

# The Second Mile 5

## Why Johnny Can't Right

Someday an ambitious scientist is going to develop a national anxiety machine, a supercomputer that will measure the things Americans worry about. When he does, concern about children will undoubtedly be high on the readouts. Young people are growing up in a world where values are shifting and standards are uncertain. Everything seems to be in flux.

As is often the case when people feel strongly about a complex issue, discussions usually produce more heat than light. The only consensus seems to be that something is wrong. What and why are not clearly answered. And this is especially the case where juvenile delinquency is concerned. It is much easier to be against juvenile delinquency than it is to develop specific solutions for its many problems.

Before a discussion of juvenile crime can be really fruitful, there are two requirements. On the one hand, people need information. They need to know something about both the scope of the problem and about how, historically, we have tried to deal with it. On the other hand, they also need insight into contemporary attitudes toward "youth."

Most people don't realize that the crime problem in America today is, in fact, largely a juvenile crime problem. More crimes are committed by fifteen-year-olds than any other age. Sixteen-year-olds run a close second. According

to the President's Commission on Crime report, *The Challenge of Crime in a Free Society*, one out of every six boys across the nation will come in contact with the juvenile justice system.

This failure to appreciate the scope of the problem is often compounded by a lack of historical perspective. Two dates should be kept in mind — 1899 and 1967. The first is the year the State of Illinois legislated a separate legal system to deal solely with juvenile offenders. This system, which was copied by other states throughout the country, was based on the doctrine of *parens patriae*, the concept that the state had the right and responsibility to intervene when the good of the child demanded it. Because Johnny, as a child, did not have the same "rights" as an adult, it was not considered necessary that he be protected by the procedures guaranteed Americans by the Constitution. Thus, the system that evolved left enormous discretionary powers to police, judges and parole officers. In fact, this could and often did lead to widespread abuse.

One such case occurred in Arizona in 1964. A fifteen-year-old named Gerald Gault was sentenced to the state juvenile facility for up to six years on the charge that he had made an obscene telephone call, an offense that, had he been an adult, would have carried a maximum penalty of two months in jail and a \$50 fine. His parents appealed. In 1967, the case finally reached the United States Supreme Court, where the court, in the case of *Gault vs. Arizona*, held that juvenile courts could no longer ignore such basic American freedoms as due process and the right to counsel.

The Supreme Court decision *in re Gault* is only one of several that have been

handed down concerning the juvenile court system. But since many Americans are unaware of the background of the contemporary juvenile situation, they are unable to discuss the matter as fruitfully as they should.

Lack of information about the juvenile system is compounded by the attitudes our society holds toward "youth." Ours is the first society in history that has defined being young as synonymous with the "good" state. If a woman hates that gray, she can wash it away. Wrinkles vanish with the right cosmetics. If a man has doubts about his virility, he can always buy a "youngmobile" from Oldsmobile or dress in the same suits as Tom Seaver or Roger Staubach. But young people, in their eyes, don't seem to appreciate the great good they possess. Youth is wasted on the young.

Even though this ambivalence toward the young cannot be ignored in a discussion of juvenile crime, it does lie beyond the scope of this tabloid and series. Our aims in this tabloid are relatively modest. The "Perspective" section focuses on the Gault decision, beginning with a summary of the facts of the case and moving to a brief excerpt from the final Supreme Court decision. Some of the other articles explore the scope of the juvenile crime problem; others consider some of the causes. Finally, the articles by Ross and Kupferberg, James Kilpatrick, and Larry Cole suggest possible courses of future action.

Collectively, we hope they will aid in defining the questions that need to be asked about the way in which our juvenile system works. If this is accomplished, then we will have succeeded in our basic aim. We don't have answers. Those you have to work out for yourselves.

# Perspective

## in re Gault

Since the summary of the facts contained in the Supreme Court decision is so extensive, this refer overview has been substituted.

Nicholas N. Kittrie

This milestone pronouncement resulted from the indeterminate incarceration in the Arizona State Industrial School of a fifteen-year-old youth charged with making a lewd phone call, an offense carrying a maximum penalty of a \$50 fine or two months imprisonment for adults. On June 8, 1964, while on probation for being in the company of another juvenile who had stolen a wallet, Gerald Gault was taken into custody upon the verbal complaint of a neighbor that he had made an obscene telephone call. The authorities never advised Gault's parents of his "arrest." Upon learning of their son's detention from a neighbor, his mother inquired at the detention home and was cursorily advised of the charge by a probation officer named Flagg and was notified of the hearing to commence the next day. Since Arizona has no formal intake procedure, Probation Officer Flagg filed a petition reciting that "said minor is under the age of 18, and is in need of the protection of [the] Honorable Court; [and that] said minor is a delinquent minor." This petition was never served upon Gault's parents, nor did it refer to any factual basis for the intervention of the court. At the initial hearing, in the judge's chambers, the complaining witness was not present; no record, transcript, or memorandum of the proceedings was made; nor was there any sworn testimony offered. There was, however, at this hearing a testi-

monial conflict as to whether Gault had made the alleged phone call. While the judge took the case under advisement, Gerald was kept in confinement for two or three days. On the day he was released, a note from Probation Officer Flagg, written upon plain paper, was received by Mrs. Gault: "Judge McGhee has set Monday, June 15, 1964, at 11:00 a.m. as the date and time for further Hearings on Gerald's delinquency."

At the second hearing, the complaining witness was not present. When Mrs. Gault specifically requested the witness's presence, the judge informed her that it was not necessary. The judge himself had never spoken to the complaining witness and the only communication with her was her telephoned complaint to Probation Officer Flagg. At the hearing a "referral report," in part authored by Probation Officer Flagg, was received by the court, although its existence was not made known to Gault or his parents. Upon this basis, Gerald was committed to the State Industrial School.

Gault's parents challenged the legality of his confinement and sought his release by a petition for a writ of habeas corpus, but the

Superior Court of Arizona denied the writ and the denial was affirmed by the Supreme Court of Arizona. Reversing the Arizona courts, the United States Supreme Court opinion was expressly limited to the adjudicatory stage of the Arizona juvenile court process in which the juvenile was found "involved" as charged — and did not consider any questions raised by the arrest, detention and disposition of Gerald Gault.

From *The Right To Be Different* (1964)

## The Court Decision

Justice Abe Fortas

Historically, the right of the State, *parens patriae*, to deny to the child procedural rights available to his elders is elaborated by the assertion that a child, like an adult, has a right "not to liberty but to custody." He can be made to attend school, to go to his parents, to go to school, etc. If parents default in effectively performing their custodial functions — that is, if

# Glossary

- dependent child** . . . Any minor who is without a parent, guardian or legal custodian or is without proper care because of the physical or mental disability of parent or guardian.
- incorrigible child** . . . A term used to describe a minor for whom responsibility has assumed by the courts, at the request of his/her parents, because cannot control him/her.
- juvenile delinquent** . . . A minor who has been found guilty by the juvenile courts of committing an act which would be criminal if committed by an adult.
- neglected child** . . . A minor who has not received proper care, including such things as food, clothing and shelter, medical attention, or education as required by law.

# Why Johnny Can't Right

child is "delinquent" — the state may intervene. In doing so, it does not deprive the child of any rights, because he has none. It merely provides the "custody" to which the child is entitled. On this basis, proceedings involving juveniles were described as "civil" not "criminal" and therefore not subject to the requirements which restrict the state when it seeks to deprive a person of his liberty.

Accordingly, the highest motives and most enlightened impulses led to a peculiar system for juveniles, unknown to our law in any comparable context. The constitutional and theoretical basis for this peculiar system is — to say the least — debatable. And in practice, as we remarked in the *Kent* case, *supra*, the results have not been entirely satisfactory. Juvenile court history has again demonstrated that unbridled discretion, however benevolently motivated, is frequently a poor substitute for principle and procedure. In 1937, Dean Pound wrote: "The powers of the Star Chamber were a trifle in comparison with those of our juvenile courts. . . ."

## Confinement

Ultimately, however, we confront the reality of that portion of the juvenile court process with which we deal in this case. A boy is charged with misconduct. The boy is committed to an institution where he may be restrained of liberty for years. It is of no constitutional consequence — and of limited practical meaning — that the institution to which he is committed is called an Industrial School. The fact of the matter is that, however euphemistic the title, a "receiving home" or an "industrial school" for juveniles is an institution of confinement in which the child is incarcerated for a greater or lesser time. His world becomes "a building with white-washed walls, regimented routine and institutional laws . . . ." Instead of mother and father and sisters and brothers and friends and classmates, his world is peopled by guards, custodians, state employees, and "delinquents" confined with him for anything from waywardness to rape and homicide.

In view of this, it would be extraordinary if our Constitution did not require the pro-

cedural regularity and the exercise of care implied in the phrase "due process." Under our Constitution, the condition of being a boy does not justify a kangaroo court. The traditional ideas of juvenile court procedure, indeed, contemplated that time would be available and care would be used to establish precisely what the juvenile did and why he did it — was it a prank of adolescence or a brutal act threatening serious consequences to himself or society unless corrected? Under traditional notions, one would assume that in a case like that of Gerald Gault, where the juvenile appears to have a home, a working mother and father, and an older brother, the Juvenile Judge would have made a careful inquiry and judgment as to the possibility that the boy could be disciplined and dealt with at home, despite his previous transgressions. Indeed, so far as appears in the record before us, except for some conversation with Gerald about his school work and his "wanting to go to . . . Grand Canyon with his father," the points to which the judge directed his attention were little different from those that would be involved in determining any charge of violation of a penal statute. The essential difference between Gerald's case and a normal criminal case is that safeguards available to adults were discarded in Gerald's case. The summary procedure as well as the long commitment were possible because Gerald was 15 years of age instead of over 18.

## Due Process

If Gerald had been over 18, he would not have been subject to Juvenile Court proceedings. For the particular offense immediately involved, the maximum punishment would have been a fine of \$5 to \$50, or imprisonment in jail for not more than two months. Instead, he was committed to custody for a maximum of six years. If he had been over 18 and had committed an offense to which such a sentence might apply, he would have been entitled to substantial rights under the Constitution of the United States as well as under Arizona's laws and constitution. The United States Constitution would guarantee him rights and protections with respect to arrest,

search and seizure, and pretrial interrogation. It would assure him of specific notice of the charges and adequate time to decide his course of action and to prepare his defense. He would be entitled to clear advice that he could be represented by counsel, and, at least if a felony were involved, the State would be required to provide counsel if his parents were unable to afford it. If the court acted on the basis of his confession, careful procedures would be required to assure its voluntariness. If the case went to trial, confrontation and opportunity for cross-examination would be guaranteed. So wide a gulf between the State's treatment of the adult and of the child requires a bridge sturdier than mere verbiage, and reasons more persuasive than cliché can provide. As Wheeler and Cottrell have put it, "The rhetoric of the juvenile court movement has developed without any necessarily close correspondence to the realities of court and institutional routines."

In *Kent v. United States*, *supra*, we stated that the Juvenile Court Judge's exercise of the power of the State as *parens patriae* was not unlimited. We said that "the admonition to function in a 'parental' relationship is not an invitation to procedural arbitrariness." With respect to the waiver by the juvenile court to the adult of jurisdiction over an offense committed by a youth, we said that "there is no place in our system of law for reaching a result of such tremendous consequences without ceremony — without hearing, without effective assistance of counsel, without a statement of reasons." We announced with respect to such waiver proceedings that while "We do not mean . . . to indicate that the hearing to be held must conform with all of the requirements of a criminal trial or even of the usual administrative hearing; but we do hold that the hearing must measure up to the essentials of due process and fair treatment." We reiterate this view, here in connection with a juvenile court adjudication of "delinquency," as a requirement which is part of the Due Process Clause of the Fourteenth Amendment of our Constitution.

From *Task Force Reports: Juvenile Crime* (1967)

# Task Assignments

1. Talk to a probation officer of the Juvenile Court. Find out the nature and extent of his responsibilities.
2. Talk to a member of the Juvenile Division of the Public Defender's Office about the impact of the Gault decision.
3. Talk to a Juvenile Court judge about the disposition options he has open to him in handling dependent, delinquent and incorrigible children.
4. Contact your local Law and Justice Planning Office. Get the most current information on the nature and incidence of crimes most often committed by juveniles.
5. Visit the Juvenile Division of your police department and find out how they handle runaways and first offenders.
6. Talk to a volunteer organization that deals with youth (e.g. Social Advocates for Youth — S.A.Y.; Big Brother; Youth Advocates) and find out about these programs.
7. Visit a special high school to which some juveniles are sent and find out about the program.
8. Call the Department of Social and Health Services Office and arrange to talk to a foster parent about the responsibilities of the role.
9. Make arrangements and tour a juvenile institution such as Raymond Hall, the Youth Services Center, Green Hill, Cascadia, Echo Glen or Maple Lane.
10. Contact the Juvenile Parole Office of the Department of Social and Health Services and find out what programs and services are available for a juvenile who has been paroled from a state institution.
11. Talk to a member of the Prosecuting Attorney's Juvenile Division staff about the conditions under which he would file a complaint.

## Bibliography

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- Cole, Larry. *Our Children's Keepers*. Grossman, 1973.
- Forer, Lois. *No One Will Listen*. John Day Co., Inc., 1970.
- Platt, Anthony. *The Child Savers*. University of Chicago Press, 1969.
- President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Crime*, 1967.

## Organizations

- Cons-Unlimited, Juvenile Division  
300 HUB, BOX FK-10, University of Washington, Wayne Hughes, 543-4478
- Juvenile Parole Services, Department of Social and Health Services  
2366 Eastlake E. 98102. Seattle area: Dan Hunt, Volunteer Coordinator, 464-7704.
- King County Juvenile Court  
1211 E. Alder, 98122. Margaret Nalos, Volunteer Coordinator, EA 3-9500
- Pierce County Homes for Youth  
3019 North 21st, Tacoma, Wn. 98406, SK 9-1777
- Snohomish County Juvenile Court and Charles R. Denny Youth Center  
2801-10th, Everett, Wn. 98201
- Social Advocates for Youth, (S.A.Y.)  
4000 Wallingford North, Seattle, Wn. 98103, 632-1244
- Volunteers in Probation  
Room 217 Pioneer Building, Mt. Vernon, Wn. 98273, 336-5783
- Youth Advocates  
1614 Melrose, Seattle, Wn. 98102, MA 2-8810

# Why Johnny Can't Read

## It All Begins at Home

Charles Mathias

We Americans have always prided ourselves on our care for our children. If we have and we sacrifice and we struggle, it is not for ourselves, but so that our children can enjoy advantages and opportunities far greater than those we ourselves were able to enjoy. We have, it would appear, every reason to believe what foreign observers have long said of us: that we are a child-oriented society, that our children are the center and circumference — the alpha and omega — of our lives.

The trouble is that somebody forgot to tell our children. In significant numbers, over recent years, they have been turning on and turning us out, they have rejected our values and our way of life — and they have often done so in violent and destructive ways.

### Children Come Last

Some say all would be well if we stopped fussing over our children so much and started fussing out a little discipline instead. If we had more law and order in the home, they argue, there would be less need for it in our schools and our streets. I agree that the problem begins at home, but it lies not so much in the lack of law and order there as in the fact that there is either nobody home, or no home to begin with. I think the problem stems from the fact that we are not, in any real sense of the phrase, a child- or family-oriented society.

At the most recent White House Conference on Children, one panel declared that in America today "children and families come last." At home and in society children are increasingly denied any real contact with adults, including their own parents. The problem is not permissiveness, but rather a pervasive "national neglect of children and a nose primarily engaged in their care — America's parents." What is required, the

panel insisted, was nothing less than a fundamental change in "our patterns of living which will once again bring people back into the lives of children and children back into the lives of people."

This panel was speaking, primarily, about the children of the affluent, who often have everything a child could want, except what a child most needs — the time and active attention of his parents, a real family and a real home to grow up in. But if the children of the affluent can be described as neglected — and they can — what of the children of the poor? What shall we say about the many millions of the nation's children who must undergo what psychologist Robert Coles has called an "experience new in history: the peculiarly ironic and unsettling one of living out an impoverished life in the midst of a country actually perplexed about what to do with its agricultural and industrial capacities." For these children, as Cole says, "it is almost a matter of being singled out for condemnation."

The worst thing about poverty in this most prosperous of countries is not that so many are poor, but that so many of the poor are children: about half of the nation's urban poor are under 18 years of age. More than half of these children live in families which — because they are headed by someone over sixty-five, or by someone who is disabled, or otherwise unable to work — are unlikely to become self-sustaining over the foreseeable future.

### The Crime Problem

It is, in my judgment, this basic breakdown in family life, this increasing separation between children and adults — including their own parents, in all segments of our society — that is at the root not only of the more benign forms of youthful unrest, but of its more violent and destructive manifestations.

The evidence is overwhelming that our current efforts to cope with juvenile delinquency and youth crime serve only to compound the problem. Those efforts consist, for the most part, of singling certain young people out, of subjecting them to a court procedure that however well intentioned — stigmatizes and humiliates them, and often of cutting them off from the very society with which they are already at odds, by confining them to institutions where conditions are far worse than those in such adult institutions as San Quentin and Attica.

Up to 85 per cent of all juveniles arrested and convicted are later arrested and convicted as adults — often for far more serious crimes. This should not be surprising. A great many juveniles are arrested and incarcerated for crimes that would not be crimes were they committed by adults — crimes such as breaking curfew, running away, skipping school. These juveniles, moreover, are treated — in the words of one authoritative study — "more punitively than the most hardened criminals." These youngsters are more likely to be detained, to be detained longer, to receive harsh sentences, to be sent to correctional institutions, and to stay there longer than juveniles accused of serious crimes. They are, moreover, thrown in with juveniles convicted of serious crimes. Youngsters in this category constitute as many as 50 per cent of the residents of our juvenile correctional institutions.

There is no doubt in my mind that many of the youngsters who come before the juvenile courts and end up in correctional institutions should not be there in the first place. The juvenile courts should concern themselves simply and solely with youngsters who have, in fact, committed serious criminal acts. They should not have jurisdiction, as they do now, over "Persons in Need of Supervision" (PINS) or neglect and dependency cases. The courts should be a last, not a first, resort.

From *Judicature* (December, 1972)

## Failure in School

President's Commission on Law Enforcement & Administration of Justice

*Failure in School and Delinquency: The Downward Spiral of Failure.* When the school system is not adequately equipped to meet the early learning problems a child brings to school with him, a cycle of deterioration and failure may be set in motion. As the youngster is "promoted" from grade to grade to keep him with his age mates but before he has really mastered his tasks, failure becomes cumulative. While he may have been only half a year behind the average in fourth grade, for example, recent evidence shows that the achievement gap may widen to three-quarters of a year by sixth grade and to one-and-one-quarter years by eighth grade.

The school failure, especially if he has developed a tough, indifferent facade, may give the impression that he does not care about his conspicuous failure to "make out" in school. In fact he probably cares a great deal, and even if the academic failure itself does not much matter to him, the loss of others' esteem does. He finds himself labeled a slow learner or a "goof-off." The school typically reacts to his failure with measures that reinforce his rejection: by assigning him to a special class for slow students, by excluding him from participation in extra-curricular activities, by overlooking him in assigning prestigious school tasks and responsibilities.

The child, in self-defense, reacts against the school, perhaps openly rebelling against its demands. He and others like him seek each other out. Unable to succeed in being educated, they cannot afford to admit that education is important. Unwilling to accept the school's humiliating evaluation of them, they begin to flaunt its standards and reject its long-range goals in favor of conduct more immediately gratifying.

## Interview

Bobbe Jean Ellis

An interview with a 16-year old, white, male juvenile offender in Walla Walla; June, 1972:

**Q. What do you think about police — how they do their job?**

A. I'm prejudiced against police — they say they help but all I get is trouble. Maybe I'm starting to think some are bad; some good. Juvenile cops are worst [sic] 'cause they try to bully you — you know, scare you like.

**Q. Did you get a fair deal from juvenile court?**

A. No . . . you never know what's gonna happen. My first was burglary. They gave me a year's probation — could have been stiffer. If you do something to mess your property or yourself it should be okay, but doin' it to someone else is not okay.

I got pulled in for disorderly conduct next — a demonstration we had at school. Nothing happened; we were peaceful like. They didn't do anything to me 'cept talk but it's not fair, you know, 'cause I didn't do nothin' wrong.

Later I ran away — had a job. They made me quit and come home. I was doin' okay — it's not fair. Then I was cited [sic] for curfew. They shouldn't do that when you're minding your own business.

Now they've got me here on consuming . . . say they can remand me to adult court. If you're caught consuming and remanded to adult it's not so bad — an adult can answer the way he wants (but I won't tell the judge that). They take you in on consuming around here so they can search for drugs.

**Q. What are you going to do in court? What will happen to you?**

A. Best to act scared, sorry for doing it whether you are or not. It's bad to have to

All of a sudden these same guys, these pillars of the community, are experts on drugs. Now they're speaking in all the schools.

It's a joke to talk about educating kids about the dangers of drugs when there is so much to be made from their sale and such motivation for their use. Cigarette advertising has compensated for the fact that cigarettes cause cancer and there isn't the profit in tobacco that there is in narcotics. With a 10,000 per cent profit from the fields to the needle, no education program in the world is going to change the dope picture by itself. And dope doesn't cause cancer. If you're looking to die, which a lot of street kids accept pretty openly, then you might as well die happy. That's the advertisement for dope. And kids are going to buy that message until we find a way to let them live happy.

While mostly everyone is looking into the evils of dope, few are looking squarely at the problem. Fewer are looking behind it. Why are kids taking drugs? Is it only because they're there?

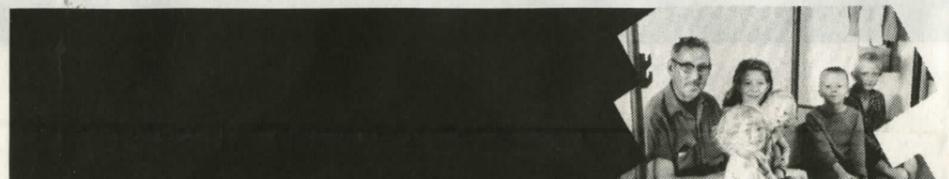
For street kids, dope is adaptive. A way to cope with coping out. It's not simply some weird compulsion that drifts down on some weak character and lands him in hell. It's a considered, sometimes singular way out of the deadly circus of the streets.

Imagine being lost in a minefield, alone, with a map in one hand and a syringe full of dope in the other. Imagine seeing your buddies who have used the same map getting blown apart before your eyes, the lucky ones dying, the not so lucky lying around you missing some part or other, some few getting out and away. On the other hand, there are those in your dream who have taken the needle route. And you know that most of them didn't make it out either. So your decision isn't going to be too rational. Either you're going to have to believe you're a better map reader and a lucky son of a bitch or you're going to have to say you won't end up like the other guys who took the needle. But

## Testimony

# Statistics

President's Commission on Law Enforcement & Administration of Justice



**President's Commission on Law Enforcement & Administration of Justice**

The juvenile court has become the primary judicial agency for dealing with juvenile criminality, the single most pressing and threatening aspect of the crime problem in the United States. One in every nine children will be referred to juvenile courts for an act of delinquency before his 18th birthday. Considering boys alone, the ratio rises to one in every six. Arrests of persons under 18 for serious crimes increased 47 percent in 1965 over 1960; the increase in that age group population for the same period was 17 percent. In 1965, persons under 18 referred to juvenile court constituted 24 percent of all persons charged with forcible rape, 34 percent of all persons charged with robbery, 52 percent of all persons charged with burglary, 45 percent of all persons charged with larceny, 61 percent of all persons charged with auto theft. It is apparent that responsibility for meeting the problems of crime rests more heavily on no other judicial institution.

From *Task Force Report: Juvenile Delinquency* (1967)

**"Delinquency"**

Nicholas N. Kitzie

By default of the modern family, church, school, and community, the role of principal guardian of social order and conformity devolves increasingly on the police and the courts. This burden is too heavy for the machinery of justice to assume all by itself. The process of juvenile justice is burdened with responsibilities that should be vested elsewhere; as it presently exists the juvenile court system cannot discharge its diverse roles and develop more individualized services and programs. The concept of "delinquency" has been stretched too far. The juvenile court should serve as a last-resort service, employed only when questions of restraint and compulsion arise. Its business, usually, should be limited to juveniles whose conduct would constitute a violation of the law if committed by an adult.

From *The Right To Be Different* (1971)

**Shut Down Reform Schools**

Sid Ross & Herbert Kupferberg

Boston, Mass. — If Jerome Miller had his way, every reform school in the United States would be closed down tomorrow.

Who's Jerome Miller? He's a 40-year-old Ph.D. out of Minnesota who has been Commissioner of Youth Services for the Commonwealth of Massachusetts since October, 1969. In his three years in office, he has abolished the Bay State's system of training schools for youthful offenders. And he says the U.S. won't solve its juvenile delinquency program until all the other states do the same.

"Reform schools are no damn good," he says. "They neither reform nor rehabilitate. The longer you lock up a kid in them, the less likely he is to make it when he gets out. They don't protect society. They're useless, they're futile, they're rotten."

Dr. Miller has replaced Massachusetts' training school system with a network of halfway houses, group shelters, foster homes, forestry work, special counseling services, and community action programs. Of 2000 boys and girls who would otherwise be behind bars, only 100 hard-core, violent cases are still under confinement, being treated in special psychiatric care facilities.

Miller, who has had to defend his reforms against a spate of Massachusetts critics, cites killer Charles Manson as a classic example of the failure of training schools. Manson spent some of his adolescent years in a juvenile institution. Says Miller: "The lockup, maximum-security training school escalates the potentiality toward violence."

**"firm but fair"**

The youthful offenders whom Miller has "sprung" from such solidly established Massachusetts penal institutions as Bridgewater, Shirley, Roslindale, Oakdale, Lancaster, and Lyman haven't simply been turned loose onto the streets. Miller, a psychiatric social worker who got his degree

from Catholic University in Washington, D.C., and worked with U.S. Army stockade prisoners in England and later in the Ohio correctional system, says he opposes complete permissiveness and favors "firm but fair" limits when a child gets into trouble.

Although Miller is convinced he's on the right track, his reforms have also run into a barrage of opposition. His critics range from detention guards whose jobs are in jeopardy, to legislators who favor sterner methods of dealing with delinquents. He's been denounced as "permissive," "soft-headed," and "a bleeding heart," and accused of "subverting the juvenile justice system" and "endangering public safety."

After heading up a legislative investigation of the DYS, State Representative Robert J. McGinn declared: "I think Miller is well-qualified and his ideas are good, but he's moving far too fast. There's not enough screening of the homes to which kids are sent, and there's not enough screening of the kids themselves before they're sent back into society."

State Senator Francis X. McCann, chairman of a special committee on state corrections, accuses Miller of making "a farce out of justice in Massachusetts" and recently advised him to "get on his bike and pedal back to Ohio."

**Communities Object**

Opposition has spilled out of the legislature into local communities, some of which are up in arms against the idea of halfway houses operating in their areas. In Malden last January an angry crowd at a meeting expressed such stiff resistance to having even carefully screened, non-chronic offenders in a house operated by a group called Adolescent Counseling in Development (ACID) that the project has to be shelved. It's still in limbo.

Miller is especially irritated by the argument that he's moving "too fast," and that he should have phased out the institutions gradually rather than clamping them shut practically at once.

"You almost have to force the community to do its job," he says. "There'll never be real progress without turmoil. You've got to move fast. You just can't change, or modify the reform schools. Any reforms you make will get watered down and trickle away. The training schools are the backbone of the old system and have to be abolished. They're going the way of the almshouse."

Miller points to a recidivism rate in the group homes of only 18-20 percent — about a third of the reform-school rate — as evidence that the new approach is working.

From *Parade* (September 17, 1972)

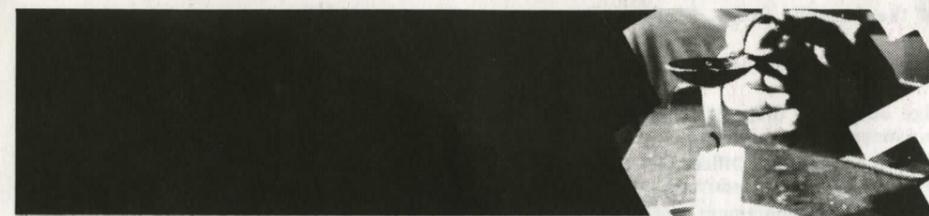
*The Second Mile*, a Criminal Justice Public Awareness Project, is sponsored by The Puget Sound Coalition (Seattle University, Pacific Lutheran University and Western Washington State College) under contract to the City of Seattle, Pierce County and Whatcom County. Funding is provided by the Law Enforcement Assistance Administration (LEAA), through Washington State Law and Justice Planning Office and the Law and Justice Planning Offices of the City of Seattle, Pierce County and Whatcom County. Puget Sound Coalition central offices are located at 1020 East Jefferson Street, Seattle, Washington 98122; telephone (206) 626-5320.

education is important. Unwilling to accept the school's humiliating evaluation of them, they begin to flaunt its standards and reject its long-range goals in favor of conduct more immediately gratifying.

That conduct may not at first be seriously delinquent, but it represents a push toward more destructive and criminal patterns of behavior. Moreover, it takes forms, such as repeated truancy, that end hope of improved academic achievement. It may lead to dropping out of school.

It is of course difficult if not impossible to separate the part played by some schools from the innumerable other forces that may be related to the development of delinquent behavior. But both common sense and data such as these support the view that the high degree of correlation between delinquency and failure in school is more than accidental.

From *Task Force Report: Juvenile Delinquency* (1967)



**Permissive Society**

James J. Kilpatrick

A free society is one thing; a permissive society is something else entirely. Many of our educational theorists seem not to know the difference. Under their mushy tutelage, we have raised two generations of children to suppose that discipline is cruel, that obedience is a sometime thing. It once was expected of the schools that teachers would seek to indoctrinate their charges, especially in the primary grades, with old-fashioned virtues: Honesty, thrift, neatness, excellence. They indoctrinate them in traffic safety now.

What has become of the church? Our leading ministers, it often appears, are obsessed with ministering to Mozambique. Such institutions as the Boy Scouts and the Girl Scouts are making a comeback. But for many years they surrendered to the mockery of pseudo-sophisticates who found them just too square for words.

A conservative, searching for legislative answers, would urge a fresh look at laws that govern child labor and fix a minimum wage. This is not to suggest a return to the days of Dickens, to the sweat shop and the garment loft. But it is to suggest that thousands of boys might stay out of trouble if they learned the discipline of honest work at 12 or 13. The present minimum-wage laws, coupled with needlessly protective restrictions, leave active and healthy youngsters with little to do but hang around.

Our courts cry out for re-examination also. One hesitates to generalize, but the Federal Bureau of Investigation figures offer mute testimony that something is sadly wrong. The system is not working. Fewer than 1 per cent of the juvenile offenders taken into custody wind up in criminal courts. It is fine to temper justice with mercy, but excessive leniency is bad all around.

From *Seattle Times* (May, 1972)

**Q. What are you going to do in court? What will happen to you?**

A. Best to act scared, sorry for doing it whether you are or not. It's bad to have to be that way but I'll do it if it keeps me from getting sent up. You gotta be really good to lie but you don't need to tell them all your beliefs. Just tell the truth about what happened when the law was broken. You can argue with police but you have to be nice to the judge. You know, he [the judge] let me out of jail once just for saying I was sorry.

It all depends on what the judge thinks of you — in juvenile court facts don't matter so much. Some judges are just trying to send you up anyway. S'okay to be polite but you don't have to answer stuff that'll incriminate you. Judges like rich guys — like when your parents are outstanding in the community. They don't like poor people and long-hairs — everybody can't afford clothes, you know; your best clothes might be grubbies to a judge.

From *Kids in Court* (1973)

**Drugs**

Larry Cole

Drugs are everywhere. Anyone can buy any kind of drug on almost any street, any day, any time. It's one of the few conveniences New York shoppers are offered. Chicken Delight and door-to-door dope.

Street kids see these drugs as part of the street smorgasbord. A sniff of this, a taste of that, a snort of the other, a shot of something else. The drugs of choice are pills (amphetamines, barbiturates, hypnotics, opiates, and hallucinogens), powders (heroin and cocaine), and plants (marijuana, kief, and hashish). Most everybody smokes plants. The powder people get the most attention from the press and the courts. The pill takers are the craziest and make the most trouble. Then, of course, there are the indiscriminate ones who take whatever they can get, in whatever combinations come along. The winos of junkidom.

I think it was 1963 when I first tried to bring the drug problem out of the streets and into the meeting rooms of the large fraternal and religious organizations. They made me feel like the weirdo author guest on the Johnny Carson Show — keeping me waiting through the whole damn boring meeting and then hurriedly, as an embarrassed afterthought just before adjournment, they would give me a few minutes to speak while most of the members were putting on their coats.

"Drugs are killing children," I would say, "fourteen- and fifteen-year-old kids are dying from overdoses while I sit and watch. We need help. We have to get together and find some way to stop this before more kids die." I ended, "Maybe if you don't help, it'll spread to your kids." And they smiled their damn patronizing smiles, the Elks and the Knights of Columbus and the American Legion, and told me, curtly, that they gave already. At the office. Each of them was supporting some kind of summer camp or other and what they didn't know about wouldn't hurt them.

didn't make it out either. So your decision isn't going to be too rational. Either you're going to have to believe you're a better reader and a lucky son of a bitch or you're going to have to say you won't end up like the other guys who took the needle. You're getting tired of standing still and have to make the choice. What do you do?

**"Old American Dreams"**

I am in no way condoning the use of drugs. Merely explaining its prevalence. There are some pretty workable alternatives people who can get some peace and objectivity can find these solutions. You can go to a chain, learning from the mistakes, (maybe death) of others. You can clear an area and stay there, slowly expanding territory into a larger and larger neighborhood. But the motivation to drugs doesn't end finding successful treatment techniques. Now kids have to go through the drug and its lying, stealing, getting arrested, being sick and seeing death, before they work their way out. There will have to be a huge effort made at preventing drug use if it isn't going to come out of the present horror story-punishment approach. It's going to come by offering kids more personal satisfying ways out of their minefields will start by adults acknowledging the minefield's existence, waking up from the fog of old American Dreams, and risk some empathy with the perceptions and condemnations of our youth. There's nothing so crazy-making as someone telling you that your pain isn't real, that what you see before you is really something else.

Things will begin to improve when, of the common problem is acknowledged, the sleep-eye gone, the adults become part of the chain or part of the clearing party, stop being the ones pushing the kids to the death. Translated into action, that means adults are going to have to start listening to their kids instead of the professional condemnations of kids and then they're going to have to join the revolution against corruption, hypocrisy, materialism, and violence. There's not much of a chance for that. We're going to have a lot of dead kids.

It always hurts, when I look at the kids on the street using drugs, to know that the adults they will find in their search for childhood are adults who won't let them have Teachers, social workers, policemen, judges and jailers. That's the chain we give kids and we wonder why they don't love for our concern. Street kids or any kids never forgive us for giving our proxies away to the enemy. Letting somebody else do "caring." That's become our national pastime. Copping out. And isn't that what drugs are all about?

From *Street Kids* (1972)



For permission to reprint we are indebted to: Ballantine Books for *Street Kids* by Larry Cole (1970); Johns Hopkins Press for *The Right To Be Different* by Nicholas Kitzie (1971); *Judicature* for "Everything Begins Home: The Problem of Juvenile Crime" by Charles Mathias (December, 1972); *Parade* for "Shut Down Reform Schools?" by Sid Ross and Herbert Kupferberg (September 17, 1972); and the *Seattle Times* and *Washington Star Syndicate* for "Juvenile Crime: Product of a Permissive Society" by James J. Kilpatrick (May, 1972).

