later.¹²⁶ She immediately began a probate and general legal practice.¹²⁷

In 1897, Governor Tanner appointed her the Cook County Guardian. She personally visited homes, dispensed clothes to needy children, and often took children into her own home. She and her sister even raised two girls who were wards of the state after their foster parents died. On March 3, 1913 she was unanimously appointed by the county judges as an assistant to the presiding judge (Merritt W. Pinckney) who had determined that the growing number of female delinquents required a woman judge. Consequently, she assumed the duties which led to handling custody and the estates of thousands of minors over the next ten years. Elected in her own right on November 6, 1923, she was re-elected in June of 1927. Bartelme was a member of the Chicago, Illinois, American, and Woman's Bar Associations, the Woman's Club, the Woman's City Club, the College Club, and the Chicago Association of Commerce. She was president of the Woman's Bar in 1927-1928. She taught medical jurisprudence at Northwestern University and chaired the fund-raising committee of the Women's and Children's Hospital. A true Progressive spirit, she believed that Chicago lacked proper entertainment and recreation, promoted community centers and parks, fought to keep girls in school through age 16, and was an outspoken supporter of woman suffrage. She "was believed to have been the first woman to confer citizenship on foreign-born applicants" when she swore in a group of Italians in 1924. Knox College awarded her an honorary Doctors of Laws degree in 1929. She died on July 25, 1954, the day before her 88th birthday.¹²⁸ That is the thumbnail sketch of an extraordinary life.

The first two authors were Northwestern University law students and the third was a history doctoral candidate at the University of Chicago. The article appeared in a special issue dedicated to 125 years of women lawyers in Illinois. An insert article authored by Judge Sophia Hall, then the Presiding Judge of the Juvenile Court, mentions that a picture of Mary Bartelme was already hanging on the wall of her office when she began her assignment. It reminds her that "Barlelme's way is still the best way to make a difference". That way is "child by child."

¹²⁴Based on the case of Nichols v. Eaton, it was also published in the Northwestern Law Review, Vol. 2, 177 (1894).

¹²⁵Discussing Synge v. Synge, at 42 American Law Reporter 721 (1894).

¹²⁶Schultz, supra note 96, at 66.

¹²⁷(29 February 1933): Barletme Box 3, folder 3-26, has a biographical sketch containing her own pencil corrections.

¹²⁸Schultz, supra note 96, at 66, 68-69; Sawyers, supra note 78, at 24; (29 February 1933): Bartelme Box 3, folder 3-26; (26 July 1954); "Judge Mary Bartelme Dies at Highlands",

It hardly does justice to her efforts on behalf of youth. To that we turn now in detail—for it is a story worth retelling.

Judge Pinckney enthusiastically embraced her for her unique qualities and ability:

“Miss Bartelme is admirably suited for her position. She is an acute and well-trained lawyer, with a distinctly judicial temperament. Her mind is quick and comprehensive. She has poise, cool judgment, and a fine discriminating sense of justice, few men, no matter how wise and good, are capable of passing judgment on girls who have erred, because few men have a clear understanding of woman’s nature. Not all women are capable of such work, because their sympathies would be too likely to override their judgment. Miss Bartelme is the right woman in the right place. She has man’s intellect and judgment and a woman’s heart, sympathies, and intuitive knowledge of feminine character and feminine viewpoint.”¹²⁹

For good reasons, his judicial colleagues chose her to act as his assistant in 1913 in order to specifically address the special needs of the growing numbers of delinquent young women. Pinckney explained:

“The delinquent girl, unlike the delinquent boy, is generally brought to the court for some sexual irregularity. This means that the story of her shame and downfall is told openly, publicly. There are often present . . . curiosity seekers, sensation hunters, and . . . newspaper reporters looking for a story.” Her name, as well as those of her parents and siblings, and her home address “appears in the newspapers, with all the harrowing details of her trouble. She is fortunate if her picture is not surreptitiously taken for publication.”

“After such an exploitation of her trouble . . . [h]er feelings [are] shocked, her sensibilities blunted, her sense of justice outraged . . . To my mind this procedure is unnecessary, is wrong, is barbarous.” A woman is needed to hear “the girl’s story” with her parents and with “every consideration” shown to them so that “this darkened page in their lives will be guarded from the public gaze.” Such delinquent girls will “more readily unburden their souls to one of their own sex.”¹³⁰

obituary appearing in an unidentified Monterey, California newspaper the day after her death. Bartelme Box 4, folder 4-42.

¹²⁹Quoted in both “America’s Only Woman Judge is Doing Big Work,” New York Times (25 May 1913), and also in Law Student’s Helper, Vol. XXI, No. 7, page 7 (July 1913), <http://www.stanford.edu/library/wlhbp/>

¹³⁰“Personals”, page 251 of an unknown source, in Bartelme Box 3, folder 3-26.

The innovation proved to be a resounding success as Pinckney and Bartelme worked well together and held each other in high regard throughout their lives.¹³¹

Reaction to her appointment from the press was immediate and overwhelmingly positive, as it would remain throughout her career. The Chicago Inter-Ocean praised “another step forward in Chicago courts towards greater humanitarianism” as the Presiding Judge Pinckney divided the Juvenile Court into separate branches for “boys and girls”. Mary Bartelme “acts as a sort of master in chancery” to make recommendations for final judicial ruling by Judge Pinckney. The article recounts that one 14 year old “sobbed her story to the ‘municipal mother’ and went away with a smile of joy at having found the ‘most kindest’ woman in the world”.¹³² The New York Times featured two photographs: one of Judge Bartelme at her desk and the other a courtroom scene with a young woman tearfully holding her head. The caption reads: “Miss Mary M. Bartelme of Chicago’s court for delinquent girls proves to those who are brought before her that she is friendly and is accomplishing wonders in handling difficult problems.” The article presents a typical courtroom situation and discussions of how the judge gains their confidence. Descriptive sub-titles explain to the readers “why girls go wrong”, the “pleasures of the moment”, and “where temptation lurks”.¹³³ A popular national magazine’s sympathetic portrait, observed:

“Unquestionably, the two little vertical lines in Miss Bartelme’s forehead, for which the ten thousand children are responsible, would be deepened

Concern over the sexual indiscretions of these young women quite naturally permeated Progressive thought. Bernardine Dohrn, “The School, the Child, and the Court,” in Rosenheim, et al, supra note 2, at 278: “In 1910, 81 percent of the girls were brought to court ‘because their virtue was in peril if it has not already been lost.’ For girls involved in prostitution, ‘there must be recognized the possibility of spiritual contagion and physical infection’ . . . Moral offenses committed in and around schools were viewed as particularly dire.”

¹³¹“Judge Merritt W. Pinckney, one of my closest friends while alive . . . repeatedly told me that there was no one whose work he appreciated as much as yours, and he hoped that the day would come when you would be able to preside in that Court yourself.” 17 October 1923): Letter of J. Scott Mathews, Chief Examiner of Titles, Cook County to Miss Mary M. Bartelme Bartelme Box 6, folder 6-78.

Bartelme kept close contact with Judge Pinckney and his wife. His name and address (5826 Dorchester) was in her own 1918 address book. After his death, she crossed out his name, replacing it with “Mrs.” Bartelme Collection, Box 1, folder [1-3].

¹³²“Municipal Mother in Chicago: Miss Mary M. Bartelme, as Assistant Judge Will Hear The Woes of Parentless Girls of the City”, Chicago Inter-Ocean (5 March 1913), Bartelme Box 8, folder 8-121.

¹³³“America’s Only Woman Judge is Doing Big Work,” New York Times (25 May 1913).

before the year is old were it not for the merciful compassion and tenderness which forced her face to smooth them out”.¹³⁴

Years later, Bartelme recounted a life-changing conversation which took place in her courtroom sometime in 1913:

“[Bartelme]: We have a new home for you. Would you like to go back and get your extra clothing?”

“[Girl]: “I ain’t got none, ‘cept what I got on—‘less I got an extra pair of stockings, maybe.”

A woman hearing the exchange approached the judge with an offer to provide some clothes. In short time, there were nine suitcases in the judge’s office. By 1923, she had received 9,000. This was the beginning of the legend of “Suitcase Mary”.¹³⁵

From 1914 to 1915, she opened temporary transitional “Mary’s Clubs”—today’s equivalent to “safe” or “group homes”—one at 4820 South Kildare, another at 117 North Lorel Avenue, and a third at 4144 South Prairie Avenue, collectively housing over thirty girls. Upon leaving, the girls were supplied with one of those suitcases filled with two “union suits of knitted underwear” and two “pairs of cotton stockings”, a “night dress” and a “kimono”, an “all over apron”, and various toilet articles, sewing kits, and the like.¹³⁶ She saw the “Mary Clubs” as a means of instructing, correcting, and helping (but not punishing) wayward girls in a home-like setting¹³⁷. In this regard, she reflected the ethos of the Progressive Movement in which the reformers “were more concerned about the nature of the services provided to delinquent,

¹³⁴Eleanor Tracy, “The Mother of Ten Thousand Children,” *McCalls Magazine*, 14-15, 85-86 (June 1913). See also, Dohrn, *supra* note 130, at 278.

¹³⁵On May 9, 1941 while visiting family in Glencoe, California, Bartelme was interviewed by newspaper reporter, Charles Cleveland for an article, “Mary Bartelme tells of helping 9,000 girls”. Although the name of the newspaper has been cut off the body of the article relates this story. Bartelme Box 8, folder 8-118.

¹³⁶Mary Bartelme, “The Mary Clubs: The Opportunity for Normal Home Life for Every Girl”—undated pamphlet. Bartelme Box 1, folder 1-2. Bartelme kept the telephone numbers for each location in her personal phone book: Lorel—Austin 2070; Kildare—Evergreen 8378; Prairie—Atlantic 4851. Bartelme Box 1, folder 1-3. She owned the Lorel property. Under her leadership, within 10 years these three homes processed some 2,600 girls. The first two homes were for “white girls” but then the third was opened, in conjunction with an African-American Friendly Sisters League, for “colored” girls. Schultz, *supra* note 96, at 67; Dohrn, *supra* note 134, at 278. Eventually, the Clubs’ had an official office in Room 900 of the Cook County Building, one floor below the later location of the Juvenile Court. Bartelme Box 8, folder 8-116.

¹³⁷Sawyers, *supra* note 78, at 24.

neglected, and abused children than they were about the new juvenile court's procedural fairness".¹³⁸ In essence, the Court was viewed as a piece of "social machinery".¹³⁹

Meanwhile, her caseload grew. In 1919 there were 1198 "boy" cases and just 311 "girl" cases in the Juvenile Court.¹⁴⁰ Two years later, the "girl" cases more than doubled to 661. Each was heard "in her little private office, which contains a desk, chairs, attractive pictures and just enough room for the girl, her parents, probation officers and a few persons directly concerned with the case." Her reputation solidified. Known "throughout the world" as "representatives of foreign countries" came to observe her proceedings, "her recommendations are almost never questioned."¹⁴¹

One 1920 press account describes her as "a little woman with fine, almost delicately cut features, kind eyes, and a direct gaze" who "speak[s] firmly but sympathetically". She has "compassion in her eyes", "absolute sincerity", and a "peculiar quality of mercy". Yet, those "keen eyes never miss a movement of the young culprit". She keeps a pile of clean handkerchiefs nearby and is not afraid to "sternly" lecture delinquents and parents alike. The reporter chronicles the disposition of three cases. "Rose" stole a watch on a dare from her gang. She is sent to her sister in New York. "Mamie" spent "two nights in the company of a man many years her senior". For her "immoral act" she will learn discipline and "do housework in a private home". Gladys "could break both hearts and laws". She would find herself in the Geneva State Training School "if she got into trouble again".¹⁴²

¹³⁸Geraghty, supra note 115, at 1. Protestant Progressive moralism might also take solace in Rom. 11:22 (God "can be severe as well as kind"); 2 Cor. 1:3 ("the Father of compassion and God of all comfort"); and Prov. 3:12 ("The Lord corrects those he loves, as a father corrects a child in whom he delights.").

¹³⁹Tanenhous, supra note 25 at 43.

¹⁴⁰(19 May 1920): Memo by Mary Bartelme. Bartelme Box 6, folder 6-74.

¹⁴¹"Miss Mary Bartelme and the November Election," The Eleanor Record, Vol. 9, No. 11, p.1 (1923). Bartelme Box 8, folder 8-130.

¹⁴²Josephine Blackstock, "The Girl Prisoners," Oak Leaves (17 January 1920). Bartelme Box 8, folder 8-121. This article appeared in the local community newspaper published in Oak Park, Illinois, a western suburban community bordering Chicago. The Oak Leaves began publication in 1902 with the merger of two other local papers, The Oak Park Review and the Oak Park Vindicator, which had both been in business since the early 1890s. It is still publishing today. At that time, the Judge Bartelme lived in the neighboring Village of River Forest at 260 Keystone Avenue. The author proudly features this eminent local citizen—her courtroom management, "suitcase" salvation of broken lives one at a time, dedication of the Women's Clubs, and success of the Mary Clubs. For a picture Judge Bartelme from 1920, see <http://images.yahoo.com/images/view?Back=http%3A%2Fsearch.yahoo.com%2Fsearch%3F>(also includes biographical sketch).

In 1923, Judge Thomas G. Windes died just one year into his term presenting Mary Bartelme with an opportunity to seek election in her own right. She and forty-three men were found qualified for various vacancies that year by the Chicago Bar Association.¹⁴³ Her election became a referendum on the importance of electing a woman to the bench in Illinois. A short nationally published feature article begins by observing that the “news” of women jurors in “Kansas and the Pacific Coast” no longer will seem “novel” since a “new judicial institution is being tried in Chicago.” There the judge, bailiff, probation and youth officers, and clerk are all women. Men are not even allowed as spectators. It continues: “The sound idea that led to this formation of this feminine tribunal is that an erring girl ought to find it less difficult to tell a true, frank story to a woman than to a man”.¹⁴⁴

By then, her Presiding Judge was Victor P. Arnold. He wholeheartedly embraced her election, saying “The election of Miss Bartelme will be of interest, historically, not only to the United States, but to the entire world.”¹⁴⁵ So also had Merritt W. Pinckney (Juvenile Court), Charles S. Cutting (Probate Court), and Orrin Carter (Supreme Court),¹⁴⁶ Julia Lathrop¹⁴⁷ and

¹⁴³Chicago Bar Association, “Report of the Committee on Candidates on the Qualifications of Candidates for Judicial Office at the Election to be held on November 6, 1923”. The Report outlines her background and most recent experience in a “semi-judicial position” [assistant to Presiding Judge Arnold]. Bartelme Box 6, folder 6-78, at 8.

An election flyer entitled “A Challenge to the Women of Cook County” takes issue with that characterization, arguing that she “has been doing the work of a judge, without the authority of a judge, for the past ten years” hearing some 10,000 cases of “boys and girls”, 7,000 under the Judge Arnold [and 3,000 under Judge Pinckney]. Bartelme Box 6, folder 6-78.

¹⁴⁴“A Court for Girls with a Woman Judge”, Colliers—The National Weekly at 11 (1923). Bartelme Box 8, folder 8-118. See also Sarah Heeley, “Mary Margaret Bartelme”, Illinois History: A Magazine for Young People, Vol. 62, No. 1 (Illinois Historic Preservation Agency)(January 2009),<http://www.IllinoisHistory.gov/TOC109H.htm>. (“she hired only females to work in [court] so the young women would feel more comfortable” but maintains that it was after her election).

¹⁴⁵Bartelme Box 3, folder 3-26.

¹⁴⁶(July to October 1923): “Twenty Five Reasons Why We Want Mary M. Bartelme on the Circuit Bench.” This three page position paper was drafted by her campaign committee. A generic one without a heading is in Bartelme Box 1, folder 1-2. Others, sent on campaign stationary to numerous civic organizations, are in various forms in Bartelme Box 6, folder 6-79. Among the stated reasons were: her experience as an “assistant judge” in the “oldest juvenile court in the United States” and her “special fitness for [the] special work”; and her “wise, efficient, brilliant, and devoted work” for, and “understanding” of, the girls, their mothers, and local conditions. It concluded: “If Ohio can elect a qualified woman [Florence E. Allen] to [its] Supreme Court, surely Illinois can elect a woman to our own Circuit Bench.”

Louise DeKoven Bowen.¹⁴⁸ Perhaps her most ringing endorsement came from J. Scott Andrews, a fellow attorney who had known her throughout her career and objected to the assessment of the Chicago Bar Association that she was “exceptionally well-qualified for the work of the Juvenile Court” but lacked “general experience as a lawyer” for the “other duties of judge”.

“. . . I know that I am safe in saying that much of the success that those [juvenile court] judges have had would not have been possible without your able assistance.”

“. . . A man who is well versed in the law relating to property rights may be a real menace in the lives of growing children through his lack of sympathy and understanding.”

“. . . I, for one, conceive it to have been a fortunate thing for Cook County that your heart has been broad enough and your humanity so great that you have suffered little children to come to you, to pour out their troubles and sorrows and receive a heart full of loving kindness and sympathy.” It is those noble troubles that are “taking of your time from the general practice of law”.

“I trust and believe that on Election Day the voters will say to you, ‘the Children’s Judge’, ‘Well done, thou good and faithful servant’.

“In closing may I add that I knew you as a lawyer . . . and have been on the opposing side of legal cases in which you appeared. I conceived then

¹⁴⁷(circa October 1923): Letter of Julia C. Lathrop to Mary Bartelme. On a Saturday, she wrote very personally, “I wish I knew how to help your candidacy and I shall you may be sure—do all that in me lies—unluckily I am not a resident of Cook County. I am tempted to change. Yours affectionately.” Bartelme Box 6, folder 6-78.

That same year was also a momentous one for Lathrop. At the annual conference of the Bureau held in Milwaukee, Wisconsin on June 21 and 22, 1921, she proposed a study commission to develop national standards. She thereafter appointed a committee of distinguished judges from Cincinnati, Detroit, the District of Columbia, and Los Angeles as well as the Chief Probation Officer from Chicago, and various other experts from Alabama, Massachusetts, and New York. The two-year study proposed various standards concerning judges, court jurisdiction and procedure, the informal hearing process, case disposition, and probation and supervision. United States Department of Labor, Children’s Bureau, “Juvenile Court Standards”, Publication No. 121 (U.S. Government Printing Office (May 18, 1923)). Bartelme Box 7, folder 7-79; Tanenhaus, supra note 25, at 67-69.

¹⁴⁸(17 October 1923): “Every Woman to the Polls” campaign flyer signed by five representatives of the Illinois Women’s Clubs, including Louise De Koven Bowen supports the “election of a woman judge to a bench before which the cases of little girls are brought.” Bartelme Box 6, folder 6-78.

a high estimate of your ability and worth, and your subsequent success in Juvenile Court work has only strengthened that opinion.”¹⁴⁹

Bartelme faced a worthy opponent.¹⁵⁰ But, in the end, she prevailed in a county-wide election by about 14,000 votes.¹⁵¹ Shortly thereafter, she was honored at a reception featuring seven speakers, including Hon. Victor P. Arnold (Presiding Judge of the Juvenile Court), Wilbur H. Sexton (President of The Chicago Bar Association), and none other than Jane Addams herself.¹⁵² The following month, the Chicago Woman’s Club proclaimed: “It is with pride and joy that we print the picture of not only our *candidate* but of *our* judge, the first woman to have attained the distinction of judgeship in Illinois” when it printed a photograph of “*our* Mary”.¹⁵³

Her distinguished service continued as her courtroom became host to a myriad of dignitaries including Queen Marie of Romania¹⁵⁴ and Judge Reed from Detroit.¹⁵⁵ In a congratulatory note, Justice Florence E. Allen of the Ohio Supreme Court wrote: “It seems to me that we have really converted some of the men of the country to believe that women can do genuine service in the judiciary.”¹⁵⁶ Women especially had risen in her support and had, indeed, proven a point.

¹⁴⁹(17 October 1923): Letter of J. Scott Mathews, Chief Examiner of Titles, Cook County to Miss Mary M. Bartelme. At that time, the Circuit Court had some jurisdiction over the registration of titles in a system called Torrens. Bartelme Box 6, folder 6-78

¹⁵⁰She had run as a Republican and defeated a prominent Democratic opponent, D. J. Normoyle. A graduate of Kent College of Law in 1901, he had been in private practice for ten years, a former assistant corporation counsel (1911-1912), and the first counsel to the State Public Utility Commission. At the time of the election he was a master in chancery and the chair of the CBA Committee on Admissions. Bartelme Box 6, folder 6-78.

¹⁵¹(November 1923): Box 6, folder [6-78] contains a specimen ballot and two brownish-white sheets with mimeograph-type vote tallies. The “Chicago” one reports its final totals as: Bartelme 172,911 [-5,838] and Normoyle 178,749. The “Country Towns” one [suburban Cook County] reports about 85% of the precinct returns as: Bartelme 25,925 [+11,714] and Normoyle 8,373. After all the voters were counted, she won by about 14,000. Hays, supra note 122 , at 27.

¹⁵²(26 November 1923): Program in Honor of Mary M. Bartelme, Hamilton Club of Chicago. Bartelme Box 6, folder 6-78.

¹⁵³(December 1923): The Chicago Woman’s Club Bulletin at 132. Bartelme Box, folder 8-128.

¹⁵⁴Hays, supra note 122, at 27.

¹⁵⁵ (21 January 1929): Diary entry. Bartelme Box 1, folder 1-6

¹⁵⁶(28 November 1928): Letter of Florence E. Allen to Mary Bartelme. Justice Allen (1923-1934) had just won her re-election to the state Supreme Court by 351,000 votes. Bartelme Box 7, folder 7-93.

Personal testimonials to her stern compassion and unwavering commitment to youth also continued. Two parents wrote to her in 1924 that while they could not have written this “a year ago”, they now are amazed that their girl “talks and acts like a woman” and that “her outlook on life has completely changed”. She “graduated a week ago” and although she has yet to find employment, “under God, I owe it all to you”. While “the experience was very bitter and the agony hard to bear” the results were most gratifying.¹⁵⁷ A young woman reflected that she “always wanted to thank you” especially “when you gave me a new trial in court”. Continuing, “from now on I am going to do my best” in life. “I am taking music lessons and these people [at the Mary Club] are simply wonderful to me.”¹⁵⁸ Later, after young men were added to her court call, this one wrote: “I want to thank you for all you did for me, and I can assure you that you will never have cause to regret the decision you made two months ago” especially since he was now enrolled in Roosevelt High School.¹⁵⁹

And she forged ahead. In November, 1929 it was reported that “boy after boy came before Judge Bartelme with the same story”: truant from school, working at night for newspapers, sleeping in a garage, living one meal a day; cheap shows and gambling; for months away from home and his frantic parents; lice-infested and sick. All “under sixteen, many of them were seventh and eighth-grade boys, too young to be granted work certificates, bright boys who had never been delinquent before”.¹⁶⁰ In 1930, the Chicago Daily News published a series of seven favorable articles printed between April 28 and May 2 highlighting the Court, its proceedings, the Mary’s Clubs, and the work of Judge Bartelme. They were then compiled and re-published in a widely distributed twelve page pamphlet. Mary Bartelme wrote a one page “Forward” in which she expressed appreciation for the series. One article focused on a boy who had been shooting out street lights with a rifle and two others discussed the rehabilitating role of the Mary’s Clubs. Another article was entitled, “Juvenile Court Aids Girls Who Are Friendless”.¹⁶¹ Mary Bartelme remained fully engaged in the cause of “child-saving”. Most

¹⁵⁷(28 September 1924): Letter of John and Margaret Duffy to Judge Bartelme. Bartelme Box 7, folder 7-84.

¹⁵⁸(11 October 1930): Letter of Florence Rasmussin to Judge Mary Bartelme is in an acetate plastic folder, as she kept all of her personal photographs of family and friends and from her travels. The care with which it was preserved seems to indicate that she treasured it. Bartelme Box 7, folder 7-84.

¹⁵⁹(31 March 1932): Letter of Charles Blunder to Judge Bartelme. Bartelme Box 7, folder 7-84.

¹⁶⁰F. Zeta Youmans, “Kindergartens of Crime,” Juvenile Protective Association Pamphlet (A reprint from the survey of September 15th 1928—Chicago: JPA 1929). JPA Box 1, folder 153.

¹⁶¹Gifford Ernest, “Chicago Daily News Report: The Cook County Juvenile Court” (1930). The articles are in Bartelme Box 9, folder 9-144 and the pamphlet in Bartelme Box 9,

importantly, her focus was upon properly funding the probation officer system, pleading: “No work is of greater importance to the Juvenile Court Judge in arriving at a decision than that of the probation officer”. It was the officer’s work, report, manner, attitude, and interaction with the offender and his or her family that is crucial.¹⁶²

By 1930, Chicago employed 140 probation officers earning \$145 to \$200 per month for ten months as well as thirty-three police youth officers.¹⁶³ In fact, it was the drastic funding reductions for probation officers after the Stock Market Crash which ultimately led to her decision to leave the bench, her legacy secure. Though “small in stature” she was an “earnest-eyed, quiet-voiced woman which inspired confidence”. Being “sensitive, imaginative, and keenly intelligent, sympathetic with children and their parents . . . but not sentimental”, she was simply the “children’s judge” who “made a niche for herself in American judicial history by her years of pioneer work on the juvenile bench.”¹⁶⁴ She was a “Chicago, a national, and an international champion for children who relied on probation and volunteer services to keep most children from institutional incarceration.”¹⁶⁵

A WORLDWIDE MOVEMENT

The hallmarks of the juvenile court concept is the creation of “a special court or department of a trial court which deals with under-age defendants charged with crimes or who are neglected or out of control of their parents”. The procedure “is not always adversarial” and attempts “to involve parents or social workers and probation officers in the process to achieve positive results and save the minor from involvement with further crimes.” When necessary, foster homes may be employed as the child is treated as a “ward of the court”.¹⁶⁶ The “establishment of juvenile courts is often viewed as the most significant step” in the approach of

folder 9-142. Judge Mack emphasized the importance of encourage supportive press coverage. See “A Very Human Judge Needed for Children . . .”, supra note 118. “Publicizing the juvenile court, however, revealed a tension in Progressive thought. Although the Progressives wanted to protect the privacy of the individual child in court, they also sought to publicize the plight of poor children in general.” Tanenhaus, supra note 25, at 63.

¹⁶²Mary Bartelme, “The Financial Crisis in Cook County and What It has Meant to the Children of the Juvenile Court,” The Young Citizen, Vol. 1, No. 5 (April 1930).

¹⁶³(15 January 1930): Meeting Minutes, Juvenile Court Advisory Committee. Bartelme Box 7, folder 7-101.

¹⁶⁴(26 July 1954): “Judge Mary Bartelme Dies . . .” Bartelme Box 4, folder 4-42.

¹⁶⁵ Dohrn, supra note 134, at 278.

¹⁶⁶“Juvenile court” (US), <http://legal-dictionary.thefreecictionary.com/juvenile+court>

“taking children out of adult criminal courts and treating them with a welfare-oriented approach [that] marked a breaking point with the punitive philosophy of criminal justice.”¹⁶⁷

By 1926, forty-six states and the District of Columbia had followed the Chicago reformers by adopting juvenile court systems. So had Canada (1908), Great Britain (1908), Switzerland (1910), Belgium (1912), France (1912), Hungary (1913), Croatia (1918), Argentina (1919), Austria (1919), India [Madras](1920), India [Bengal] (1922), Japan (1922), Madagascar (1922), Netherlands (1922), Brazil (1923), Germany (1923), Spain (1924), and Mexico (1926). In 1945, Wyoming finally created one.¹⁶⁸ Over time, in general the judicial systems in Europe came to include “specialized courts and a juvenile penal law, special procedural rules for prosecuting juveniles, stricter custody rules for confining them, and sanctions ranging from warnings to community supervision to institutional placement”. England, Germany, and Wales created different courts with jurisdiction over welfare interventions and delinquency proceedings while Belgium, Denmark, and Scotland, with no unique juvenile penal law, adopted special procedures in the regular criminal courts.¹⁶⁹

Over the following eighty years, significant progress continued. Thus, by 2006, there was a proposal for a two-year international study of practices in Western Europe to review and coordinate information assembled from “national reports” from thirty-three countries. The areas of inquiry included historical development, trends in reported delinquency, sanctions system, criminal procedure, sentencing practices, transfer to adult court, pre-trial detention and residential care, and reform proposals. Experts were identified and contact information provided

¹⁶⁷Jean Trepanier, “Juvenile Courts after 100 Years: Past and Present Orientations,” European Journal on Criminal Policy and Research, Vol. 7, 303-327 (1999)(Univ. of Montreal, http://img.mediaplex.com/cgi-bin/html1/0/8282/59403/BC2USA_final.html?mpck=adfarm).

¹⁶⁸“Second Chances: Giving Kids a Chance to Make a Better Choice,” Juvenile Justice Bulletin, at 1-3 (May 2000), http://www.ncjrs.gov/html/ojjdp/2000_5_1/intro.html. On the creation of the courts and a short summary of juvenile justice practices in Belgium, Denmark, Finland, France, Germany, Italy, the Netherlands, and Sweden, see Jaap E. Doek, “Modern Juvenile Justice in Europe,” in Rosenheim, et al., supra note 2, at 506-515, 519-520.

¹⁶⁹Lawrence K. Furbish, “Western European Juvenile Justice Models” (December 17, 1999), <http://www.cga.ct.gov/ps99/rpt/o;r/htm/99-r1157.htm>. The author was the assistant director of the Office of Legislative Research for the Connecticut General Assembly. See also, Tanenhaus, supra note 25, at 43.

In general, in the United Kingdom the juvenile court is the “magistrate’s court in which a juvenile offender (a young person under the age of 17 who has committed a criminal offense” is tried. An informal procedure prevails, the public is excluded, and the name the defendant “is not allowed to be disclosed in any report of the proceedings”. See “Juvenile court” (UK), <http://encyclopedia.farlex.com/juvenile+court>. For detailed discussions of juvenile justice in the UK, see John Eekelaar, “Child Endangerment and Protection in England and Wales,” in Rosenheim, et al. supra note 2, at 381-412, and Anthony Bottoms, “The Divergent Development of Juvenile Justice and Practice in England and Scotland,” id., at 413-504.

for Austria, Belgium, Bulgaria, Croatia, the Czech Republic, Denmark, England and Wales, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Kosovo, Latvia, Lithuania, the Netherlands, Northern Ireland, Poland, Portugal, Romania, Russia, Scotland, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, and Turkey.¹⁷⁰

That same year the United Nations Children’s Fund released an executive summary and a 148 page report on the state juvenile justice systems in south Asia. Persons are considered juveniles in Bangladesh, Nepal, and Sri Lanka when under the age of 16 and in Pakistan when under the age of 18. Formal systems exist in Afghanistan (except in tribal areas), Bhutan, India (except Jamau and Kashmir), and Maldives. Some countries have separate juvenile courts (Afghanistan, India, Maldives) and others have separate hearing processes (Bangladesh, Pakistan, Sri Lanka). Alternatives to incarceration also vary by country. Some employ supervision with the parents (Afghanistan, India, Sri Lanka); others, community service (Afghanistan, India, Nepal, Sri Lanka); still others, house arrest (Maldives). Additional alternatives include: juvenile rehabilitation centers (Nepal), community dispute resolution (Afghanistan, Bhutan, Nepal), mediation (Sri Lanka), and counseling (India).¹⁷¹

Japan, in particular, emphasizes rehabilitation and protection under a statutory command that hearings be conducted “softly and mildly with warm consideration”. Compassion and a maternal-like instinct that recognizes a certain “dependency which underlies human autonomy” governs the process.¹⁷² In South Africa 2009 legislation “established a criminal justice system for [100,000] children [each year] who are in conflict with the law or are accused of offenses”. The “central feature” of that law was to divert youth from the criminal justice system and into victim-offender mediation, family counseling, substance abuse program and family reunification programs.¹⁷³ Efforts toward reform even began in Albania in 2000.¹⁷⁴

¹⁷⁰Dr. Frieder Dunkel, “Juvenile justice systems in Europe—current situation, reform developments and good practices”, Department of Criminology, Greifswald, Germany (December 15, 2006), www.uni-greifswald.de/~1s3.

¹⁷¹United Nations Children’s Fund, Regional Office for South Asia, “Juvenile Justice in South Asia: Improving Protection for Children in Conflict with the Law”. (Kathmandi, Nepal: UNICEF 2006), http://www.unicef.org/Rosa/Juvenile_Justice_in_South_Asia.pdf, at 3, 8, 11, 13, 17, and 18.

¹⁷²Akira Morita, “Juvenile Justice in Japan,” in Rosenheim, *et al.*, *supra* note 2, at 360-379. In 1907, Nobushige Hozumi, Japan’s then leading legal scholar, visited the juvenile courts in Chicago and Colorado. In a lecture about such American courts, he noted: “[P]eople are beginning to regard the child’s behavior not as originating in the child’s own free will and autonomy but, rather, as a product of the family and society. Accordingly, it is believed that children’s courts should not be an instrument to punish the child but one that protects and educates.” *Id.*, at 362.

¹⁷³“UNICEF welcomes signing of [South Africa] Child Justice Bill Into Law” http://www.unicef.org/southafrica/media_4936.html

Regrettably however, reform had still not penetrated portions of the African continent. Very little head way has been made in Uganda, Zambia, Sierra Leone, and Mozambique.¹⁷⁵

THE LEGAL LEGACY IN AMERICA

Three separate United States Supreme Court decisions since 1966 underscore the continuing relevance and vitality of the juvenile court movement initiated during the Progressive Era. These rulings reflect a contemporary reading and application of those initial reform measures. Each time, the opinions cover some eighty pages.

¹⁷⁴Ann Skelton, et al., “Towards a Comprehensive Juvenile Justice System for Albania”--Final Report of an Expert Group Mission organized by UNICEF (March 2000),http://www.unicef.org/albania/juv_justice_albania.pdf.

This is the twenty page report of a February 3-10, 2000 mission of representatives to UNICEF from South Africa, Scotland, the United States, and Italy that resulted in “action steps” for 2000-2005. The recommendations call for Albania to fully embrace the “UN Convention on the Rights of the Child” (1989), the “United Nations Guidelines for the Prevention of Juvenile Delinquency” (1990), the “United Nations Minimum Rules for the Administration of Justice” (1985), and the “United Nations Rules for the Protection of Juveniles Deprived of their Liberty” (1990)(*Id.*, at 3). The Mission found that there was a “lack of a developed system of justice for juveniles but a positive will of the Albanian government”; the “absence of any comprehensive and systematic data gathering” process concerning delinquency; a “high incidence of violence among young people”; and a “lack of community based alternatives” for case disposition (*Id.*, at 4). The report recommends specialized courts, judges, and social workers as well as “constructive sanctions” and alternatives like “community service”, “offender reconciliation”, and “rehabilitation/reintegration (*Id.*, at 11-12).

¹⁷⁵Michael Wines, “For Young Offenders, Justice as Impoverished as Africa”, *New York Times* (December 24, 2006), <http://www.nytimes.com/2006/12/24/world/africa/24africa/24africa.html?ei=5088&en=8c27e2afad...>

While these nations “endorse international norms for fairness and humanity, employ dedicated staff members, and benefit from donations, they “routinely, almost blithely, deliver injustice and brutality instead” (*Id.*, at 1). In Zambia, there are “no facilities for children awaiting trial” (*Id.*, at 2). In Uganda, a young boy, charged with “defiling” a willing girl waited a year in prison under a death sentence because his family could not pay the equivalent of \$40.00 to satisfy her parents and the High Court’s docket as so crowded that it could not comply with the six month right to trial law (*Id.*, at 3). Another defendant charged with a murder in 2002 committed when he was thirteen, is still in prison awaiting trial and has yet to see a lawyer (*Id.*, at 7). No one within the Ministry of Justice is specifically responsible for juveniles in Sierra Leone (*Id.*, at 4). There is only one juvenile court judge. And, its prison built for 324 now holds 950 (*Id.*, at 5). Some sixty children await trial in Mozambique’s capital city of Maputo in “a stifling antediluvian form of the main prison”. Nationwide only three inmates of the juvenile detention center of the national prison have been tried (*Id.*, at 4).

In re Gault

Here Justice Fortas, ruled that a fifteen year old brought to court in Arizona as a “delinquent” was entitled to due process rights because the proceeding could result in “confinement in an institution”. Those rights included notice of the charges, legal representation, protection against self-incrimination, and the chance to cross examine witnesses¹⁷⁶.

The Court noted that before there were juvenile protection laws, children over the age of seven “were subjected to arrest, trial, and in theory punishment like adult offender, pointing to an article written by none other than Judge Julian Mack.¹⁷⁷ It held that while due process might “introduce a degree of order and regularity” as well as “some elements of the adversary system, nothing requires that the conception of the kindly juvenile judge be replaced by the opposite.”¹⁷⁸

Two justices disagreed on the result. Even so, while acknowledging that the juvenile justice system had flaws, they applauded the original goal of the reformers. Justice Black’s concurring opinion noted: “The juvenile court planners envisaged a system that would practically immunize juveniles from ‘punishment’ for ‘crimes’ in an effort to save them from youthful indiscretions and stigmas due to criminal charges and convictions.”¹⁷⁹

Even Justice Stewart’s dissenting opinion said: “In the last 70 years many dedicated men and women have devoted their professional lives to the enlightened task of bringing us out of the dark world of Charles Dickens in meeting our responsibilities to the child in our society”.¹⁸⁰

Roper, Superintendent, Potosi Corrections Center v. Simmons

This is the 2005 United States Supreme Court decision in a Missouri case that ruled that the execution of a juvenile offender who was “older than 15 but less than 18 at the time he committed a capital crime” violated the Eighth Amendment prohibition against “cruel and unusual punishments” and the Fourteenth Amendment’s provisions of due process and equal protection of the laws¹⁸¹. The Court decision was 5-4. There was a majority opinion by Justice

¹⁷⁶In re Gault, 387 U.S. 1, 31-44, 87 S.Ct. 1428, 18 L.Ed.2d 527 (1966).

¹⁷⁷Id., 387 U.S. at 16 and fn. 20, “The Chancery Procedure in the Juvenile Court” in The Child, The Clinic, and the Court, p. 310 (1925).

¹⁷⁸Id., at 27.

¹⁷⁹Id., 387 U.S. at 60.

¹⁸⁰Id., 387 U.S. at 79.

¹⁸¹Roper, Superintendent, Potosi Corrections Center v. Simmons, 543 U.S. 551, 555-556, 125 S.Ct.1183, 161 L.Ed.2d 1 (2005). “The Death Penalty Information Center” reported 38 states and the federal government had capital punishment—16 and the federal government set a minimum age of 18; 5 age 17; 17 age 16. “Supreme Court to Review Execution of Juvenile

Kennedy, as well as one concurring opinion by Justices Stevens and Ginsburg. Justice O'Connor dissented as did Justices Scalia, Rehnquist, and Thomas.

The Court took into account “the views that have been expressed by respected professional organizations, by other nations that share our Anglo-American heritage, and by the leading members of the Western European community” as well as the “evolving standards of decency” in America.¹⁸² It found that there were three general differences between juveniles and adults. These include “a lack of maturity and an underdeveloped sense of responsibility”; vulnerability and susceptibility to “negative influences and outside pressures, including peer pressure”; and the, as yet, unformed “character” of the juvenile.¹⁸³ Because juveniles have “diminished culpability” and “blameworthiness”,¹⁸⁴ neither retribution nor deterrence have much impact on them.¹⁸⁵

Finally, the consensus in the rest of the Anglo-American legal world,¹⁸⁶ as well as among the 192 nations that have ratified the UN Convention on the Rights of the Child, is that death is an inhumane, inappropriate, and unnecessary penalty.¹⁸⁷ “[T]he express affirmation of certain fundamental rights by other nations and peoples simply underscores the centrality of those same rights within our own heritage of freedom” represented by the Eighth Amendment.¹⁸⁸

Graham v. Florida

In this decision, the Supreme Court held that absent murder it is unconstitutional to initially sentence a juvenile to life in prison with no possibility of parole.¹⁸⁹

Killers” OnlineNewsHour (January 26, 2004), http://www.pbs.org/newshour/updates/scotus_01-26-04.html.

¹⁸²Id., 543 U.S. at 561, 562-563.

¹⁸³Id., 543 U.S. at 569-570. See Vince Beiser, “Kids Locked Up for Life” (November 9, 2009), <http://www.theatlantic.com/doc/print/200911/juvenile-defenders>, at 2 (juvenile brains “are less developed than adults’ in areas controlling impulsive behavior, thinking ahead, and resisting pressure from others”).

¹⁸⁴Id., 543 U.S. at 570-571.

¹⁸⁵Id., 543 U.S. at 572.

¹⁸⁶Id., 543 U.S. at 575.

¹⁸⁷Id., 543 U.S. at 576-577.

¹⁸⁸Id., 543 U.S. at 578.

¹⁸⁹Graham v. Florida, 560 U.S. 48 (2010).

Justice Kennedy's majority opinion found that under the Eighth Amendment, the Court considers "objective indicia of society's standards, as expressed in legislative enactments and state practice" to "determine whether there is a national consensus against the sentencing practice at issue." It examines "controlling precedents" as well as the "text, history, meaning, and purpose" of the Amendment. Then, Court must "exercise its own independent judgment".¹⁹⁰

Thirty-seven states, the District of Columbia, and the federal government permitted such sentences. Closer examination of "actual sentencing practices" actually "discloses a consensus against its use". It is "so rare" that only "109 juvenile offenders [are] serving sentences of life without parole for non-homicide offenses".¹⁹¹ Also, the Court's own research¹⁹² demonstrated that judges "impose the sentence quite rarely"¹⁹³—"as rare as other sentencing practices found to be cruel and unusual".¹⁹⁴ Thus, the states "have moved away" from such sentences¹⁹⁵. But, recognizing that "community consensus is entitled to great weight",¹⁹⁶ the Court exercised its own independent judgment

The majority found "no recent data to provide reason to reconsider [its] observations in Roper" that "juveniles have lessened culpability". They "lack maturity" (or have "transient immaturity"), are "vulnerable or susceptible to negative influences and outside pressures", and "more capable of change than adults". Their criminal behavior less often "reflects irreparable

At the time, the non-profit organization, "Citizens for Juvenile Justice", claimed that more than 2,000 persons then serving sentences of life without parole were juveniles when they committed their crimes. Matt Wagner, "Supreme Court to Hear Juvenile Life-Without-Parole Cases", (May 42009), http://www.youthtoday.org/publication/article.cfm?article_id=2878. Other sources placed the number at 1,755. See Beiser, supra note 177, at 1.

¹⁹⁰Id., 560 U.S. at 58, 59, 67.

¹⁹¹Id., 560 U.S. at 62-63. A short one minute BBC broadcast after the decision was announced claimed that "129 youths were currently serving such sentences—77 of whom were in Florida." It also quoted a UK representative of "Human Rights Watch" that "the United States is the world's worst human rights violator". The report also mentioned Justice Thomas' dissent which criticized the Court for imposing 'its own sense of morality and retributive justice.' BBC News, "US Supreme Court Changes Rule on Youth Punishment" (17 May 2010), <http://news.bbc.co.uk/2/hi/americas/8688051.stm>

¹⁹²Id., 560 U.S. at 63.

¹⁹³Id., 560 U.S. at 64-65.

¹⁹⁴Id., 560 U.S. at 66, 70.

¹⁹⁵Id., 560 U.S. at 66.

¹⁹⁶Id., 560 U.S. at 67.

corruption” or “deficiencies” that cannot be reformed casting into doubt the any presumption that a “juvenile is incorrigible”¹⁹⁷. Being “especially harsh”¹⁹⁸—offering “no chance” and “no hope” or “rehabilitation” or “reconciliation with society” by denying “a chance to demonstrate growth and maturity”¹⁹⁹—and rejected by a widespread international consensus, these punishments are “inconsistent with [our] basic principles of decency”.²⁰⁰

In a short two page concurring opinion, Justices Stevens, Ginsburg, and Sotomayor stated, “Society changes. Knowledge accumulates. We learn, sometimes from our mistakes.” Punishments once acceptable later may be seen as “cruel and unusual.”²⁰¹ Chief Justice Roberts concurring with the judgment, argued in his twelve page opinion that a “categorical rule” was not necessary. Instead, these sentences should be decided case-by-case.²⁰² Justices Thomas, Scalia, and Alioto dissented. They criticized the majority for ignoring the legislative consensus²⁰³ and

¹⁹⁷Id., 560 U.S. at 67-69, 76-77.

See John Kelly, “Supreme Court Mulls Juvenile Life Without Parole” (November 2, 2009), http://youthtoday.org/publication/article.cfm?asrticle_id=3671, in which defendants’ counsel argued that a study showed that the adolescent brain has an “inherent capacity to change”. Therefore, he was not asking that the defendants be released from prison, “just the opportunity for it” in a parole hearing.

¹⁹⁸Id., 560 U.S. at 70.

¹⁹⁹Id., 560 U.S. at 72-73, 77-78. Also consider research from University of Michigan law professor Samuel Gross’ indicates that “juveniles sentenced as adults are overrepresented among those exonerated”. Of 340 cases between 1989 and 2003, nearly “10 percent were juveniles at the time of their convictions.” And, of thirty-two cases involving confessions, thirteen (42%) were later proven to be false. Mark Hansen, “The Age of Innocents,” ABA Journal 10 (January 2010). Bryan Stevenson, Executive Director of “Equal Justice Under Law, which formed part of the appellants’ legal team, commented: “This is a significant victory for children. The Court recognizes that it is cruel to pass final judgment on children who have an enormous capacity for change and rehabilitation compared to adults.” Equal Justice under Law (EJI), “Sullivan v. Florida/Graham v. Florida”, <http://eji.org/eji/print/childrenprison/deathinprison/sullivan.graham>

²⁰⁰Id., 560 U.S. at 79-82.

²⁰¹Id., 560 U.S. at 85.

²⁰²Id., 560 U.S. at 95-6. See Adam Liptak, “Justices Limit Life Sentences for Juveniles,” New York Times (17 May 2010), <http://www.nytimes.com/2010/05/18/us/politics/18court.html?>: “The overall vote was 6-3, though that is a little misleading. Chief Justice John G. Roberts voted with the majority in saying that the inmate . . . had received a sentence so harsh that it violated the Constitution. But [he] endorsed only a case-by-case approach, saying that the offender’s age could be considered” when imposing sentence.

²⁰³Id., 560 U.S. at 105-110.

the trend of both the states and Congress away from parole.²⁰⁴ They accused the majority of “judicial fiat”²⁰⁵ and undermining “democratic sentencing choices” made by the “people and their representatives”.²⁰⁶ On the social science debate, the dissent countered that the Court fails to “differentiate between adolescents for whom antisocial behavior is a fleeting symptom and those for whom it is a lifelong pattern”.²⁰⁷

Overview

In a fitting return to the birthplace of the movement, the Illinois Supreme Court very recently again embraced these principles, ruling that “[j]uveniles are a vulnerable population” and [o]ur history is replete with laws and judicial recognition that minors, especially in their earlier years, generally are less mature and responsible than adults.” This is particularly true in the “formative years” when they lack “experience, perspective, and judgment” in order to “avoid choices that could be detrimental to them.” Further, scientific and sociological studies “tend to confirm a lack of maturity and an underdeveloped sense of responsibility”.²⁰⁸ The men and women of the Chicago Juvenile Court movement could not have said it any better.

There are diverse opinions among the experts about the contemporary role of the juvenile court. Some experts argue that the only proper question is “to what extent should young people be held responsible for their criminal conduct?” Others assert that objective and scientifically-based “developmental differences between youths and adults are sufficient to raise substantial issues about the procedural fairness of trying these youngsters in adult courts”. Still others believe there is value in a “specialized court for delinquent children for specialized treatment and rehabilitation”.²⁰⁹ What is perhaps more critical is that we, as a society, still care about, and engage in, the debate.

²⁰⁴*Id.*, 560 U.S. at 106-109.

²⁰⁵*Id.*, 560 U.S. at 114.

²⁰⁶*Id.*, 560 U.S. at 120, 123.

²⁰⁷*Id.*, 560 U.S. at 118. See Alex Kingsbury, “Supreme Court Weighs juvenile Life Sentences: Should juvenile Offenders face life behind bars?” *US News and World Report* (November 11, 2009), <http://www.usnews.com/news/articles/2009/11/11/supreme-court-weighs-juvenile-life-sente...> One defendant was sixteen when he robbed a restaurant and then seventeen when he violated his probation with an armed robbery. The other boy was thirteen (mentally disabled and previously convicted of seventeen criminal offenses, including felonies) when convicted of sexual battery against a seventy-two year old woman.

²⁰⁸*The Hope Clinic for Women, Ltd. V. Manuel Flores*, 2013 IL 112673, §§64, 86 (2013).

²⁰⁹Geraghty, *supra* note 115, at 6, 10, 11.

Ultimately, the legacy of those reformers is simply this: every young person was worth “saving”. As is said by the hero in the movie “The Gladiator”, imitating Marcus Aurelius, “What we do in life echoes in eternity.”²¹⁰ Surely the echo of what they did in 1890-1930 reverberates today. In all of this, one senses the overriding presence, wisdom, and the spirit of Jane Addams, Julia Lathrop, Louise DeKoven Bowen, Richard Tutthill, Julian Mack, and Mary Bartelme. And, while the issues raised by the dissent in Graham are indeed significant and legitimate, they seem to speak of a different time and world view. For the essence of the majority opinions in Gault,²¹¹ Roper, and Graham still ring true to the vision and promise of the reforms begun in the 1890s. Much has changed. But, much remains the same.

FURTHER IMPLICATIONS FOR RESTORATIVE JUSTICE

If by the term “restorative justice” we mean an approach and a mindset that emphasizes attacking the root causes of, and more importantly repairing the harm created by, criminal or dysfunctional behavior through cooperative and interactive processes that include not only the perpetrator but also the victim and society at large, what can we learn from the experience of those Progressive Era pioneers? We might take away from them these ideals: that real justice requires a very diligent effort to restore those who have been injured; that those engaged in, and affected by, crime or anti-social behavior should actively participate in the responses and solutions; and that Government and the larger community may be healing and therapeutic agents to preserve a just public order.

As a society, we should offer alternatives to the traditional punitive response by focusing not so much on punishment as on restoration, dialogue, and positive plans of action. Restorative justice creates an environment which encourages not simply “saving” those persons whose lives could otherwise be lost and abandoned as irretrievably broken but importantly restoring those who have been harmed. Repair the damage, respond to the severity of the harm caused, and bring a sense of peace to the community. It requires extreme patience²¹², compassion (but not

²¹⁰“Quid agamus nunc aeterna remugit” [“What we do now echoes in eternity.”] Meditations, http://www.goodreads.com/author/quotes/17212.Marcus_Aurelius?page=3. Marcus Aurelius, Meditations, Book I (“All things from eternity are of like forms and come round in a circle.”), Book V (“Soon, very soon, you will be ashes, or a skeleton, and either a name of not even a name; but name is sound and echo.”), Book VII (“No man can escape his destiny.”). See also Frank McLynn, Marcus Aurelius: A Life 217 (Cambridge MA: Da Capo Press 2009)(“Remember that everything has always been the same and keeps recurring.”; “Every portion of me will be reassigned as another portion of the world.”; “All of this has happened before and it will happen again.”; “Whatever happens has always happened, and always will.”).

²¹¹Zimring, supra note 109, at 150 (Gault “did not undo or completely reorient” the type of Court envisioned by Lathrop, Addams, and the reformers.)

²¹²Professionals working daily with troubled youth emphasize patience. Hon. Paul Stralka, Circuit Court of Cook County (now deceased), was a graduate of St. Ignatius College

sentimentality), and a stern resolve to reform and save lives—in other words, to make good and productive citizens, not criminals—and to improve urban life in general.²¹³

The Hull House women and the Progressives taught us how to recognize, understand, and support the special needs of youth, their families, and society. To them, the family was being destroyed and society was suffering the consequences. They clearly envisioned this as their place in history: to restore the family was to restore society—eliminate the causes of the harm and repair the harm caused. The restoration of the youthful offender, victim, family and society were inextricably intertwined. Jane Addams herself framed the Progressive goal as “a determination to understand the growing child and a sincere effort to find ways for seeing his orderly development in normal society.”²¹⁴ Her settlement house concept rested upon an

Prep, Loyola University (B.A.), and John Marshall Law School (J.D.), and 22 years as a Public Defender before his election. Assigned to Juvenile Court from 1999 until 2011, he confronted the challenges of drug, liquor, and substance abuse within a process of “scrambling for help” and worrying that you “cannot fix everything before time runs out.” Personal Telephone Interview (10 June 2010, 9:22-9:45 PM). Richard Macur-Brousil, a graduate of Quigley South, Loyola University, and Mundelein Seminary, is a former diocesan priest. With a MA in Theology and Ph.D. in Clinical Psychology and married with a family, he has worked in the juvenile justice system for over two decades. Specializing in mental health problems of the abused and neglected, he believes in education to remove the stigma of mental illness and early age intervention before critically destructive life patterns are set. Given the “extreme emotions” created by such work, the personal challenge is finding balance between “going home and crying or simply becoming callous”. Personal Telephone Interview (10 June 2010, 9:45-10:15 P.M.)

²¹³See generally, Hofstadter, *supra* note 31, at 200: “To the average American of the Progressive Era this ugly thing that presented itself as reality was not a final term. Reality was a series of unspeakable plots, personal inequities, moral failures, which, in their totality, had come to govern American society only because the citizen had relaxed his moral vigilance. The failures of American society were thus no token of the ultimate nature of man, of the human condition, must less the American condition; they were not to be accepted or merely modified, but fought with the utmost strenuousness at every point.”

And, the government reasonably could be expected to take a part in the effort. On August 1, 1912 President Taft, accepting the Republican Party presidential nomination for a second term, at his formal notification ceremony stated: “Time was when the least government was thought the best, and the policy which left all to the individual, unmolested and unaided by government, was deemed the wisest.” But the consolidation of wealth and power had required government “to further equality of opportunity in respect to the weaker classes in their dealings with the stronger and the more powerful.” Cited in Doris Kearnes Goodwin, The Bully Pulpit: Theodore Roosevelt, William Howard Taft, and the Golden Age of Journalism 717 (New York and London: Simon and Schuster 2013).

²¹⁴Jane Addams (ed.). The Child, the Clinic, and the Court, “Introduction” at 1-2 (New York: New Republic 1925).

assumption that “dependence of classes on each other is reciprocal; and that the social relation is essentially a reciprocal relation”.²¹⁵

Similarly many urban contemporary activists maintain that “the breakdown of the family unit is the single deepest ethical and moral challenge of our generation.” There must be a “resolve and willingness of all of us to commit ourselves to the care and protection of family life. The time for repairing endangered families and rescuing their children is not after they have fallen apart!”²¹⁶ As American cities remain “beset by family units breaking down and breaking up, neighborhoods falling apart, and community clubs and associations deteriorating”,²¹⁷ the message of the Progressive Era remains timely.

And, it should not be lost on us that, in great measure, theirs was a movement spearheaded by women (supported by men of vision), motivated by hope but driven by practicality. That practicality created a “sense of obligation to the immigrant and recognition that his Americanization was a practical problem that must be met with a humane and constructive program.” Thus, Progressivism was “characterized by a fresh, more intimate, and sympathetic concern for urban problems—labor and social welfare, municipal reform, the interest in the consumer.”²¹⁸ Viewed against that backdrop, as one of the movement’s earliest successes, it was an impressive effort, triggering an international reformation of the concept of juvenile justice.

Were those reformers of 1890-1930 romantic, idealistic, and maybe even naïve? Were they driven by notions of paternalism and morality? Did they simplistically mix together disparate challenges and problems confronting delinquent, dependent, and neglected children?²¹⁹ Perhaps so, in varying degrees.

²¹⁵Addams, Hull House, supra note 78, at 59.

²¹⁶Sr. Patricia A. Cruise, S.C., “God, Thank You for the Morning: Prayers from America’s Forgotten Street Children 93 (Covenant House 2005).

²¹⁷Sr. Mary Rose McGeady, S.C., Sometimes God Has a Kid’s Face 97 (Covenant House 2010).

²¹⁸Hofstadter, supra note 31, at 134, 133.

Appearing on August 7, 1912 in Chicago before a cheering throng of 20,000 at Teddy Roosevelt’s “Bull Moose” convention, the New York Times reported that an exuberant Jane Addams had proclaimed: “I have been fighting for progressive principles for thirty years. This is the first time there has been a chance to make them effective. This is the biggest day of my life.” Cited in Goodwin, supra note 213, at 720, 862. Given her extraordinary career and the direct role of her movement in this particular cause, we should politely and graciously excuse such simultaneous hyperbole and litotes.

²¹⁹See Dohrn, supra note 134, at 277-278, 286-287; Scott, supra note 40, at 131-133; Tanenhaus, supra note 25, at 43; Testa and Furstenberg, supra note 3, at 240; Zimring, supra note 109, at 150.

Yet their sensibilities about a corrosive urban environment²²⁰ are readily transferable to those in need today of special attention—non-violent ex-offenders, the new immigrants and the undocumented, returning veterans, rebellious or homeless teens, abused spouses, the mentally ill, and persons struggling with addiction or substance abuse—as well as the persons injured, and the society fractured, by their conduct. If this historical perspective accomplishes anything, let it be that it causes all of us to once again turn to those who traveled this road once before—and to read their words, admire their deeds, embrace their vision, and rekindle their spirit.

²²⁰Addams had observed the she and her colleagues were “irresistibly drawn to the poorer quarters of each city”. Addams, Hull House, supra note 78, at 59.