

IN THE BEST INTEREST OF THE CHILD

by

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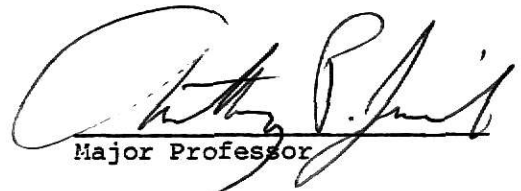
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INTRODUCTION

Today, in the United States, there is a growing concern over the problem of rising juvenile delinquency and the ability of the juvenile courts system to deal effectively with this problem (Stewart, 1978). Due to this concern, many people have tried new approaches that could lead towards updating and reform in the United States juvenile offender proceedings. In spite of sincere attempts to offer something new, they often get blocked and locked into the American Juvenile Court System (Stewart, 1978). One such example would be the desire to use a community-based program. Yet the court system lacks the power to provide more resources to the community based program. It, therefore, is necessary to escape the exhausted American frame of reference and look at other ways of dealing with the juvenile delinquent without the use of the juvenile court system. One such system might be the system used in Sweden. This paper will present the development, structure and mechanics of the Swedish Child Welfare Committees (Swedish name - ^OBarnärvårdsnämnden).

In looking at the two countries one must consider the culture and development within each. The United States was a country built upon immigration. People of different races and religions came to the United States looking to find success by working hard in a large country with an unlimited supply of resources. Sweden, on the other hand, is a small, older country of about the size of California. It has 8.3 million people which have a higher standard of living than the United States and are culturally homogeneous. The immigration Sweden has is from neighboring Scandinavian countries ^O(Statistisk Årsbok, 1976). Sweden does not experience the violence and unrest of conflict between religions and races, experienced in the United States. In the United States' violence was a part of the development. Even today, there is an increase in violence in the United States. In 1970 there were

160 violent crimes committed per 100,000 population and in 1980 there were 280 violent crimes committed per 100,000 population. This is a 75 percent increase in violent crimes in the United States within the last ten years (Statistical Abstract, 1980). The amount of relative violence in the two cultures is reflected in their respective homicide rates: 2.3 per 100,000 population in Sweden and 20.4 per 100,000 population in the United States during 1975. The rate in the United States then is nearly ten times that of Sweden. It can be determined, by these homicide rates, that Sweden is a less violent country than the United States. In Sweden violence is not accepted. This is evident in a recent law passed prohibiting parents to spank their children or to inflict other humiliating treatment upon their children (Readers Digest Almanac, 1980).

Also in Sweden no violent commercial productions or violent sports such as boxing or American football can be shown on the television. All movies are rated upon the basis of violence and not nudity (Swedish Institute, 1972).

The Swedish stand on violence is carried over into their foreign policy of remaining neutral during wars. Sweden remained relatively uninvolved in both world wars (Readers Digest Almanac, 198). Due to their stand on violence and wars, the country spends only 3.5% of its gross national product in 1979 on defense (Fact Sheet, 1979), compared to the United States' spending 23% of its gross national product on defense in 1979 (Statistical Abstract, 1980).

Sweden, using a socialist system of government spends more on social programs for the people. In 1975 they spent 35% of their gross national product on Social programs (Statistisk Årsbok, 1976). In the United States in 1977 they spent 9.9% on social welfare programs and in 1978 it increased to 18.5% (Readers Digest Almanac, 1980).

Since Sweden is a country highly committed to supportive social programs

in its national budget, it is imperative to evaluate the outcome of this investment. Within Sweden there was a 10% decrease in juvenile delinquency rates between 1969 and 1975. The use of youth prisons, which were used for extremely difficult youth aged 18-23 years, also decreased by 52% from 1969-1975 (Statistisk Årsbok, 1976). One interpretation of these figures is that the Swedish system has been effective in rehabilitating the youth before there is a need for lock-up. Thus, there is a decreased use of prisons.

In the United States the juvenile delinquency rate increased by 26.1 percent between 1960-1978 (Statistical Abstract, 1980). The corrective measures of training schools and lock-ups used in the United States have resulted in a recidivism rates as high as 70% (Alden, 1979) and 50% (Coffey, 1974). With these studies the effectiveness of lock-up has to be questioned. If the goal is rehabilitation, the lock-up system does not appear to be doing the job.

In hopes of gaining insight into improving the American Juvenile Court System and making it more therapeutic and less punitive, attention will be given to the Child Welfare Committee and the Child Welfare Act. This is the basis of the Swedish system.

The paper will present first an introduction on the American Juvenile Court Structure and development. Attention will also be given to the resources used for treatment of the juvenile.

Following the presentation of the American Juvenile Court System an introduction of the development of the structure of the Swedish system will be given. To better understand the fate of the juveniles taken into custody, attention will also be given to treatment facilities at the disposal of the Child Welfare Committee.

In conclusion, the weakness of the American Juvenile Court System will be explored and a new approach, which will potentially enhance the present juvenile court system, will be offered.

CHAPTER 1

Introduction to the American Juvenile Court

In looking at the American system, one must consider the development of America. America was built on the dream of the "land of plenty". This is the concept that, if one works hard, he can find success and take care of himself in America, because of all the opportunity. Along with this concept came the influence of religion from the Puritans, which emphasizes punishment for any wrong doing. Those people who were unable to follow social rules should thus be removed from society or punished, regardless of the person's situation. It wasn't until the early 1800's that a movement began to change this view of punishment for children and develop another system for the youth.

The first juvenile court was established in Chicago, 1899 and was not only the first such court in the United States, but also the world (Coffey, 1974; McDanough, 1970; Stewart, 1978), it was not a sudden event but rather was the result of years of reform work by child welfare workers, and other public spirited citizens, who were appalled by treatment such as the capital punishment of young children as late as 1828. Before the first juvenile court law, for children some progress was made such as, the first separate institutions and the separate hearings and probations systems. However, it was in the 1899 law that the first widespread enlightenment began. The juvenile court movement spread rapidly to other states and there can be little argument that it was a great step forward in the humanitarian treatment of youthful offenders (Coffey, 1974; McDanough, 1970; Stewart, 1978). The main features of the first juvenile courts were essentially the same as today's: a juvenile judge, a separate court-room and records, an informal procedure, the elimination of arrest by warrant, indictment, trial by jury and certain other basic features of criminal proceedings. Juvenile

courts from the beginning until the present have also incorporated from English common law the philosophy of "parens patriae" which interprets that the states, in the interest of protecting the welfare of children, may assume power of ultimate parent to promote a child's well being (Stewart, 1978; Doffey, 1974). With the elimination of certain due process features, as mentioned, early juvenile courts were challenged for their constitutionality. The constitutionality of juvenile court proceedings has, however, almost always been upheld on the grounds that such proceedings were not criminal in nature, but were to save, and not punish the child.

The major exception to when the constitutionality of juvenile proceedings was successfully challenged, and reversed by the Supreme Court of the United States, was in the 1967 landmark case of *Gault vs. United States*. The *Gault* case was clearly a sweeping attempt by the Supreme Court to establish new due process guidelines and guaranteed juveniles the following basic rights as under criminal proceedings:

1. Notice of the Charges;
2. Right to Counsel;
3. Right to confrontation and cross examinations;
4. Privilege against self-incrimination;
5. Right to a transcript of the proceedings;
6. Right to appellate review (Stewart, 1978; Swedish Institute, 1979).

Whether or not all of these due process guarantees delivered in 1967 are in the ultimate best interest of a child to not be further injured, or "deviated", by deeper involvement in a criminal procedure is a question being asked by many court social workers. The aspect most clear about the *Gault* decision perhaps was that it marked the first significant attempt at reform in juvenile offender matters since 1899. For whatever the 1967 attempt at reform accomplished, the fact became clearer that the roots

of the juvenile court system are really in criminal law rather than in comprehensive child welfare. An example of this trend was a case in Chicago where one particular juvenile judge was almost automatically turning juvenile ages 14-17 years old over to the adult court if the juvenile had committed a serious offense such as burglary (Chicago Tribune, 1981).

The juvenile courts were developed to help rehabilitate and not punish the juvenile. A fairly consistent standard for the juvenile court began to develop with the adoption of the "clinical approach". The United States Children's Bureau outline the following court standards:

1. Courts have broad jurisdiction in cases of youth under 18 years of age who require court action of protection because of their acts or circumstances.
2. Judges are chosen because of their special qualification for juvenile court work: legal training, understanding of social problems, and knowledge of child development.
3. Court hearings should be private rather than public.
4. The court's procedure should be as informal as possible and should still conform to the rules of evidence.
5. Detention should be in separate detention facilities for youth and should be used only if the following conditions exist:
 - A. The minor is in need of proper effective parental care or control and has no parent, guardian, or responsible relative; or has no parent, guardian, or responsible relative willing to exercise, or capable of exercising, such care or control; or has no parent, guardian, or responsible relative actually exercising such care or control.
 - B. The minor is destitute, is not provided with the necessities of life, or it not provided with a home or suitable abode.

- C. The minor is provided with a home which is unfit by reason of neglect, cruelty, or depravity of either of his parents, or of his guardian or other persons in whose custody or care he is.
- D. Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor or the person or property of another.
- E. The minor is likely to flee the jurisdiction of the court.
- F. The minor has violated an order of the juvenile court.
- G. The minor is physically dangerous to the public because of a mental or physical deficiency, disorder, or abnormality.

6. The juvenile court should have a qualified probation staff, with limited caseloads.

7. Resources should be available for individualized and specialized treatment; for example, psychological, psychiatric, and medical facilities.

8. There should be an adequate record-keeping system which provides for both social and legal records that are safeguarded from indiscriminate public inspection.

9. Youth brought before the juvenile court for criminal acts should not be defined as criminals, but rather as delinquents (Coffey, 1974, p. 42)

Once the standard operation of the juvenile court was established, the juvenile court process may begin in several ways. The child may be apprehended by the police while committing an act of delinquency or an alleged act of delinquency, or he may be taken into custody by them after they have questioned him, or after an investigation and the questioning of other individuals. The parents may bring their child to the juvenile court, in effect asking the court to help them control the youngster. Another private citizen may complain against the juvenile to the police, and be the complaining part against him in the juvenile court. Finally

school authorities or a social or investigatory agency may refer the case to the court.

After the initial referral, the "intake" process ensues, in which the juvenile is brought to the juvenile court center for conferences with social workers. After these conferences, if it is evident that there really is no basis for the court's intervention, the matter is dismissed or those involved referred on a voluntary basis to possible suppliers of aid. Under some circumstances, cases may be settled informally, by the sending of a letter to the parents outlining suggested controls placed upon the child (McDanough, 1970).

After the time for initial questioning, the juvenile court officer must decide whether or not to detain the juvenile. In fourteen states a court order for detaining a child is required (Levin, 1974). While this would seem to indicate that a hearing before the judge is required, in practice this sometimes does not occur. The juvenile court officer or his supervisor may simply telephone the judge and get an authorization for the detention. Or it may be routinely rubber-stamped by the judge (McDanough, 1970). It varies from state to state how long a juvenile can be held in detention before their hearing comes before the juvenile court (McDanough, 1970).

Prior to such a hearing much information concerning the youth's past and current behavior is compiled (Stewart, 1978). The petition instituting delinquency proceedings generally is drawn by a juvenile officer or social worker with the court (McDanough, 1970). This petition is the formal charge against the juvenile.

The juvenile will be given notice of this hearing. The juvenile will have a adjudicatory hearing which ranges from the formality of standing in a courtroom before a robed judge to sitting at a relatively informal

conference in an agency office. The petition is given and, if the proof sustains the allegations of the petition, the juvenile court acquires jurisdiction over the youth and proceeds to a dispositional hearing which sets up the correctional or rehabilitative measure for the juvenile (Stewart, 1978). These disposition alternatives are as follows: 1. Informal handling; 2. Probation; 3. Foster homes; 4. Fines and restitution program; 5. Private institutions; 6. public institutions or state, regional, county, and municipal levels; and 7. adult correctional institutions (Levin, 1974). This is the process a juvenile goes through in the American Juvenile Court System.

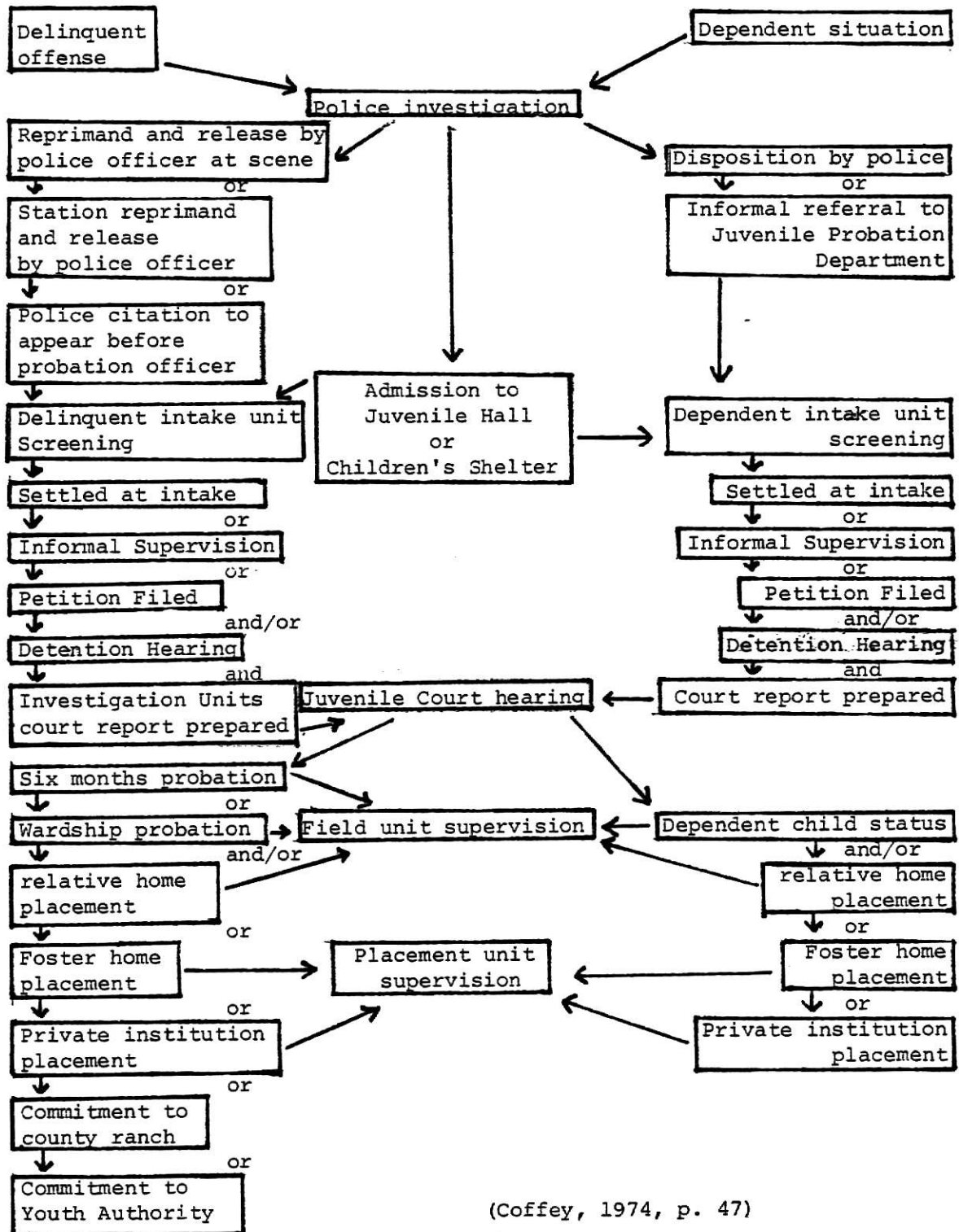


FIGURE 1

The flow chart reaffirms the present concept of the American Juvenile System which looks at the crime the juvenile commits and not upon the needs of the juvenile. In America the juvenile is labeled a criminal who should be punished rather than rehabilitated. In Kansas, for example, a child can only be placed at Topeka Youth Center if he commits a felonious act and is an adjudicated delinquent. Delinquency is a legal term describing a juvenile act, which, if committed as an adult, would be considered a felony. However, a child is placed into rehabilitation according to the legal label placed upon him by the court. This decision is not based on a social or psychological assessment of his needs (Kweker, 1979). This concept can also be seen in the following dispositions.

The paper will look at the disposition alternative the United States Juvenile Court has to offer the juvenile. There is unlimited discretion without guidelines dominating the disposition phase of the juvenile justice process. The interaction between the multiple agencies of commitment is rarely clear from statutory analysis. Moreover, once a juvenile is admitted into one of the disposition agencies, his stay is generally for an indefinite period, and he is without statutory protection from arbitrary actions by those empowered to make decisions (Levin, 1974). The following discussion attempts to outline what little law has been enacted.

INFORMAL HANDLING:

Thirty-four states statutorily sanction the disposition of children without court processing (Levin, 1974). Kansas is not one of these. In these states, a child with parental consent, may be placed on probation without a formal adjudication. This process usually does not involve the judge, but is handled by court intake workers or probation personnel. Unfortunately, few state statutes do more than provide that courts "May

informally handle" or "informally adjust" the cases as it sees fit. In these states, the discretion of the judge to delegate disposition authority to court personnel is unlimited. Increasingly however, statutes require either that the child, as well as his parent, consent to the probation arrangement, or that the child admit he committed the alleged offense. Moreover, probation is limited to a brief period, usually three months, with a possible extension of 3 additional months. Eleven states currently have such provisions and all are of recent vintage (Levin, 1974)

This informal probation procedure, even as statutorily limited, is of dubious merit. The voluntariness of the child's consent and the truthfulness of his confession are questionable, given the possibilities offered to the juveniles, such as a fixed period of probation rather than possible institutionalization if he chooses the full hearing route. The child must gamble on asserting his right.

PROBATION:

Probation is the most frequently used disposition and is statutorily sanctioned in every state. The most common statutory pattern provides for an open-ended period of probation, terminating, at the latest when the juvenile reaches 21 or the state's age of majority. The juvenile court judge is empowered to terminate probation whenever he sees fit. The court is not required to review the case periodically and thus gives considerable authority to probation officers. This concept of indeterminate sentencing pervades the disposition phase of the juvenile justice process. It stems from the belief that, since the goal of the system is rehabilitation rather than punishment, the state retains the power of unlimited intervention. Disposition only terminates if and when rehabilitation is achieved.

Increasingly, however, statutes require juvenile court periodically

to review and rehear cases of juvenile probationers and to set maximum time limits on probations. This, however, is seldom if ever done. Seven states now require a periodic review: and seven others put a time limit on a probation period. The maximum is usually set at two years, with periodic review required every six months. Provisions allowing extensions of an additional two years following a rehearing are also found in several of these states. Interestingly, New York sets differentiated maximum periods for delinquent children and for states offenses: two years for delinquents and one year for unruly children (Levin, 1974).

DETENTION:

Juvenile detention can occur in two extremely different situations. Predispositional detention means that the minor is held in custody until there is a determination of the best alternative course of action. Dispositional detention, on the other hand, is the last alternative; that is, the courts ruling is that the juvenile will be detained in either a foster home or some kind of institution.

The National Council on Crime and Delinquency finds few acceptable reasons for predispositional detention. In all cases there must be specific evidence that: the minor is "likely to flee" from the jurisdiction; he is likely to commit another offense; or he is in danger of harming himself or others (Coffey, 1974, p. 104). In the majority of cases, however, it is the police who decide upon initial detention. It should not be surprising, then that a number of practical considerations influence predispositional detention and that the rationale for detention varies from department to department.

The small police department, for example, may rarely detain a juvenile simply because it has no facilities for minors. Or, any department investigation or interrogation may be more convenient if the juvenile is

detained. There is always the possibility that a juvenile, who has not been detained, will commit another offense and cause community criticism of the police.

However, the argument against predispositional detention for juveniles is based on the absence of bail: "No bail procedure has been established at the juvenile court level". The reason for this is that a juvenile is not charged with the commission of a crime and, therefore, is not entitled to bail" (Coffey, 1974, p. 105). An adult can be detained if he is charged with a crime; in most cases he can also be released on bail until the time of his appearance in court.

It is estimated that in 500,000 juveniles a year are held in adult jails and lockups in the United States. The Children's Defense Fund states that even the half-million figure is "grossly understated." Federal legislation requires the separation by sight and sound of juveniles and adult offenders. Yet in some places, "sight and sound separation", which means the juvenile must not be able to see or hear adult offenders, has resulted in juveniles being placed in solitary confinement for long periods (Office of Juvenile Justice, 1980). Locking children in jails labels them delinquent in advance of a court decision and gives them delinquency status with their peers. It also removes from parent and child responsibility for his behavior in the community pending court disposition. Incarcerating a youngster in jail is not the kind of care, custody, or discipline which a parent ought to have given his child, and which the law says he should have. Even when children are separated from adults in jail; the result is enforced illness, lack of supervision, physical and sexual aggression, and even teenage suicides (Coffey, 1974).

Most of the children in jails are confined for property or minor offenses. Eighteen percent are in jails for acts such as running away,

or being incorrigible," status offenses which would not be crimes if committed by adults (Office of Juvenile Justice, 1980).

It has been indicated, by the reports of the results of the Dangerous Offender Project, that incarceration in jails seems to speed up, rather than retard the recidivism rate among juvenile offenders (Office of Juvenile Justice, 1980). Although the specific details of this study were not available to this author for critical evaluation, the pattern of recidivism in the United States and Sweden challenges the value of detention for juveniles as a means of treatment or rehabilitation. At best, it momentarily detains the juvenile from committing crimes in the community. It possibly will even teach the youth that the behavior he committed has some negative consequences, such as detention. However, it does not teach the youth new and more productive behaviors that will enable him to succeed with daily stresses. Would it not be better to place the juvenile in foster care or group home care?

FOSTER HOMES:

Most juvenile courts have direct access to foster homes in which dependent children can be placed if they are likely to receive continued neglect or abuse in their own home. Unfortunately, the need for good foster homes has almost always exceeded the supply. This is even more frequently the case as more delinquent children are referred to foster homes. Even in jurisdictions which offer adequate compensation it is difficult to find couples who are willing and able to cope with delinquent wards of the court (Coffey, 1974; Levin, 1974).

Nevertheless, when qualified foster parents can be found, the care, control, and guidance they can provide, usually missing in the original home, often insure successful rehabilitation. In these cases, the probation officer and foster parents often form what amounts to a treatment team until the juvenile can be returned to his own home. In this context, the foster

home is certainly correctional if not institutional and, in many cases, provides perhaps the best elements of any treatment program (Coffey, 1974). It has close personal attention, understanding and sympathetic firmness about the necessity of following "family" rules. It was estimated that on an average day in 1974 as many as 7,100 delinquents were assigned to foster homes across the states (Levin, 1974).

FINES AND RESTITUTION PROGRAMS:

A juvenile court judge can fine a delinquent or require him to make restitution for damage to property in 22 states (Levin, 1974). No statutory limitations are placed on this power. This form of a disposition may not have an effect on the juvenile, due to the fact parents often pay for the fines. Another problem is that the victim such as the business may may not have the time or cares to become involved with helping developing a restitution plan that would have an effect on the juvenile (Palmer, 1978).

PRIVATE INSTITUTIONS:

Placement in private institutions is specified as a disposition alternative in 49 jurisdictions; only Alaska and Arizona do not have this provision. As in the foster home area, state agencies are generally delegated the responsibility to certify and set standards for operating these institutions but, in 4 states, the court or county board of supervisors is responsible for supervision (Levin, 1974). Since private institutions seldom limit their clientele to a single court jurisdiction, this form of accountability becomes questionable. For example, those children under the custody of the state welfare system are assured a social worker, outside of the residential facility, who will act as an advocate and participate in custody decisions. However, those children privately placed in residential care are solely dependent upon the social service staff of the residential facility. Also, which these are private non-licensed facilities that can

house private referrals, these facilities may never be checked and assessed to see that the care and treatment of juveniles meet desirable standards.

This is not to say the private programs are bad, because, in many cases they are very effective in working with the juvenile. The private programs, such as group homes who operate on the purchase-of-service model, have another problem besides supervision, it is finances. The programs, which start with limited resources, are particularly vulnerable because of the delay in payment. Many group homes become disillusioned with the purchase-of-care mechanism. There were essentially no start-up funds. Payments were slow, and on a per-capita basis. Such funding procedures squeezed the vendors between the need to establish and culture slowly within the home on the one hand and the need to take on enough youngsters to survive fiscally.

Many organizations lacked understanding of bureaucracy and closed after the initial period of service delivery. Others, discouraged by the financial problems, left in disgust. Still others survived to become the cornerstones of many of the present community-based systems (Bakal, 1973), which provides services at a lower cost than large institutional care facilities (Winter, 1976).

Despite these problems, private residential programs are still providing a good quality of service. These programs vary in form but can generally be grouped in four categories as detailed below.

1. Traditional group homes provide for youth who are in need of a structured environment. Housing between ten and fifteen youngsters each, these homes provide individual counseling and some group counseling. They rely on community resources. The young people placed in traditional group homes either go to local schools or hold regular jobs (Bakal, 1979).

2. Therapeutically oriented homes provide individual, family, and group treatment. They tend to have in-house programming for education, art, and other types of training, which they provide in a therapeutic manner. The group and community meeting stress reality therapy, with a very limited use of drugs and psychiatric back-up. Participation is generally of one- to two-years duration (Bakal, 1979).

3. Modified concept houses are designed for youths who have a pattern of drug or alcohol use requiring strong confrontation. These houses are effective with certain youngsters, but their confrontation style of therapy causes many to run away (Bakal, 1979). The confrontation that is used is one in which the counselor defines the client as a drug user who cannot control his usage. The rationale for such confrontation is that the client uses denial of reality and must be constantly made aware of what reality is in order to cope with his situation realistically.

4. Residential schools are basically board schools set up in a cottage style facility. Since they are well structured, they are geared to meet the needs of the acting-out youth (Bakal, 1979).

PUBLIC INSTITUTIONS:

At the state level, if institutionalization is found to be necessary by the juvenile court, a child may be committed to a state institution. Training and industrial schools are statutorily provided for in nearly all states. Forestry and other camps are also available in 26 states (Levin, 1974). However, a wide variety of state agencies operate these institutions. Authorized state agencies include: department and bureaus of health and social services, corrections, child and youth services, family services, social welfare, child welfare, mental health, youth conservation, etc. Furthermore, specialized youth authorities, commissions, and institutional wards also function as agencies of commitment. These departments, commissions, author-

ities, and boards share the states' sanction to have a juvenile committed to their care, usually for an indefinite period, with no further review of the case by the court. Most of these agencies are vested with the authority to determine when institutionalization will terminate. Many of them are also empowered to transfer a juvenile to an adult correctional institution (Levin, 1974).

As in the case of probation, indeterminate commitment ending at 21 years, or the age of majority, is the general practice, but several newly enacted codes place maximum limits on institutionalization. Eight states currently have such provisions, which usually set the maximum time at 2 years with 2 year extensions allowed following a rehearing. In 9 states, the decision to release is made by the agency of commitment, but must be approved by the juvenile court. Nineteen states permit the agency of commitment to transfer a juvenile to an adult correctional institution without approval of the juvenile court. The provision only requires that the agency find the juvenile "incorrigible" before transfer is made.

Other dispositions available are county institutions which are provided in 24 states. These programs are generally found only in counties with considerable population; and the county governing board or a specialized committee, appointed by the county board and juvenile court, are usually responsible for the operation of these institutions (Levin, 1974).

SUMMARY:

The American Juvenile Court System is the result of early reform work that did much to humanize handling of juvenile offenders but which operate today essentially the same as at the time of its conception. It is a system which, in practice, attempts primarily to work for the welfare of children. Prevailing laws either state or imply that the juvenile court judge will make decisions about juveniles that will be in the best interests

of the child. The law, unfortunately is often silent about the resources necessary, if the "best interests of the child" are to be served, or about accountability for determining whether the child is in fact helped or rehabilitated (Levin, 1974). Somewhat on the contrary, the juvenile court system find its roots in criminal law. It is a system which, in the 1967 Gault case, had its criminal law roots even more clearly defined. This can be seen with the increase use of punishment and turning juveniles over to adult criminal court (Chicago Tribune, 1981). This system is one with which many social workers and helping professions are feeling increasingly uncomfortable because the system does not have adequate resources to meet the needs of the juvenile. The juvenile continues to commit delinquent offenses and is then punished by being placed in lock-up. This is why there is a need to interject new approaches from other countries such as Sweden to make the American system more effective. In the following chapter the Swedish approach will be presented with the goal of rehabilitating the juvenile versus using punishment.

CHAPTER 2

The Swedish Child Welfare System

The Country of Sweden is a small old country which has survived hard times of poverty by joining all the people together and using the resources of the small country in the best interest of all the people and not a few. This socialistic concept grew from the hard times and still exist today. Because of this concept, the people think in terms of what is best for the community or group and not what is best for the individual person. This concept can be seen in the Swedish system of caring for the youth of Sweden. Their system emphasizes helping and caring for the youth in the community and not punishing or removing the youth from the community.

The new child welfare act, as promulgated through revisional legislation in 1960 by the Swedish Parliament, continues to emphasize the Swedish tradition of entrusting child care to local authorities (National Board of Health, 1978). The responsibility of this care is delegated by the act to a special child welfare committee which consists of not less than 5 people from the community. The committees are located in each of 178 municipal governments. The boundaries of these, if superimposed on a map of Sweden, would cover the entirety of the country.

The concept of child care used in the law of 1960 is a culmination of a social movement for the concern of children that historically finds its roots in aid to the poor during Sweden's times of widespread poverty. During those times, the only way in which the people could have survived was by joining together all the community resources for the whole of the group. It was this socialist concept that enabled the people to survive and become the wealthy country they are today. The concept was enhanced by major Parliamentary legislation beginning in 1902, followed by several additional legislative amendments and modifications leading up to the replacement Act of 1960. Generally, the Act of 1960 made no outstanding changes governing or defining child care but rather reviewed, clarified, and consolidated the laws made, starting in 1902 (National Board of Health, 1978). The Act of 1960 states the aim of community child care as being to promote a favorable development of the young and generally provide good conditions for their upbringing (National Board of Health, 1978). Thus, in each municipality there exists a child welfare committee which is to familiarize itself with living conditions of children and youth in the community. Special attention is paid to minors who are exposed to greater risk of unfavorable development, such as those located in large cities with poor environment. The Child Welfare Committee, as implied, equally addresses itself

to the problems of dependence, abuse, and neglect, as well as delinquency, the area of this reports' concern. Importantly, the committee is not only to seek out and solve existing individual child problems by meeting regularly and with the child family and offering resources for the family, but is also to carry on general preventive measures, including leisure time activities with regard to the community's general care of children. These general preventive activities might include the following: (Katkini, 1976; Becker, 1976)

A. Build a supervised leisure-time facilities, such as youth centers, youth cafes or sports centers.

B. Coordinating educational and hobby activities, such as clubs for basketball, soccer, and nature crafts.

C. Supervise day homes, play schools, youth homes, and parents and other persons who care for children. They supervise by giving educational information to these agency and also licensing them. The supervision may also be placing a "parent and life education" in the home to help teach parenting and daily living skills.

In order to assure that child welfare committees properly discharge their duties each community or township committee has a county and regional official to come into the communities and check what has been done by the committee and what could be done according to the Child Welfare Act. The county and regional officials can take steps to help the committee fulfill the duties which the child welfare act call for.

The members and alternates of each local child welfare committee are elected by the municipal council which is indirectly elected by popular vote. The number of members to be fixed by the council and, according to the Child Welfare Act, not less than five, for terms of four years (National Board of Health, 1978). The Child Welfare Board members usually consist

of: a minister, a public school teacher, at least two persons chosen for their dedication to the problems of children and youth, and usually one individual who is trained in law (Becker, 1976). The Act states that, if there is no lawyer on the committee, one should be employed. It is also generally thought that other experts, such as physicians, should be included on the committee but, when not, there is provision in the Act for their employment as a resource person. Each committee has a chairman, selected by the committee, with wide powers to make interim decisions in matters which require immediate action and cannot wait for the meeting and deliberation of the committee. In addition to individual committee members' expertise, the committee, according to the Act, is to form resources with any public authorities, institutions, associations or others that effect child care. This collaboration, with regard to individual cases, is held as a critical responsibility of correct social investigation (National Board of Health, 1978). This is another example of the child welfare committee using all the resource available to them in their community.

Up to 1970, there were, in Sweden, separate child welfare boards, separate mental health boards, and separate social welfare boards for, among other things, public assistance and the care of the aged people. Since the middle of 1970, Sweden has integrated all those boards into a central social welfare board system with three subdivisions. There is a social welfare board working on the basis of "the family approach", according to the principle of entirety (Alden, 1979). This means that the board works with meeting the needs of the entire family because, if needs of one member of the family is not met, it will effect the rest of the family. They want to work with the whole family or group and not just parts of the group or family.

In recognizing juvenile offenders, the Child Welfare Act and Child Welfare committees separate juveniles in varying degrees to four defined groups: (1) juvenile under fifteen, (2) juvenile from fifteen to seventeen, (3) youths from eighteen to twenty-one, (4) and "technically classified adults", namely twenty-one to twenty-three years of age (Stewart, 1978).

The age of criminal responsibility in Sweden was set at fifteen years of age by the Penal Code of 1864 and, as further defined by the new Penal Code of 1965, that no one may be tried and sentenced to a sanction for a crime he committed before he reached fifteen years of age. This means a youth cannot be punished by the criminal court. Children, who have not reached this age of criminal responsibility, are not covered under any criminal code. They are covered, under the exclusive jurisdiction of a child welfare committee (Becker, 1976; Wicks, 1979; Stewart, 1978; The Swedish Code of Judicial Procedure, 1968; Katkini, 1976). If the offender is in need of correctional measures on the part of society, it is the responsibility of the public child welfare system to attempt to effect correction by preventive measures such as a warning or supervision such as probation or by taking him in charge for social care, placement in a private home or in a reformatory school (Swedish Institute, 1979).

In the fifteen to seventeen year old category, it is most often the case that these children are turned over to child welfare committee, rather than being sentenced to criminal sanctions. For this age-group, however, the system of penal sanctions is also applicable to a limited extent. The penal sanction may require youth to pay restitution instead of a prison sentence. Also, a youth of this age may not be sentenced to life in prison. Which system is used in a given case depends largely on whether the prosecutor decides to institute prosecution for the offense or not. This allows the system to be flexible and very individualized. They focus on

the individual needs and not on the offense the youth has committed. (In the United States a youth may be tried as an adult at the age of 16 or 17, depending upon the state. Bases for this decision is made depending upon the crime (Chicago Tribune, 1981)). If prosecution is not instituted, it is the responsibility of child welfare officers to ensure that the necessary measures are taken. The prosecutor may refrain from institute prosecution, if the offender was under 18 years of age at the time of the offense and rehabilitative measures are taken under the Child Welfare Act with regard to the offense, if he receives other aid and support, or if the offense was committed through impetuosity or out of mischief such as group of boys putting trash on a persons' lawn. If the prosecutor does decide to institute prosecution, the court may, under certain circumstances, place the offender under the Child Welfare Act but other penal sanctions may also be imposed, such as fines. In less serious cases, a fine may be an appropriate measure for offenders aged 15-17 (Swedish Institute, 1979; Stewart, 1978; Becker, 1976).

Under a special provision of the Penal Code, a person who has committed an offense before attaining 18 years may be sentenced to a fine even if the minimum punishment for the offense is imprisonment. A person under 18 years only in exceptional cases, may be sentenced to imprisonment for a specified term and life imprisonment may never be imposed for an offense committed before the offender attained 18 years. No age conditions are laid down for the imposition of conditional sentences. However, a person under 18 years may not be sentenced to probation unless this sanction is more suitable than care under the Child Welfare Act. Probation, in combination with institutional care, may only be ordered if the offender had attained the age of 18 at the time of the offense. An offender under 18 may be sentenced to youth prison if it is obvious that this is a more

suitable sanction than any other. There are no age limits regarding the sanctions of internment, commitment for care under the Temperance Act, closed psychiatric care, care in a hospital for the mentally retarded, or open psychiatric care. These sanctions are seldom applicable to juvenile offenders, however (Swedish Institute, 1979).

As a general rule, the young adult offender should be dealt with by the court. However in these cases, if the offender is under twenty years of age, the social welfare board has the jurisdiction to deal with the case. If so, this is done, not by means of a waiver, but through prosecution and a court disposition. The young adult offender will be brought before the court and, after adjudication, surrendered to the social welfare board for public care. This is done, however, in comparatively few cases (Stewart, 1978).

The last group of offenders, those over twenty-one but not yet twenty-four, only come under jurisdiction of the child welfare committee as a result of sentences imposed before having reached their twenty-first birthday. For example a person who is turned over by a court to a child welfare committee just before his twenty-first birthday, and remains under treatment the three year maximum, could continue to be under child welfare committee jurisdiction through his we years (National Board of Health, 1978).

Considering the use of child welfare committees as a means to deal with persons up to 21 years of age in a social clinic setting, the emphasis of the treatment of youthful law offenders is preventive in nature. This preventive philosophy is further reflected in Chapter 4, Section 25 of the Child Welfare Act, concerning when a child welfare committee may take action dependent upon an individual child's negative behavior:

"If a person, not yet 21 years of age, needs special corrective

measures by the community because of his criminal act, immoral manner of life, failure to support himself honestly according to his ability, misuse of intoxicating beverages or narcotics or for some other comparable reason." (National Board of Health, 1978, page 9).

It should again be stated that, before a child welfare committee will act to implement the preceding paragraph concerning a youth eighteen to twenty-one years of age who has committed a criminal act, it is necessary to show that the life of the individual shows appropriate cause for intervention under the Child Welfare Act. The preventive philosophy in the Act gives the child welfare committees the following measures of their therapeutic intervention before placing the youth in public care:

- A. Aid measures, including advice and support, both formal and informal;
- B. An exhortation to the parents or a warning to the young person;
- C. Regulations concerning the conduct of the young person;
- D. Supervision (National Board of Health, 1978)

Child welfare committee, in order to carry out these measures of prevention, may pay for special counseling, investigation, training, supervision by a probation counselor who is a trained volunteer that has only 2 youth at one time to supervise. This volunteer is paid 25 dollars a month (Samuelson, 1979; Hyttsten, 1979).

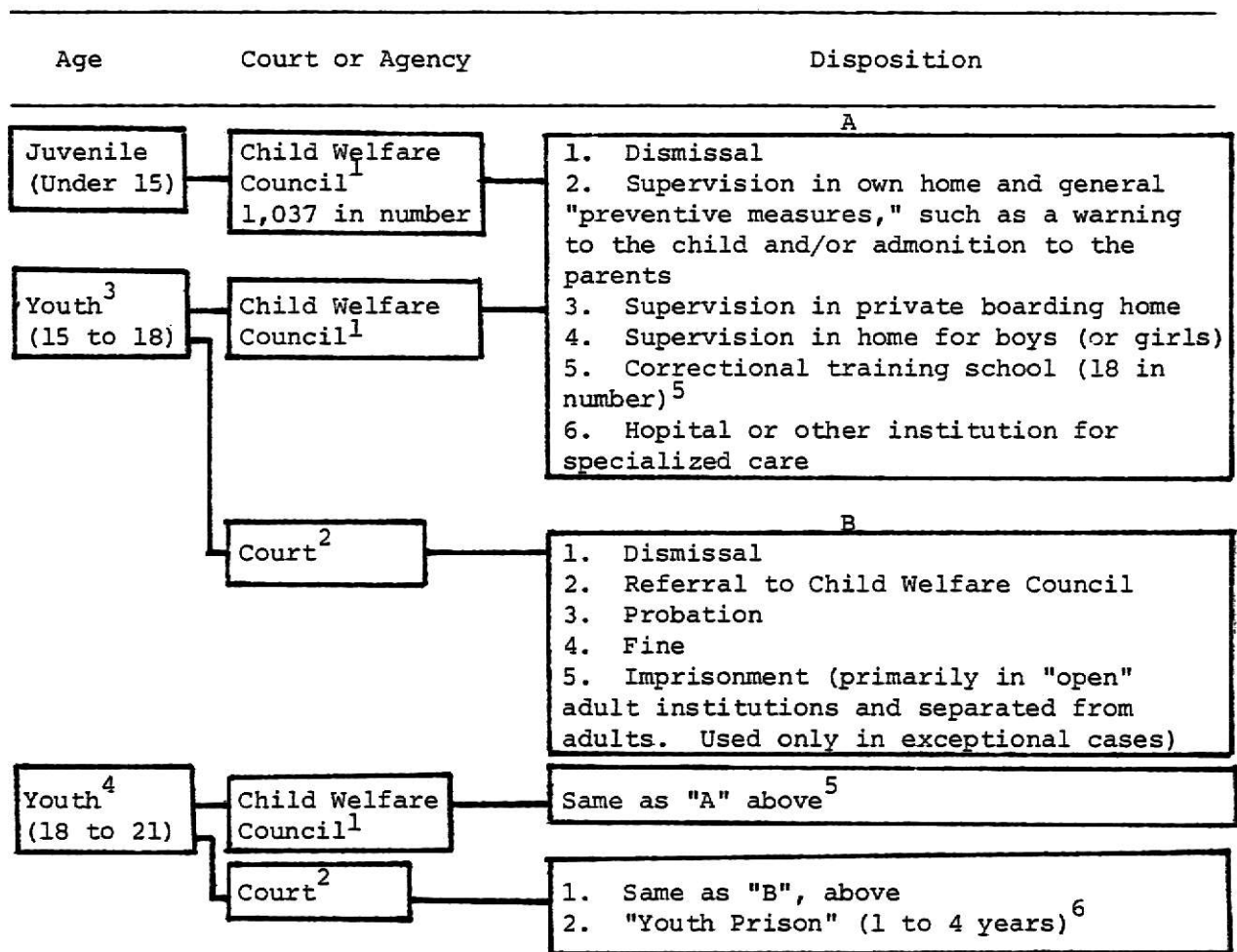
The child welfare committees also contribute toward certain travel costs, clothing, equipment, etc. When preventative measures are exhausted and deemed useless toward correcting the youth, the child welfare committee will then conduct the necessary investigation to take the youth into public care (Samuelson, 1979; Hyttsten, 1979; Stewart, 1978).

The procedure, in matters which come before a child welfare committee is conducted in a casual and plain milieu. However, certain legal rights and guarantees are nevertheless paid careful attention. The most important

of these begins with the offender's right to demand an oral hearing, the right to express his opinion, develop his case and bring legal counsel with him (National Board of Health, 1978). Adherence to "democratic" rights such as these are integral and important parts of an investigation by a child welfare committee but so is the absence of unnecessary legal trappings, physical and literal.

SUMMARY

The child welfare committee is a body in each of Sweden's municipal governments charged and standardized by national legislation to look after the care and general welfare of all children in its jurisdiction. The child welfare committee's ideal means of operation is through general preventive measures but it also has the authority intervene in individual cases which warrant it, according to certain guidelines. Treatment available through the child welfare committees is in special cases extended to individuals up to the age of 23 years and thus these committees are also important bodies for application of the national Swedish humanistic approach to correctional problems. It is further significant that, as well as having the authority to take positive and firm actions, the child welfare committees also have regular funds to carry out all types of critical material needs and treatment, a glowing contrast to many counterpart agencies in the United States and no doubt other countries (Alden, 1979; National Prison and Probation Administration Information Unit, 1978).



¹"Child Welfare Council" is the name generally applied to this social welfare council. The name "Youth Welfare Council" may, according to law, however, be applied when the agency is dealing with youth, i.e., those about 15 to 18 years of age.

²Ordinary criminal court of first instance.

³The choice between the Child Welfare Council and the Court depends on the decision of the prosecuting authority.

⁴Youth offenders in this age group are as a rule first brought before court.

⁵Placement in correctional training schools is the most common disposition of the Councils for the age group 18 to 21 years.

⁶Correctional training institutions for this age group only.

Source: Ola Myquist. How Sweden handles its juvenile and youth offenders. Federal Probation, 1956, XX. 36-42; Social Services for Children and Young People in Sweden, Stockholm: The Swedish Institute, 1948, pp.3-16.

(Katkini, 1976, p. 413)

FIGURE 2

One can see by the flow chart that the Swedish system does not look at the offense the youth has committed but focus on helping the youth's function in his own home and community. The Swedish system believes in using resources in the community and help the entire family of the juvenile.

SWEDISH YOUTH TREATMENT FACILITIES

Psychological child guidance clinics, located throughout the country, are used as a resource for providing the most indepth treatment possible on a non-residential basis. Children and youth are referred by the child welfare committee to these centers for complete physical and psychological examinations, usually as a means toward acquiring more effective consultation and instruction to a youth's parents, teachers, and child welfare workers. In some cases, the clinics will provide the client a regular continuous psycho-therapeutic treatment plan. These clinics also provide services for clients assigned to residential treatment facilities (Hyttsten, 1979).

Juveniles, who are removed from parental care, are placed in foster homes most often and only placed in institutional treatment when all possible prevention and in-community measures have been ineffective (Samuelson, 1979). These residential institutions are funded by various state and private sources and have different corrective philosophies, ranging from authoritarian to laissez-faire.

The preventive measures used before the youth is removed from his own home varies from financial support to education and counseling. A family life educator may come and work with the family, as well as a family counselor who works with the entire family.

Reception homes are for children and youths up to the age of 18, who are in temporary need of guidance, observation or physical care. These

homes act in the function of what in some circles would also be described as crisis intervention and shelter homes. An average period of stay in these homes is very short, with about only 20% staying as long as 3 months. These homes are used only until the youth can be worked back into the family. Special Homes are also for children and youths up to the age of 18 but rather for those requiring a special long-term protective upbringing who can not be placed in regular foster homes for dependent children. These homes usually have 6-8 youth in a 2 year program privately run (Trafferbey, 1979; Samuelson, 1979). These homes are mentioned here because, although they serve individuals in the dependence category they are also children demonstrating negative behavior patterns. Primarily, the problems of these persons are limited by the protective support they receive in school and minor personal adjustments and, thus, are spared from the discomfort of evolving into what in some places might be described as delinquent-dependents. These homes are run by private individuals, associations and foundation and have been found to be effective in 80% of their cases(as reported in conversation with Trafferby, 1979).

The minimum security youth welfare schools are the widely used and diversified residential training facilities, operated by the National Board of Health and Welfare to treat young persons who meet the following official criteria for acceptance:

A. The young person shall have been taken in public care or for investigation because of a criminal act, profligacy, neglect to support himself honorably according to his abilities, misuse of alcoholic drinks or narcotics, or any other comparable reason.

B. Other measures have proved to be, or are judged to be, insufficient in reforming the young person (Socialstyrelsen, 1979).

There are also age requirement limitations that under no circumstances

make admittance of a child under ten years of age possible and only under special conditions make possible admittance of children ten to twelve years of age. The number of youth welfare schools in 1979 stood at 18, with schools having between 14-42 pupils. There are 5 schools for girls and 13 schools for boys. In 1979, the youth welfare school dealt with 506 pupils which was a decrease of 45% from 1975 (Socialstyrelsen, 1979). This decrease was presumably due to the decrease in juveniles, determined to need corrective measures by the child welfare committee, as well as the community-based preventive measures working successfully to help the juvenile (Stewart, 1978).

The special types of youth welfare schools can generally be described in two basic categories, those functioning as educational homes, primarily for children under sixteen in compulsory school-age, and vocational training school, generally for older students (Socialstyrelsen, 1979; Hart, 1979). Assignment of students to the various schools is made by the National Board of Health and Welfare according to age, sex, development and intelligence. The regular services given at youth welfare schools in care, training and treatment are as follows:

- A. Medical, Psychiatric and Psychological treatment;
- B. Academic schooling and/or vocational training;
- C. Leisure-time activities involving training;
- D. Milieu therapy.

The school homes, in addition to comprehensive studies also offer pupils training in gardening and other such practical work, while the vocational schools usually offer training in five or six occupational areas. These occupational areas for boys might include metal work, automobile repair, furniture making or carpentry, agriculture or repair of agricultural

machinery, heavy construction work, forestry, tailoring or cooking. Training in seamanship is available at one of the schools. Students entered for a vocational training begin at one of three possible levels depending on individual qualifications, the student thus may begin in a vocational training proper, a combination of occupational orientation, instruction and fundamental practice, or basic work therapy.

Training at the girl's vocational schools is not concentrated in one occupational area but rather is a series of courses in cooking, sewing, washing, child care, and gardening. Commercial courses, handicrafts, ready-to-wear needlework, metal work, hair dressing and beauty care are other courses available at some of the schools (Socialstyrelsen, 1979). Upon visiting one such school, I found that, once the girls left the school, they had a great deal of trouble finding a job with the training they had received (Hakanstorps, 1979). The youth welfare schools were estimated to be about 65% effective (Hakanstorps, 1979).

Another important area at the various schools is leisure-time activity. The amount and type of leisure-time activity opportunities varies from school to school but generally centers around gymnastics, games and sports, hobbies, music, study circles, correspondence courses and other sundry activities. Cooperation with neighborhood organizations is also used to extend leisure-time activity opportunities (National Board of Health and Welfare, 1973; Socialstyrelsen, 1979; Hakanstorps, 1979).

Resources for therapy at the schools includes one or two consulting psychiatrists visiting each school on regular schedules. In addition, some of the schools have full-time psychologists. Various types of individual and group therapy are employed at the schools, as well as medical treatment for certain problems related usually to alcohol and narcotics. The schools receive both retarded and intellectually normal students with

intelligence quotients of at least 70 (Skohena, 1979).

Physical punishment is not allowed for any reason in the youth welfare schools, because it is against the Swedish law (Hyttsten, 1979). The most extreme form of disciplining of students, under eighteen years of age, is isolation in a special room may be for periods of up to six days. Particularly troublesome youths maybe isolated in small closed houses with space for eight such students, for periods of up to two months (Hakanstorps, 1979; Hyttsten, 1979).

The concept of conditional release, or parole, is not present in the child welfare act as related to the youth welfare school, but rather there is an "outside care" of the schools that is equated in significance with "in care". Use of outside care is regulated only by an "as soon as possible" clause which implies not only behavioral adjustment but also housing, employment or continued training, and clothing need arrangements.

Existing arrangements for outside care are;

- A. Courses of training in a boarding school;
- B. Camps for forest work;
- C. Hostels with 8-10 places for short stay;
- D. Supervised family care, that is families in the neighborhood of the schools take in pupils and are paid for it. This placement may be combined with continued treatment and schooling or vocational training at the school, or elsewhere. The youth welfare school, through its social worker, gives support and advice to the families.
- E. Some pupils rent their own apartment under the supervision of the school (Hakanstorps, 1979).

In all situation of outside care the client of course continues to have an assigned social worker. Discharge from the auspices of a youth welfare school is made when:

- A. The purpose of a student's care is considered to have been attained;
- B. The student needs care, training or education which can be better arranged in other ways than through authority of a youth welfare school;
- C. The student taken into prison;
- D. The student reaches twenty years of age, or in some cases 23 (Socialstyrelsen, 1979; Skohena, 1979; Hakanstorps, 1979).

Youth prisons are those institutions of minimum, medium and maximum security that primarily serve those youths from 18 to 21 years of age at the time of committing a crime. As already earlier pointed out, there are exceptional cases when individuals under 18 and over 21 can be committed to a youth prison. Treatment and services are generally carried out the same way in youth prisons as in youth welfare schools. A significant difference in the youth prisons is that the length of treatment within the institution may not be less than one year, although no more than 3. Total treatment time, counting a parole period, may not be more than five years (Swedish Institute, 1979; National Prison and Probation Administration Information Unit, 1978). A perhaps novel feature of the parole system is that, as a primary contact person, parolees have a volunteer supervisor who may even be a personal friend. These private citizen volunteers are specially recruited and trained by the National Board of Health and Welfare and concern themselves with usually only 1 client. They maintain contact with a full-time parole officer and are paid a token sum of about 25 dollars per months for a client (Samuelson, 1979).

The juveniles in youth prison are the most difficult youth to deal with. The child welfare committee has been unsuccessful in treating them with other preventive measure and are left with admitting them to prison as the only alternative (In 1978, an estimated 63 were imprisoned). There is a return

rate of 50% for the most difficult youth in the Swedish youth prison system, which is the same return rate for the United States in their training schools. However, these schools handle youth who are then, in many cases, because they were neglected and not for delinquent action (Coffey, 1974). Therefore, in Sweden the return rate for their most difficult cases is the same as in the United States' facilities, housing a more general population. The effectiveness of lock-up and punishment can be questioned with this 50% return rate.

In keeping with the objective that sanctions involving deprivation of liberty should be avoided whenever possible, the Commission on the Abolition of Youth Imprisonment has presented recommendation on eliminating the sanction of an unspecified period of youth prison. Parliament voted in May 1979 to follow this part of the Commission's recommendations. The youth prison sanction cease to exist, as of January 1980 (Swedish Institute, 1979).

SUMMARY:

The various Swedish youth treatment facilities are in practice diagnostic and comprehensive learning centers that through subjective means seek to relieve the personal inadequacies that presumably led to crime. It may thus be said then that the philosophy expounded on in these institutions is to save and rehabilitate rather than to punish, and that an individual's need for treatment is much more based on his ability to positively adjust than on the gravity of the crime committed.

CHAPTER 3

With the crime rate and the projection in the United States indicating alarming increases, it seems that certain basic changes in the criminal justice system are in order (Statistical Abstract of United States, 1980). It also seems the place to apply basic changes towards the creation of a more

law abiding society would be as close to the roots of the problem as possible. The logical place to begin this adjustment then would be with the youngest generation.

If low rates (Stewart, 1978 and Hakanstorps, 1979) of criminal recidivism and lack of criminal stigma in Swedish society can be assumed to be partly a result of Sweden's handling of youthful offenders, then a close examination should be given this system. In looking at their system, the Swedes focus upon helping the youth and not labeling the juvenile as a delinquent. In the United States the juvenile is labeled the moment he comes before the court and, in some cases when the juvenile is held in detention, before his hearing. The juvenile that is incarceration has been deemed threatening enough to be temporarily removed from the community. The juvenile has been formally labeled as a delinquent and criminal and now must overcome this label, as well as his many other problems. Richard Ericson has observed, the status transformation caused by labeling someone as a criminal in a public ceremony is difficult to reverse in the sense that society does not also provide a terminal ceremony to publicly signify the individual's shift out of the criminal role. "As a result, the deviant often returns home with no proper license to assume a normal life in the community. Nothing has happened to cancel out the stigmas imposed upon him by earlier commitment ceremonies. From a formal point of view, the original verdict or diagnosis is still in effect. It should not be surprising, then, that the members of the community seem reluctant to accept the returning deviant on an entirely equal footing. In a very real sense, they do not know who he is" (Ericson, 1975, pg. 2).

Due to the confusion, hypocrisy, and criminal stigmatizing caused by the juvenile court, the author suggests removing the youth offenders from the juvenile court or else change the court. If the juvenile courts are to function wholly as the social clinics they strive to be and because the aim

of processing children is always care and not punishment, rights should be limited to shelter, protection, and proper guardianship rather than Constitutional rights as associated with criminal proceedings. Thus, a singular uniform ward of the clinic proceeding for all troubled children would be possible.

The significance of a court experience should be strictly reserved for persons of adult age for as fully as possible, preserving with all individuals the preconception and social control that such an event is of an utmost serious significance. While reserving the court experience for adults this would mean elimination of the juvenile court concept and substitution with a totally non-criminal law rooted social clinic. Gone would be all the trappings and verbiage of the juvenile court including judges, court rooms, and probation. The therapeutic effects on society would be both deductive and inductive in the following ways:

1. Eliminating, among young adults, a desensitized outlook of a court experience, as natured by exposures to a juvenile court which misrepresents the experience, through its personal and consultative procedures.

2. Eliminating the criminal stigmatizing, or "born-loser" re-enforcement, of impressionable and fragile children that continually takes place in juvenile courts because of related criminal court structures, procedures, and terminology.

The implications of eliminating the juvenile court system are of course enormous and, with the handling of children still largely an experiment in the United States, the likelihood does not seem impossible. It is the author's suggestion that the Swedish model, with perhaps some modification concerning rights, would be a good replacement not only for its independent identity and structure as a child welfare service, but also for its emphasis on comprehensive community involvement and authority. This community

involvement or social support plays an important part in helping the family deal with stress (Cobb, 1976; Coplan, 1974). The definition of social support has been defined by Cobb (1976) as an information exchange at the interpersonal level, which provides "emotional support, leading the individual to believe that he or she is cared for and loved; esteem support, leading the individual to believe he or she is esteemed and valued; and network support, leading an individual to believe he or she belongs to a network of communication involving mutual obligation and mutual understanding." (Mccubbin, 1980; pg. 863). Studies have shown that social support has a positive effect on the family's abilities to handle stress (Cobb, 1976; Mccubbin, 1980; Coplan, 1974). Therefore, the use of social support in juvenile correction tends to have the possibility of effectively dealing with the youth within his or her family. This would support the elimination of the juvenile court system and the creation of a child welfare service, which would focus upon helping the juvenile meet his needs within the community and with the help of social services. The child welfare system would not only have the jurisdiction over the youth but also the resources for rehabilitation. There would not be the conflict we presently have with the juvenile court system having jurisdiction over the youth but not over the resources for rehabilitation. The child welfare system being part of the total social welfare system would have access to other resource that may be needed for the entire family. The child welfare system takes a wholeistic outlook on the juvenile and his family and does not focus upon the individual offense the juvenile has committed.

With the changes of a juvenile court system to a child welfare system, there would be changes in the present disposition available to the youth. The first change would be the jailing of juveniles. A number of myths are associated with the jailing of juveniles. We hear, most often, that these children are dangerous and "the community must be protected." The

truth is that, while serious lawbreaking receives a great deal of publicity, only about ten percent of delinquent youth who appear in court are violent (Office of Juvenile Justice, 1980). A 1978 report to the Ford Foundation, "Violent Delinquents", reveals that "violent acts of juveniles account for 10-11 percent of all juvenile arrests repeated violence by juveniles is not a common phenomenon, "and" simple assault is the most common violent crim committed by juveniles." (Office of Juvenile Justice, 1980, pg. 7). A recent National Council on Crim and Delinquency study, conducted in Upper New York State, revealed 43 percent of the children in local jails were alleged persons in need of supervision, none of whom were charged with any crime. A Montana survey found that dependent and neglected children were routinely held in jails, and that, at over half of the jails in which children were confined as a deterrent, even absent formal charges against them were absent. The census reported that two-thirds of all juveniles in jail were awaiting trial. In 7 states, all children detained are held in jail and in 21 states, more children are held in jail than in equally available juvenile detention facilities. An analysis of correctional programs in 16 states revealed that 50 percent of children between 13-15 in these programs, had previously been in jail one or more times (Office of Juvenile Justice, 1980).

Another myth or the rationale children are put in jail is "to teach them a good lesson." However, this lesson often backfires. In their Dangerous Offender Project, a three-year effort funded by the Lilly Endorsement, the Academy for Contemporary Problems discovered that, "Incarceration seems to speed up, rather than retard, the recidivism of the 'violent few' among juvenile offenders." (Office of Juvenile Justice, 1980, pg. 9).

It is the author's suggestion that juveniles not be allowed to be placed in jails. With the above research, it would be necessary to detain only a

small percentage of juvenile in a lock-up facility. These violent few should be placed in a county juvenile detention center. This would mean each county would be required to have a holding center for juveniles. The juveniles, who are in need of supervision or a place to stay because their home is unsafe for them, would be placed in temporary foster homes. These foster homes would be designed only for keeping youth until the child welfare board could decide on what type of treatment would be best for the juvenile and their family. These foster homes would be carefully selected and trained for the short-term holding of juveniles and would be paid for their service.

The child welfare board would do an assessment on the juveniles home situation and find what needs are not being met. With this in mind, a heavy emphasis would be placed upon helping the family meet these needs which would enable this family to function with the juvenile in the home. The child welfare board would use resources from the community which would include the school, big brother and big sister program, individual counseling, as well as family counseling, material resources and job placement to help the family and juvenile function in the original family setting.

If it is too harmful for the juvenile to be placed back into the home or if there is no home, long term foster home care would be used. These foster homes would be given continual educational support by having monthly workshops and meetings with them to help them deal with their juveniles.

Besides the foster homes, there would be small community group homes for the youth that did not function well in foster home care. These small homes could be private or public and would use many resources from the community. The group homes would have close contact with the child welfare board. The child welfare board would be able to see what type of program these group homes ran and place juveniles in the group homes they felt

would best meet the juveniles' needs. By using small group homes, the juvenile is provided with more advocates to help support the juveniles (Bakal, 1979). It has been shown to be 80% effective for youth who are unable to function at home (Hakanstorps, 1979).

Another change needed is a decrease in the size of lock-up institution for the juvenile who is unable, at this time, to function in an open setting. Research has shown that large training school and detention center have a 50% return rate (Coffey, 1974), which is not too good. The center projects that, as institutions become smaller, staff contacts and relationships can be substituted for steel, especially among younger offenders. In the past, the tragedy has been that many youths have deteriorated or did not adjust in large training school operation. Juvenile correctional administrators have taken this to mean that they require a more secure and more controlled environment at the outset. What really occurred was that these youths became worse in our care. The large training schools were failing to effectively rehabilitate the juveniles. "Recidivism studies revealed more than a 70 percent return rate of reform school graduates. Institutions failed for reasons inherent in their aims and operation. Their primary role was custodial. The expenditure of energy to keep the children confined, orderly, and obedient left practically no time for the requisite amount of individual attention and ensured that the children's problems would not be resolved. This built-in futility engendered frustration in staff and bitterness in the youth, and created new problems. This "treatment" became, for many children, the first step in criminal careers (Coffey, 1974, pg. 129).

Thus, even in the remaining institutions, the orientation in the main should be outward towards the public, rather than inward towards the campus. As institutions become smaller in size, vacant buildings and cottages can be utilized to enrich the program offering through such approaches as

making them available as volunteer headquarters, weekend and overnight accommodations for parents who must travel and cannot afford lodging, setting for marathon sessions for aftercare workers who invite small groups of their case load clients and their families back up from the city to stabilize them rather than to reincarcerate them, and staff training centers.

The emphasis on treatment will spawn the desire to allow young people to make as many meaningful decisions as possible about the nature of the institutional operation and the program there, as long as these decisions are not destructive to themselves or to others. In order to build towards maturity and decision-making, we must allow young people to have realistic alternatives in connection with program choices.

These proposed changes will call for increase use of community resources, family counseling, foster care and group home care. It focuses upon rehabilitation and not on punishment. In this era of conservatism, it may be difficult to convince society that rehabilitation is more effective than punishment and, in the long run, less costly to society. Society will expect, with these changes, that the juvenile will automatically change and will not commit another offense. If the juvenile does commit another offense, these changes will be thought as failures. Society expects change too fast in a juvenile and do not realize that change takes time and will occur faster and last longer with rehabilitation versus punishment. In spite of these obstacles the author still feels that a correction system which emphasizes rehabilitation with community resources in heavy use will lessen the labeling effect on the juvenile and be a more effective way of dealing with the youth of today. It has been shown, in a study done in 1974, that 50% of youth in United States lock-up training schools return for committing, other offenses (Coffey, 1974). Another study done in 1973 shows youth in large institutions had a 70% recidivism rate (Alden, 1979).

It is no surprise then that there has been an increase in juvenile delinquency by 26.1% between 1960 and 1978 (U.S. Dept. of Commerce, 1980), in the United States. In Sweden, with their system of rehabilitation, there has been a decrease in juvenile delinquency. In 1965, the Child Welfare Committee had to take corrective measures on 20,000 youth but in 1973 the figure was less than 13,000. This was a 35% decrease in delinquency. There was a decline of 35% between 1971 and 1973 in usage of juvenile welfare schools (Stewart, 1978).

The conclusion is drawn, with the evidence shown, that punishment and use of large lock-up institutions reinforces alienation, apathy and negative self-image, as well as making identification with a criminal way of life easier, not harder to accept. It would, therefore, be in the best interest of the youth to apply the concept of rehabilitation and increased community-based programs. The use of social support in the United States in helping families deal with stress, in studies done by Cobb (1976), and McCubbin (1976), have found a positive correlation in helping the family recover from crises (McCubbin, 1980).

Directly corresponding statistics from the United States and Sweden are not available. Because of complex cultural and geographical difference in the two cultures, it is, perhaps, dangerous to draw conclusions about why Sweden has lower delinquency and recidivism rate. A more indept study is needed on the particular type of treatment used in both the United States and Sweden, the assessing the outcome of each type of treatment within each cultural setting.

This report fails to find statistical data necessary to make a clear conclusion on the effectiveness of Sweden's and the United States' correction systems for juveniles. The report does show that punishment and lock-up treatment is not an effective means of rehabilitating youth both in the United States and Sweden. However, the United States may find a look at the

Swedish system of Juvenile Justice to be profitable in offering creative and innovative alternatives to lock-up facilities.

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IN THE BEST INTEREST OF THE CHILD

by

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B.S. Kansas State University, 1979

AN ABSTRACT OF A MASTER'S REPORT

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requirements for the degree

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ABSTRACT

In the Best Interest of the Child is a comparison of the Swedish and United States Juvenile Correction System.

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Kansas State University, 1981

Chairman: Associate Professor Dr. Anthony P. Jurich.

The purpose of this paper was to take a look at two different systems of corrections for the juvenile in hopes of developing a more effective system in the United States. The two systems looked at were the Swedish Child Welfare system, which emphasises rehabilitation, and the United States system which was originally set up to rehabilitate but has found itself in the criminal justice system of punishment.

The American Juvenile Court is a system which, in practice, attempts primarily to work for the welfare of children. Prevailing laws either state or imply that the juvenile court judge will make decisions about juveniles that will be in the best interests of the child. The laws, unfortunately are often silent about the resources necessary if the "best interest of the child" are to be served or about accountability for determining whether the child is, in fact, helped or rehabilitated. The juvenile court system finds its roots in the criminal law, which can be seen by the increasing number of juveniles placed in the adult court system. They are placed there to be locked up and put away. This is for punishment and not to rehabilitate the youth. In the criminal law, the focus is upon punishment and not rehabilitation.

The Swedish system has a Child Welfare Committee, which is a body in each of Sweden's municipal governments charged and standardized by national legislation to look after the care and general welfare of all children in its jurisdiction. A child may be up to 23 years of age. The child welfare committee emphasizes prevention and rehabilitation within the

community and uses the community resources extensively. The Child Welfare Committee has authority to take positive and firm action on the youth. It also has regular funds to carry out all types of critical material needs and treatment.

In conclusion, changes were suggested in the United States Juvenile Court system which would allow the new system to have the power to control the youth, as well as the resources to meet the needs of the youth. The juvenile system would no longer be helpless because they would have the power to authorize treatment and have the funds to carry out the treatment. This new system would be part of the total social welfare system and would emphasize using resources from the community to help the youth. The programs would be small and individualized rather than large and impersonal. The programs would be humane and therapeutic rather than punitive and custodial. There would be less need and use for lock-up facilities and would cost less to run these types of programs. In 1974 a study was done on 41 states on the cost difference of reducing large state institutions usage and increase usage of community-base program and it was found on the average \$1,232,100 could be saved in each state (Winter & Downs, 1976). Therefore the new system would not only be more economical but also more effective.