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The Role of Counsel in the Juvenile Court

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THE ROLE OF COUNSEL IN THE JUVENILE COURT

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TABLE OF CONTENTS

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I. INTRODUCTION

As a result of recent decisions of the United States Supreme Court, the defense attorney's role in the juvenile court system has been placed in a state of flux. Some lawyers perceive their role as being that of an advocate for the child, one not differing from the role assumed by counsel in representing an adult criminal defendant.[1] Other lawyers believe their role as an advocate should be tempered by considerations of the child's best interests.[2] It is the major purpose of this monograph to examine the juvenile defense attorney's role in a delinquency hearing based on the acts of a juvenile which, if committed by an adult, would constitute a public offense.[3] The historical underpinnings causing this ambivalence, arguments supporting the various positions, views of formers "clients" of defense attorneys, and the views of several Polk County attorneys will be explored.

II. HISTORICAL OVERVIEW

Before 1825 no special courts or institutions for treating delinquent children existed in the United States.[4] Parents and masters were allowed to punish child offenders as they wished.[5] According to Blackstone, if it appeared to the judge and the jury that the child could discern good and evil, he could be convicted and sentenced to death.[6]

Prior to 1899 the law did not recognize distinctions between adults and "criminally responsible" juveniles.

> Our common criminal law did not differentiate between the adult and the minor who had reached the age of criminal responsibility, seven at common law and in some of our states, ten in others, with a chance of escape up to twelve, if lacking in mental and moral maturity. The majesty and

> dignity of the State demanded vindication for infractions from both alike. The fundamantal thought in our criminal jurisprudence was not, and in most jurisdictions is not, reformation of the criminal, but punishment; punishment as expiation for the wrong, punishment as a warning to other possible wrong doers. The child was arrested, put into prison, indicted by the grand jury, tried by a petit jury, under all the forms and technicalities of our criminal law, with the aim of ascertaining whether it had done the specific act - nothing else - and if it had, then of visiting the punishment of the State upon it.[7]

In the latter part of the 19th century a reform movement began which was to have a profound effect on the legal profession. The reformers, shocked by the treatment that juveniles were accorded in the criminal courts, began pressing for a separate system which would recognize the peculiar circumstances of children.

In 1899, Illinois became the first state in the union to enact a juvenile court statute designed to provide for a judicial procedure especially adapted to the treatment of young people. Gradually, all jurisdictions passed laws creating new juvenile court structures.[8]

The new reform concept brought a new perspective to juvenile law, or more appropriately for the first time provided specifically for laws relating to the juvenile. The proceedings were designed to be informal with the judge assuming the role of the benevolent parent dealing with an errant child. Attorneys were not needed or allowed in the court, generally, because their appearance would complicate the proceedings and serve neither the child's interest nor the interests of justice.[9] It attorneys were allowed, it was usually only "as a guest, in good taste, in the judicial house."[10] However, it was generally felt that if a child needed legal representation, the judges and the parents would serve that function. Likewise, because these were civil proceedings, and juveniles had no right to liberty - only to custody - there was not need for the constitutional safeguards secured to every adult in a criminal proceeding.[11]

In 1909, a decade after the institution of the juvenile court had been established, a prominent legal writer described the court's function in this manner:

> Why is it not just and proper to treat these juvenile offenders as we deal with the neglected children, as a wise and merciful father handles his own child whose errors are not discovered by the authorities? Why is it not the duty of the State, instead of asking merely whether a boy or girl has committed a specific offense, to find out what he is, physically, mentally, morally, and then if it learns that he is treading the path that leads to criminality, to take him in charge, not so much to punish as to reform, not to degrade but to uplift, not to crush but to develop, not to make him a criminal but a worthy citizen.
>
> And it is this thought - the thought that the child who has begun to go wrong, who is incorrigible, who has broken a law or an ordinance, is to be taken in hand by the State, not as an enemy but as a protector, as the ultimate guardian, because either the unwillingness or inability of the natural parents to guide it toward good citizenship has compelled the intervention of the public authorities.[12]

Even at this early date there were those critics of the new system who insisted that this juvenile proceeding were merely a thinly veiled adult criminal proceedings. They felt that since children could conceivably be denied their liberty under this scheme, juveniles were entitled to all of the constitutional protections afforded to an adult offender.

The Supreme Court of Pennsylvania met this objection in 1905 by stating that this new "parens patriae" system of justice for juveniles was not designed to punish. The court insisted that there was no probability, in the proper administration of the law, of the child's rights being unduly invaded. The court indicated that every statute was designed to give protection, care, and training to children, as a needed substitute for parental authority, and that this performance of parental duty was but a recognition of the duty of the State as the legitimate guardian and protector of children where other guardianship had failed. Therefore, it was the court's considered opinion that no constitutional rights of

children were violated by the parens patriae system of juvenile justice.[13]

For a period of some sixty years after the inception of a separate juvenile court system in the United States, there was virtually no role for the lawyer in most juvenile court proceedings. A 1966 empirical survey of juvenile cases revealed that in most jurisdictions no more than five per cent of juvenile offenders were represented by attorneys.[14]

In that same year, 1966, the United States Supreme Court "for the first time in 60 years peered beyond the hallowed doors of the juvenile justice system; it was appalled."[15] The case of Kent v. United States[16] involved a 16-year-old who was charged with housebreaking, robbery and rape. Mr. Justice Fortas, speaking for the majority of the Court, said:

> While there can be no doubt of the original laudable purpose of juvenile courts, studies and critiques in recent years raise serious questions as to whether actual performance measures well enough against theoretical purpose to make tolerable the immunity of the process from the reach of constitutional guarantees applicable to adults. There is much evidence that some juvenile courts, including [the one in the instant case], lack the personnel, facilities, and techniques to perform adequately as representatives of the State in a parens patriae capacity, at least with respect to children charged with law violation. There is evidence, in fact, that there may be grounds for concern that the child receives the worst of both worlds: that he gets neither the protection accorded to adults [under the constitution] nor the solicitous care and regenerative treatment postulated for children.[17]
> (emphasis added)

There was little doubt in many judicial circles that Mr. Justice Fortas' strong indictment of the system was true. It was readily apparent that, at that time: (1) notice of the charges at informal hearings was often lacking; (2) the juvenile court officer, supposedly a confidant of the child, was often his accuser; (3) no witnesses were produced or sworn; (4) admissibility of hearsay evidence was rampant; (5) the child was frequently called on or, in extreme cases, coerced to

be his own accuser; (6) the friendly judge played the role or prosecutor, defense counsel and jury; and (7) neither the child nor his family were advised fo the right to counsel, or the right of the child to remain silent.

The mistrust of the juvenile system with its parens patriae trappings had a significant impact on the Court's decision in In Re Gault,[18] wherein the Court held that a fact finding adjudicatory hearing involving a juvenile charged with a public offense ~~are~~ is to be measured by due process standards. Gault involved a 15-year-old boy who was adjudicated delinquent by an Arizona juvenile court. He was apprehended upon a complaint of a neighbor that he had been making lewd remarks over the telephone and was placed in the Arizona Boy's Training School for a period which could have extended until he was 21-years-old. Gerald Gault insisted that his right to due process required notice of charges, the right to counsel, a right to refrain from self-incrimination, and a right to confront and cross examine witnesses. In an opinion by Justice Fortas, the Supreme Court held that the fourteenth amendment required these safeguards before a child could be deprived of his liberty.[19] As Mr. Justice Fortas states: "Juvenile court history has again demonstrated that unbridled discretion, however benevolently motivated, is frequently a poor substitute for principle and procedure. Neither the fourteenth amendment nor the Bill of Rights is for adults alone."[20]

In 1970, the Supreme Court, in In re Winship,[21] held that juveniles are entitled to a standard of proof beyond a reasonable doubt in a delinquency proceeding in which the juvenile is charged with an act which would constitute a crime if committed by an adult.

Kent, Gault and Winship abandoned the notion that fair procedures must be disregarded in juvenile court because of the traditional rehabilitative purposes. From these decisions it appeared that the Supreme Court might ultimately apply all due process standards of the adult criminal process to juvenile proceedings.

However, the Court's most recent decision involving the rights of a juvenile clearly indicates that this is not so. In McKeiver v. Pennsylvania,[22] the Court held that juveniles alleged to be delinquent for committing a criminal act are not constitutionally required to have a jury trial. According to the Court, many of the good aims of the traditional juvenile court concept are better achieved in a less formal setting. Mr. Justice Blackmun, in a plurality opinion, stated that:

> There is a possibility, at least, that the jury trial, if required as a matter of constitutional precept, will remake the juvenile proceedings into a full adversary process and will put an effective end to what has been the idealistic prospect of an intimate, informal protective proceeding.[23]
>
> ... The Court ... has not yet said that all rights constitutionally assured to an adult accused of crime are also to be enforced or made available to the juvenile in his delinquency proceeding. Indeed, the Court specifically has refrained from going that far ...[24]

McKeiver, with its enforcement of some of the non-adversary aspects of the juvenile court, has left the juvenile justice system somewhere between the pre-Gault parens patriae doctrine and the more formalized adversary procedure of the adult criminal process.

While due process for the juvenile has been held to include the right to counsel, the Supreme Court decisions leave the attorney in a quandry as to what his or her role should be. Thus far, then, the Constitution has been interpreted to require an advocate but not an advocacy system.[25]

III. GAULT AND THE THEORETICAL ROLE OF COUNSEL

Since Gault was decided in 1967, legal writers and practitioners concerned with the juvenile justice system have struggled to determine what the Supreme Court envisions the function of an attorney at the adjudicatory stage of juvenile proceedings to be. The answer is by no means clear-cut and the attempts made to

fashion such a theoretical role have varied widely.

Some commentators have sought an answer in the judgment that Gault sounded the death knell for the entire doctrine of parens patriae.[26] Certainly such a presentiment is not without support as it is evident from much of the language of the opinion that there is no total support on the part of the Court for the tenets of that doctrine.[27] If this interpretation of Gault is correct, it could be assumed that juvenile courts, although perhaps operating separately, would in theory become "junior" counterparts to the adult criminal court system. This view is supplemented by the argument that a demise of the parens patriae doctrine would not result in a change of practice for juvenile courts as the dispositions do not differ markedly today from those in some of the lower criminal courts. Rather, getting rid of parens patriae would mean only the legally mandated introduction of all requirements of due process and fundamental fairness into the adjudicatory proceedings. Such a metamorphosis as this in the juvenile justice system would militate towards the attorney assuming much the same role in juvenile court as he or she does in adult court.

In startling contrast to the view that Gault will eventually mean an eradication of the "good parent" philosophy of juvenile courts, other writers have indicated that the advent of counsel to the juvenile courtroom, in the absence of legislative reform, has had nor will have no effect on the procedure at the adjudicatory stage.[28] This observation is based upon the fact that juvenile cases are among the lowest priorities for attorneys (along with other small or no-fee cases) and that the majority of practitioners, especially those in the upper echelons of the profession, come into contact with the juveile justice system only rarely. An apathetic, distant bar and a juvenile court that is steeped in three-quarters of a century of self-perpetuating social welfare philosophy is not likely,

merely on the basis of a ruling that counsel is required at the adjudicatory stage, to spontaneously generate a new adjudicatory procedure nor a concomitant role for the juvenile client's attorney.

Whatever the long-range consequences, if any, of Gault may be, it is apparent that the Supreme Court and the States, through legislative inaction, "[h]ave left the due process contours of the juvenile court system in a constitutional twilight zone and [h]ave made adoption of any neat pre-existing model for the juvenile lawyer impossible."[29] It is clear, in other words, that Gault is not clear! The Supreme Court, while impatient with the parens patriae theory, is laudatory of the doctrine's altruistic origins. Thus it cannot be said that the Court is looking toward a merger between the juvenile and adult courts. On the other hand, the realities of the juvenile court system and the abuses of parens patriae which were brought home to the Court by the plight of Gerald Gault necessitated a ruling requiring certain due process standards to be met.

IV. GAULT AND THE PRACTICING ROLE OF COUNSEL

Because of the "twilight zone" effect of Gault on juvenile courts and the attorneys who function in those courts, individual lawyers for juvenile clients have developed and adopted polar positions as to their roles. On the one hand are attorneys who completely accept the parens patriae doctrine and as a result see their function as being very different from that of a criminal defense lawyer. At the other end of the spectrum are those attorneys who, for a variety of reasons, see their role as advocates just as they would were they defending adults in criminal courts. In between these extremes are many attorneys who have not adopted either stance but rather have attempted to meld both of them in order to maximize their own effectiveness in the present juvenile system.

The American Bar Association Code of Professional Responsibility[30] has ethical

guidelines to which nearly all attorneys adhere to a greater or lesser degree.

Ethical Consideration 7-1 says:

> The duty of a lawyer, both to his client and to his legal system, is to represent his client zealously within the bounds of the law... In our government of laws and not men, each member of our society is entitled to have his conduct judged and regulated in accordance with the law, to seek any lawful objective through legally permissible means: and to present for adjudication any lawful claim, issue or defense.[31]

Ethical Consideration 7-8 says:

> A lawyer should assert his best efforts to insure that decisions of his client are made only after the client has been informed of relevant considerations... A lawyer should advise his client of each possible legal alternative... In the final analysis, however, the lawyer should always remember that the decision whether to forego legally available objectives or methods because of non-legal factors is ultimately for the client and not for himself.[32]

From reading these ethical guidelines, it would appear that the legal profession is held to a high standard of competence, and that the lawyer must present any legal or ethical defense his client wishes. It would also appear that the standard of competence would be the same in juvenile and criminal cases. However, as indicated by the court's language in a recent case, these assumptions may not be accurate. In William F. v. Callahan, the court referred to the role of counsel in a juvenile proceeding by saying that "the right to counsel is predicated on due process concepts of fairness and is not necessarily as broad as the right to counsel in criminal proceedings."[33]

The Iowa Supreme Court, in interpreting section 232.28[34] in the light of Gault has said that:

> As pointed out ... the effect of Gault is limited by specific language to cases in which the juvenile might be committed to a state institution. Nevertheless, the Court's recognition of principals bearing on the question of fair trial, regardless of the type of proceeding, clearly warns us to be wary of taking

> constitutional short cuts which would result in any substantially different treatment of a juvenile than that which would be accorded an adult charged with the commission of a crime.[35]

However, State v. White,[36] says that "[p]roceedings in juvenile court are not prosecutions for crimes. They are special proceedings which serve as an alternative to criminal prosecutions of children."[37] Thus, the lawyer is left with no accurate perception as to his or her proper role in a juvenile delinquency proceeding.

The substantial number of lawyers who operate within the parens patriae notion of the State's "acting in the best interests of the child" have adopted this role rationale for their own methods. Thus, serving as counsel for a juvenile can mean something altogether different from being an attorney at law. In this situation the lawyer finds that in order to "help" the juvenile, he or she must make value judgments as to the juvenile's behavior, demeanor, social and personal history and amenability to treatment. Such value judgments rarely invoke technical considerations of law. On the contrary, these decisions are based upon the attorney's own personal opinions of adolescence, family and societal structures and deviant behavior.

At the pre-hearing stage of representing a juvenile, the parens patriae lawyer will most often look to the probation officer and the social report for information concerning his or her client. From the interviews conducted with lawyers in Polk County, it is apparent that rarely, if ever, do these attorneys make an independent investigation either of the incident concerning the youth or the youth's personal history. Thus the lawyer's opinions concerning both the character of the client and the advice which he or she will give the youth are based upon the written statements and judgments of an officer of the juvenile court.[38]

One of the critical problems which faces a parens patriae attorney at this

stage is when it is apparent either that the juvenile was illegally searched and incriminating evidence was illegally obtained or that a confession was extracted under duress. When asked what course of action they take when confronted with this problem, these attorneys indicated that they never move to suppress such evidence. This decision is part and parcel of their belief in the parens patriae doctrine: the juvenile has become involved in something that is against the law, such involvement is indicative of pre-criminal tendencies and the State must have the power and jurisdiction to act in order to correct this behavior.

A local example and one that was posed hypothetically to these lawyers during the interviews is the indiscriminate stop-and-search policy of the police of people attending rock concerts at the Des Moines auditorium. A similar fact situation is involved in the warrantless search of student lockers which have been taking place in many schools around the country. If appointed by the court to represent a youth charged with possession of drugs as a result of one of these searches, the parens patriae attorneys do not look to the method of the search, but rather to what the search produced -- evidence of a juvenile who uses, or will use, drugs and thus is in need of treatment. The Polk County attorneys' judgments as to the youth's need to treatment was found to be based on differing opinions such as "use of any drugs is an indication of mental instability" or "marijuana may not be bad, but its use is still against the law and kids must learn to obey the law." In making decisions of this kind and in acting upon them, the parens patriae lawyer serves not as legal counsel, nor as watch-dog of procedural rights, but rather as another member of the court, correcting the youth and protecting the community.

The role of the parens patriae attorney at the actual adjudicatory proceeding, the hearing before a judge, is an extension of the part he or she played at the pre-hearing stage. Here, the lawyer talks with the judge and the probation officer

about the juvenile and the complaint; each adult, in turn, usually talks to the juvenile. The privilege against self-incrimination usually is not invoked as such a protection is viewed by some as a hinderance to treating the guilty juvenile. The probation officer's factual information about the youth is not challenged by the parens patriae attorney, nor are the judgmental opinions concerning the juvenile's behavior, motivations, character or potential disputed. Although the attorney's recommendation to the judge as to what the adjudication should be may differ from that of the probation officer, the difference of opinion is usually due to opposing personal values and not to a basic difference between how the two adults view their respective relationships with the juvenile. Thus, the hearing is conducted and the adjudication is made by adults, all acting in the "best interests of the child," all functioning in the same role. Whatever the Supreme Court may have meant by requiring legal counsel to be provided for juveniles, certainly it did not envision a mere additional party to the proceedings.

At the opposite end of the spectrum are the lawyers who believe that the defense attorney in juvneile court should be an advocate for his or her client, a role that is no different than that assumed in an adult criminal case. The reasons for adopting such a stance vary. Some advocates contend that the adversary system is truly the best one for netting out justice no matter how old the offender. Other attorneys have absolutely no respect for present juvenile court procedure nor its parens patriae rationalization and argue that "to go full adversary would screw up the system enough to destroy it and then we could start all over again from scratch." The attorneys in the middle of these two positions contend that, although the parens patriae doctrine looks good on paper, it is too much abused, and the adversary system is thus the only working alternative.

For the advocate, the pre-hearing stage is one for investigating fully the charges levelled against his or her client, the client's personal background, and

the position -- both official and unofficial -- of the probation officer. The advocate attorney also deals with the juvenile personally and sees it as his or her legal responsibility to advise the youth of the legal alternatives available. Essentially, it is the position of the advocate that he or she represents the juvenile in the true meaning of legal representation: the client is advised of the possibilities and the attorney acts according to what the client requests.

It is not surprising then that the advocate attorney views the problem of illegally obtained evidence in a much different legal light than does the parens patriae lawyer. As defender of the purity of the justice system as well as of his or her client's rights, the advocate does not hesitate to call into play the exclusionary rule in order to fight this violation of the juvenile's constitutional rights. For similar reasons, the advocate investigates the circumstances of the youth's "arrest", detention and police questioning and examines the particularity of the complaint against the juvenile for any indication of procedural laxity.

Although the advocate usually does not see his or her duty as being "to get him [the client] off"[39] this attorney will advise the juvenile to invoke the privilege against self-incrimination in order to make the State prove its case. This, the advocate believes, will do away with the slanted, potentially damaging, information of the probation officer. The probation officer's social report and recommendation will, of course, be entered into evidence; however, it is argued, it will not be the only information upon which to base a disposition, as is now the case in the parens patriae system. To make the State prove its case against the juvenile, the advocate contends, will ensure the validity of the complaint, the constitutionality of the proceedings, and the justice of the court's adjudication.

The role which the majority of attorneys have adopted lies somewhere between the two diametrically opposed roles set out above. Although these attorneys are

not particularly enamored of the parens patriae doctrine, they do believe in the moral and social goodness of treating juveniles differently, that is, less harshly, than adult offenders. However, because this ideal of the parens patriae doctrine is not reached in practice, the median attorney sees the adversary system, or techniques used within that system, as a technical means to check the abuses.

The assumption of this role by a lawyer representing a juvenile necessarily means the making of judgmental decisions similar to those of a parens patriae attorney. Often times, these attorneys view their role as being determined by what kind of offense has been committed. If, in their opinion, the offense is minor, everything will be done to ensure the youth's release. On the other hand, a median attorney who sees the offense as being of a serious nature, assumes a role idential to that of a parens patriae lawyer. A few of the lawyers interviewed who had adopted the middle position admitted to setting up a fake intake procedure with a probation officer in order to "scare" a first-time juvenile offender who would otherwise have been released immediately. Such decisions are based upon a desire to act in the best interest of the child by "straightening him out" and yet not to endanger his potential or his record by involving him formally in the juvenile justice system.

A median lawyer normally does not rely on the probation officer's report for information about the juvenile. An independent investigation is carried out, conversations with the client ensue, and a check into past records, if any is made. At this point, the lawyer may confer with the probation officer for the express purpose of determining what the recommendation to the judge will be at the dispositional stage. Many attorneys also use this time to "lobby" for the juvenile as they regard the probation officer as the real decision-maker in the process.

The issue of constitutional rights in juvenile court presents real problems for the median attorney. Generally, these rights are viewed as qualified rather than absolute and a violation is challenged only "if it goes to undermine the whole judicial system" or as a technical means to further the attorney's own judgments as to what should be done about the juvenile's behavioral pattern. Thus, those median attorneys who feel that the training schools are harmful places for juveniles will invoke the exclusionary rule where applicable for the purpose of keeping the client out of such an institution. However, normally such an attorney will not move to suppress illegally obtained evidence if the probability of probation is high. It is significant to note that, for the median attorney, the barometer that indicates the seriousness of the offense for which the juvenile is charged, is not the potential adjudication of delinquency but rather the possibility of training school disposition.

The gamut of present practice shows that among lawyers in juvenile court there is a general move away from total acceptance of the parens patriae doctrine, chiefly because of growing disenchantment with the disparity between the ideal and the reality of juvenile justice under that doctrine. However, an alarming result of this movement away from parens patriae has been the use and abuse of as much discretion by attorneys as was formerly exercised by juvenile judges. It is truly unfortunate that a development which was meant to limit and control the discretion of the juvenile court, namely the introduction of counsel into the proceedings, has, if not actually increased the exercise of discretionary power, at the very least merely shifted its exercise from one component of the system to another.

V. THE CLIENTS' VIEWS

Some general observations and impressions of juveniles' views of their lawyers and the system are also important to the consideration of the attorney's role in a delinquency proceeding. During April, 1974[40] twenty young residents at the Boys' Training School at Eldora were interviewed. These boys were among those who voluntarily agreed to participate in completing a questionnaire designed to obtain the young man's general impression of his juvenile court hearing and how he perceived his attorney who represented him at the hearing. The questionnaires were anonymous, although some of the boys insisted in placing their names or number on the sheets. Questionnaires were filled out in a group setting and then discussed individually or in small groups of four or less.

The following paragraphs represent summarized conclusions of the answers, comments, and impressions drawn from the questionnaire and the ensuing discussions.

Question A: Could you describe what happened to you at the hearing?

Eleven people remembered enough that they could discuss some aspects of their hearing(s). The remaining nine boys remembered very little or only the final order which the judge read committing them to the Training School. Most of the eleven who discussed their hearing could recall only a general review of their past record by the judge before the commitment order was made. Additionally, almost all of these eleven were quite aware and could recall vividly the effect of the hearing on either parents or peers. Generally, they were unable to describe with any specificity actual events or particular procedures.

Question B: Were you represented by a lawyer?

Fifteen boys were represented by counsel at their adjudicatory and dispositional hearings, whereas five were not. There seemed to be a confusion among most of the boys as to which hearing was being referred to and they seemed to be unable to separate the number of hearings in which they had been involved.

Question C: Did your lawyer talk to you before the hearing? If so, can you remember what he (or she) said?

Nine boys stated their lawyer had spoken with them before the hearing(s). Few of the boys were able to recall with any particularity what had been discussed. Six boys stated their lawyer had not consulted with them before the hearing. Five boys were not represented by counsel.

Question D: Were the proceedings explained to you? If so, did you understand what was going on?

Nine boys stated the proceedings were explained to them by either the judge or an attorney, and in a manner that they could understand. Eleven of the twenty stated the proceedings were not explained to them by anyone.

Question E: Did you feel your lawyer did a good job?

Five answered this question affirmatively; ten boys felt their lawyer did not do a good job either because he had (1) pre-arranged the decision with the judge; (2) felt the Training School was the best answer for the boy; (3) said nothing on the boy's behalf; or (4) was a court appointed attorney, and therefore, did not care.

Question F: Do you feel you were treated fairly at the hearing?

Seven boys answered in the affirmative, twelve responded negatively, and one did not answer. This question was perhaps the easiest for the boys to initially react to but was difficult for them to discuss in concrete terms or to conceptualize. The idea of being "treated farily" was a concept they seemed to have difficulty expressing in words.

Question G: Did your lawyer say anything during the proceedings?

Ten boys answered yes, and five boys stated their lawyer said nothing during the proceedings. Five were not represented by an attorney. It should be noted that five of the ten boys answering in the affirmative on this question also had the impression their lawyer had done a "good job" in their minds (which relate

back to Question E). The general comment from these boys was that their lawyer's actions demonstrated that he or she had made an effort on their behalf.

Question H: Did your lawyer talk to you after the hearing?

Ten answered affirmatively, five stated their lawyer did not stop to talk to them, and five were not represented.

Question I: Can you remember anything the judge said or recommended at the hearing?

Eighteen of the boys could remember but one thing, the commitment to the Training School. It seemed as though everything else at the hearing took a back seat in their minds to that one word -- "Eldora". Two of the boys did not discuss this question.

Information regarding the perception of the role of counsel was obtained from 47 young women who were residents at the Girl's Training School in Mitchellville in April, 1975.[41] The questionnaire was administered in small groups within each cottage at the Training School. Explanation of the purpose of the questions was made prior to administering the questionnaire. After all responses had been collected many of the participants remained to discuss their impressions of their lawyers' behavior.

THE DELINQUENCY ADJUDICATION

Question 1: Why were you brought before juvenile court? Why were you adjudicated delinquent?

Many of the girls here did not consider acts for which an informal adjustment had been made. Because a "status offense" is more likely to be committed repeatedly over a period of time, the respondent may have perceived that to be the basis for the delinquency adjudication instead of a criminal offense. The following are verbatim responses of some of the girls.

> "Because I was a runaway and other delinquent things -- B&E etc... and my parents are drunks!"

"Runaway, drug abuse. My P.O. talked my judge into it."

"Not going to school."

Others had a much clearer perception of what actions resulted in the commitment to the Training School.

"For assault and battery. I lost 'cause my witnesses didn't show up. My P.O. wanted me here, she was against."

"Because I broke and entered"

"Because I was a runaway and ripped a car off"

"Runaway, drugs, shoplifting. Robbery."

Question 2: Was this your first contact with juvenile court?

Yes	11
No	34

Some respondents indicated that they were not sure whether they had prior juvenile court contact.

Question 3: Were you represented by counsel? Court-appointed or privately retained?

Court-appointed	24
Private	17
Don't Know	2
Didn't Have One	2

Any correlation based on this question would be of dubious validity, since a number of the respondents indicated that they did not know the difference between a court-appointed attorney and one that was privately retained. There was a pervasive sentiment, however, in the discussions that followed that the court-appointed counsel would naturally advocate the judge's position.

EVALUATION OF COUNSEL

At this point, two readily discernible patterns emerged. One group felt that their attorneys had done an adequate job, and the other group consistently remarked that their attorneys had failed them. Out of 47 responses, 15 felt their

attorneys had performed adequately (the "Favor" group) and 25 felt their attorneys were inadequate (the "nonfavor" group). The remaining 7 responses were either ambivalent, incomplete or nonintelligible.

Question 1: What did your attorney do at your hearing?

Advocate	14
Nothing	27

Typical responses included:

"Tried to get the charges dropped."

"He took my side. And tried to get me to stay in a foster home."

"He never really did much because he knew all I had left was to come down here because the Court gave me plenty of chances."

"Help me try to not get sent up!"

"Sat there and looked stupid!"

"He was against me."

"Not a damn thing!"

"I was acquainted with him around 5 to 10 minutes before court and he had already made all the decisions."

Question 2: How much contact did you have with your attorney before hearing?

Lots	5
Couple hours	2
Pretty much	1
One hour	3
30 minutes	3
Few minutes	3
Once	1
None	13

Half of the "Nonfavor" group indicated "No contact" before the hearing but only one of the "Favor" group indicated she had had no contact with her lawyer.

Question 3: How much contact have you had with your attorney since the hearing?

None	34
Sufficient	1
Not much	1
A little	1
A lot	1

Eighty-three per cent of the respondents assert that they have had no contact with their attorneys since their hearing in court.

Question 4: Do you think that the outcome of your hearing would have been different had you not been represented by an attorney? What do you think that outcome would have been?

Same	19
Different	20
"Postponement"	1
Don't Know	4
No answer	3

In a further analysis of the responses it was also possible to determine that most of the "Favor" group felt the outcome would have been the same had they not been represented by an attorney while nearly two-thirds of the "Nonfavor" group felt that the outcome would have been different.

Question 5: Did your attorney advocate your position, your parents, the probation officer's, or the judge's position?

	All	Favor	Nonfavor
Mine	13	12	
Mine and Parent	3	2	1
Parent	1		1
Parent and P.O.	1		1
P.O.	6		6
P.O. and Judge	4		4
Judge	5		5
Parents, P.O. & Judge	1		1
No one's	1		1
Everybody	1	1	
Don't know	3		2
No answer	8		3

Question 6: In your opinion, did your attorney show:

a. lack of understanding of juvenile court goals (N=15)
b. lack of familiarity with juvenile court procedures (N=8)
c. tendency to view juvenile court as criminal in nature (N=11)
d. lack of preparation (N=13)
e. lack of knowledge about placement options (N=19)

The "Favor" group responses to Question 6 were:

a. 0	c. 2	e. 4
b. 1	d. d	

Based upon the responses of the young people who have come into contact with the system and who have had exposure to attorneys during that period, one concludes that a large majority of these persons, as well as their parents, are confused about the lawyers' relationship to them.

VI. A SUGGESTED RESOLUTION

In questioning what the role of an attorney in a juvenile proceeding should be, it is possible that the answer lies in the determination of whether the legal and constitutional standards erected in the criminal justice system should be applied to the juvenile counterpart. If this larger problem could be solved - either through the courts or by the legislatures - the role of the attorney at the adjudicatory stage would no doubt define itself.

The rationale as to why all of the constitutional rights of due process and equal protection of the laws are not applicable in juvenile proceedings is based upon three assumptions inherent in the doctrine of parens patriae: (1) juvenile court proceedings are civil, not criminal; (2) no social stigma attaches to the youth who has been adjudicated a delinquent; and (3) post-adjudicatory correctional methods are not punishment.[42]

Although the United States Supreme Court and various state courts have ruled that some individual rights shall apply to juvenile court proceedings,[43] it is significant that all of these courts have steadfastly maintained that there is merit to the parens patriae system. Hence, constitutional rights in juvenile courts have been given piecemeal consideration.

To advocate, then, the application of all legal and constitutional standards of procedural and substantive justice in criminal courts to juvenile courts is, in fact, to make a frontal attack on the validity of the parens patriae doctrine itself.

The assumption that juvenile proceedings are civil matters rather than criminal masks the reality of what can and does happen to youths who get caught up into the system. Not only are they treated in many ways like adult criminals by being taken into custody, detained without bail and, in some cases, deprived of their liberty in institutions, but they are also subjected in society to the stigma of actually being minor criminals. Juveniles who have been adjudicated delinquent are difficult to place in foster homes, school re-integration is very difficult, and many employers will not hire them. To say that no stigma attaches because of the "confidentiality" of juvenile records and because delinquent youths are considered only to be "erring children" ignores the reality of what people really think about juvenile delinquents.

It is also unrealistic to assume that the treatment measures ordered by the court after adjudication are not punishment in the true sense of the word. If a youth shoplifts, or steals hubcaps or prostitutes herself, it may very well be indicative of something the State wants to treat and correct, but to say that this youth will not be punished for those acts is to beg the question. Whether the disposition be probation or commitment to a training school, the juvenile is being punished in that he or she is restricted in some way that he or she was not prior to becoming involved with the juvenile court.

If the only reason for denying juveniles their constitutional rights has been because of the theoretical rationalizations which appear, at best, to be questionable when put to a practical test, where would juvenile law then stand?

If the parens patriae theory were to fall, perhaps the greatest effect on juvenile law and proceedings would be procedurally. Under a due process analysis it could be well argued that a juvenile who is sent to a training school for an indeterminate amount of time is deproved of his or her liberty without due process of law if indeed all procedural standards are not met at the adjudicatory stage.

However, there remains the question of those juveniles who are not committed to institutions, but who are put on probation or removed from school, or placed in another living arrangement because their own parents can no longer control them. Does the State have a basis for relaxing the procedural standards in these cases wehre deprivation of liberty is not seriously in issue?

Irrespective of the three above-discussed assumptions about the juvenile justice system which underlie the theory of parens patriae, states have justified the relaxing of standards on the basis that children are a special class of peole who, because of age, do not require the same protections afforded adults. In light of the so-called "new" analysis used by the Supreme Court in recent years when confronted with a case asserting denial of equal protection of the laws, such a claim by the states might not withstand challenge.

Essentially, the "new" equal protection analysis involves the Court's looking both to the classification made by a state in applying its laws and to the right or rights allegedly infringed upon by the law's classification. If either the classification is "suspect" or the right "fundamental", the state's actions would come under the court's strict scrutiny and the state would then be required to show a compelling interest in order to maintain the classification and the particular statute. Tests which have been used to determine if a classification is suspect have included whether there is present official discrimination against a politically impotent or subordinate group,[44] whether the classification seriously disadvantages one group as opposed to another,[45] and whether the classification is based on traits beyond the control of the included members of the class.[46] The determination of whether a right is "fundamental" has most recently been held to depend on whether such a right is either explicitly or implicitly guaranteed by the Constitution.[47]

If this analysis is applied against the assertion that juveniles are denied

equal protection of the laws, a strong argument can be made. In classifying solely on the basis of a person's age, the states are officially discriminating against a group which is politically powerless to effectuate legislative change. Such a classification also puts this segment of the citizenry at a distinct disadvantage as compared to the adult population because juveniles are systematically denied, in practice, the procedural safeguards, at the adjudicatory state, which insure constitutionality and fairness. The classification also goes to discriminating against a person due to the accidental factor of age, over which no one has control. It is conceivable that along with race, national origin, and alienage, classifications based on age might be arguably "suspect".

When the Rodriquez[48] test for whether a right is fundamental is used to measure the rights which juveniles are denied in the judicial system, it becomes apparent that there are few rights more fundamental and basic than those guaranteed to one accused of a criminal offense. Being classified as a juvenile today "results in denial ... of the very rights which the Constitution on its fact guarantees to all citizens."[49]

Should the states be forced into arguing a compelling interest in maintaining the present juvenile system, they would no doubt rely on the original social welfare philosophy of the early 20th century and contend that the separate system is to provide special care and treatment for its "pre-criminal" youth. Whether this interest would be deemed compelling enough to justify wholesale denial of constitutional rights has largely been resolved by Gault and its progeny. However, even if the state's interest were in theory a compelling interest, such an ideal has never been realized in practice. An otherwise constitutionally impermissible goal cannot become permissible when it merely attempts to promote an ideal which is never, in fact, served.

To grant juveniles equal protection of the laws would not be to invalidate

the theory of maintenance of a separate system. Equal protection would not mean a merger of juvenile and adult courts nor would it require juvenile offenders to be rehabilitated through the adult correctional system. However, equal protection would require that all adult constitutional rights be extended to children at the state of the juvenile justice process at which guilt or innocence is determined. The protection would also extend to the pre-hearing period whenever the juvenile is taken into custody, detained or questioned.

The role of the attorney for the juvenile under this aegis would no doubt be more clear at the pre-adjudicatory and adjudicatory states. Charged with defending his or her client under the same constitutional standards applicable in criminal court, a lawyer would be more free to help the juvenile. The attorney would not be burdened by the patronizing pressure of the juvenile court to join in acting in the "best interests" of the youth, nor would he or she be forced to take personal, paternal responsibility for deciding the fate of the client. Juveniles would be treated as persons under the law and the lawyer would not represent them differently solely because of their age.

However, granting to juveniles the equal protection of the laws would not mean an overnight change in the status of juveniles cases in the eyes of most attorneys. The priority for taking these cases would still, no doubt, be low among lawyers; professional knowledge about juveniles would not automatically increase; and "justice for all" juveniles would not necessarily be forthcoming. As is the case today in many of the lower criminal courts because of administrative overload, juvenile courts would be hard pressed to insure due process to all defendants and thus, out of necessity, would either have to water down or eliminate it altogether. An attorney's role becomes superfluous in this type of situation also as the quality of a defense is determined primarily on how much emphasis it receives from the whole judicial system. This entire area of the law,

the small-fee, low-prestige cases, suffers from neglect, oversight and apathy, and the adjudicatory stage in juvenile proceedings will not be procedurally upgraded, nor will the function or the attorney become significant, until such time as more professional attention is paid to it.

VII. RESPONSIBILITY AT THE DISPOSITIONAL STAGE

The dispositional phase of the juvenile court proceeding, whether it be a separate hearing or a second phase of a single hearing, is no doubt the most crucial aspect of the entire juvenile justice system. This stage is crucial for the juvenile in that here his or her immediate future activity will be decided; it is crucial for the juvenile court because it is at this stage that the court's purported rehabilitative goals are to be realized.

However, it is here that the attorney representing a juvenile client usually feels most uncomfortable. The adjudication of delinquency has been made by the court and at this point many attorneys believe that they can no longer serve a useful function. Most lawyers feel that the treatment phase is the domain of the psychologist and social worker and that his or her own role, if it exists at all, is minimal. The attorney is likely to feel that the legal responsibility is fulfilled by deferring to those who through training and experience are better qualified than the attorney to initiate and carry out an effective treatment plan.[50]

The attorneys interviewed in Polk County tended to agree with this feeling of inadequacy at the dispositional stage. They believed that they were unqualified, in most instances, to influence the rehabilitative treatment to which their client should be subjected. The general reaction of those lawyers interviewed was to assume a very passive role during the dispositional stage of the proceeding.

No matter how strongly attorneys may feel in this regard, they do have a very active role to play in this phase of the juvenile court process. As the Adminis-

trator of the Juvenile Court of St. Louis has stated, "[t]he attorney can play an active role in the disposition. He keeps the social worker honest - sort of a system of checks and balances. He also should be able to recommend alternate dispositions."[51]

Rather than assuming a passive role at the dispositional phase of the proceeding the attorney for the juvenile could and should assume an affirmative and active role. His or her responsibilities would include: examining the social report, recommending alternate dispositions, and serving as a counselor to the juvenile and his parents.

The social report is usually relied on heavily by the juvenile court judge in this stage of the proceedings. The attorney should familiarize him or herself with the substantive facts of the report prior to the hearing. The facts in this report relate to the offender's prior involvement with the juvenile justice system, if any, facts about his relationships with his family, neighbors and school, and judgements concerning his personality. For effective judicial disposition of the juvenile's case, the attorney must see to it that the facts upon which the report is based are accurate and complete. The attorney, because of his or her training is in a better position to evaluate these factors as a whole.[52] The attorney must sift the facts and attempt to eliminate the bias of the social worker or probation officer who prepared the report. In order to effectively represent his client the attorney may want to challenge the social report. Such a challenge could be made by cross examining the person who prepared the report initially, subpoening and examining the witnesses relied on in the report, and/or calling expert witnesses, such as psychiatrists or sociologists, to refute the testimony that is relied on by the person preparing the report.

In Polk County, the social report apparently is relied on extensively and presumed, in the majority of cases, by the juvenile's attorney to be valid. A

typical response is, "The first thing I do after I'm assigned a juvenile case is to call the appropriate probation officer and see what's up. I then try to get my hands on a copy of the social report as they are usually pretty good indicators of the kid's problems." Rarely are social reports questioned in contested hearings. This appears to be in line with the general attitude that the dispositional phase is not a proper place for the attorney to interfere with the work of the court's more specially trained social workers and probation officers.

Perhaps the most important but least often exercised function of the attorney in the dispositional stage is to recommend alternative dispositions to the court. As the aim of the court here is to treat the underlying "causes" of the child's behavior, it is crucial that the attorney represent his or her client by being aware of the available community resources and by suggesting them to the court. This role is of particular significance because in determining the disposition, the juvenile judge is forced to balance the protection of the community with the interests of the youthful offender.

"As a general rule it is best to leave the juvenile in the home if at all possible."[53] This can usually be accomplished through a disposition of probation. Another possibility which would allow the child to stay at home would be a combination of some form of treatment for the juvenile and restitution by him for the wrongs committed. Commitment to a training shcool is undoubtedly the most serious step and is usually viewed as a dispositional last resort.

With few exceptions, those attorneys interviewed had little knowledge of dispositional alternatives. One lawyer went so far as to state that "[t]he courts must be doing okay in placing these kids; the training schools seem to stay pretty full." This ignorance appears to be the result of a lack of any centralized source from which the attorneys could glean information about these various dispositional possibilities. At present, the only method of obtaining

this information is through self-education and individual inquiry. Whether due to apathy or lack of time, or both, most attorneys are not acquainted with the community resources.

The attorneys who were exceptions to this rule were very familiar not only with the state training schools but also with the various local treatment facilities. Their knowledge of and interest in these alternatives appeared to stem from a real personal concern for the juvenile offender. In line with their concern, these attorneys viewed the training schools as more harmful than helpful and thus always tried to avoid a disposition which would result in commitment of the client. A procedural criticism concerned the relinquishment by the court of its jurisdiction to the Director of Family and Children's Services.[54] One lawyer interviewed suggested an appropriate safeguard for the child would be concurrent jurisdiction between the juvenile court and the Department.

Although these "exceptional" attorneys were not laudatory of the training schools, it cannot be said that they were completely satisfied with the remaining alternatives. All bemoaned the dearth of effective treatment procedures and were particularly distressed over the lack of local facilities. Their emphasis, however, was that effective treatment can and should be given to juvenile offenders.

A further opportunity for active participation by attorneys at this stage of the juvenile proceeding arises out of the juvenile's and parent's need for timely counseling. Often the child and the parents feel that the attorney is the only one whom they can trust. The judge and the probation officer cannot fulfill a counseling role and thus it remains for the attorney to aid both the child and the parents in this capacity. One commentator points out:

> After a hearing, and when a decision is reached, an attorney can often bring about an understanding of why the Court adopted a particular plan and help the juvenile officer foster a spirit of cooperation on the part of the minor and

> his family in carrying out the plan decided... We have experienced cases where the family was unable to accept the disposition being considered and obtained a lawyer; it was through the lawyer that we were able to get the child and the family to accept the disposition recommended to the Court.[55]

In Polk County, those attorneys surveyed generally seemed to see little opportunity or indeed obligation to serve as a counselor, to the children or to their parents. One lawyer stated, in fact, that "that is one reason why attorneys don't generally like juvenile work; it forces them to talk to their clients."

While it is no doubt true that the role of the attorney representing a juvenile is most difficult at the dispositional stage, it is also true that it may be his or her most important role. The adjudication of delinquency has, at this point, been made, and the decision which will affect the immediate future of the juvenile is forthcoming. It is the attorney's responsibility to see to it that the child's interests are continually represented and advocated throughout the dispositional decision-making process.

No less significant is the lawyer's function to scrutinize the juvenile justice system for disparities between means and ends. Although many attorneys feel painfully out of place at the dispositional hearing, they are in fact trained to assume this type of role; to abdicate it would be to abdicate their professional responsibility to the clients whom they represent.

VIII. CONCLUSION

Superintendent Jim Hoy of the Boy's Training School at Eldora noted that it is his opinion that those boys who had been through a more formal hearing had a stronger impression of the justice system and its meaning than did those boys who were dealt with less formally. This perception fits well with what the attorneys' role ought to be in the juvenile justice system. Young people are not second

class citizens in the eyes of the Constitution of the United States, and should receive the protections inherent therein. The attorney is the protector of the legal rights of these young people just as he or she is in the case of adult clients. As such the attorney has a duty to carry out his or her professional responsibility. In addition, the attorney should be viewed as having the responsibility of finding a solution to the child's problems. If a client, whether juvenile or otherwise, needs a solution to a problem, the lawyer should do everything he or she can to provide that solution. The lawyer is, and always should be an advocate. This does not necessarily imply that the juvenile court proceedings must be or should be full adversarial proceedings. It is only through the recognition of these factors that the juvenile jsutice system can legitimately continue to operate and the attorney can perform his or her professional role.

FOOTNOTES

[1]D. BESHAROV, JUVENILE JUSTICE ADVOCACY: PRACTICE IN A UNIQUE COURT (1974); M. PAULSON & C. WHITEBREAD, JUVENILE LAW & PROCEDURE (1974); President's Commission On Law Enforcement and Administration of Justice; The Challenge of Crime in a Free Society 79-88 (1967); Coxe, Lawyers in Juvenile Court, 13 CRIME & DELINQUENCY 488 (1967); Isaacs, The Role of the Lawyer In Representing Minors In New Family Court, 12 BUFF.L. Rev. 501 (1962-63); Lefstein, In re Gault, Juvenile Court and Lawyers, 53 A.B.A.J. 811 (1967); McMillian & McMurtry, The Role of the Defense Lawyer in the Juvenile Court - Advocate or Social Worker, 14 ST. LOUIS L.J. 561 (1970); Skoler, The Right to Counsel and the Role of Counsel in Juvenile Court Proceedings, 43 IND.L.J. 559 (1967-68); Wizner, The Defense Counsel: Neither Father, Judge, Probation Officer or Social Worker 29 (1971).

[2]M. PAULSON & C. WHITEBREAD, JUVENILE LAW & PROCEDURE (1974); Steenspun, Role of Attorney In Juvenile Court, 18 CLEV.-MAES.L. REV. 599; Note 67 COLUM.L. REV. 281 (1967); Comment, Representing the Juvenile in the Adjudicatory Hearing, 12 ST. LOUIS U.L.J. 466 (1967-68).

[3]IOWA CODE § 232.2(12) (1975) defines a "Delinquent child" as one:

a. Who has violated any state law or local laws or ordinance except any offense which is exempted from this chapter by law.
b. Who has violated a federal law or a law of another state and whose case has been referred to the juvenile court.
c. Who is uncontrolled by his parents, guardian, or legal custodian by reason of being wayward or habitually disobedient.
d. Who habitually deports himself in a manner that is injurious to himself or others.

[4]F. FAUST & P. BRANTINGHAM, JUVENILE JUSTICE PHILOSOPHY 52 (1974).

[5]Id.,

[6]W. BLACKSTONE, COMMENTARIES ON THE LAW OF ENGLAND 23 (1795).

[7]Mack, The Juvenile Court, 23 HARV.L.REV. 104,106 (1909).

[8]Comment, The Attorney-Parent Relationship in the Juvenile Court, 12 ST. LOUIS L.J. 603 (1968).

[9]Id. at 605.

[10]McMillian & McMurtry, supra note 1.

[11]Comment, supra note 8.

[12]Mack, supra note 7.

[13]Commonwealth v. Fisher, 213 Pa. 48, 62 A.198 (1905).

[14]Note, Juvenile Delinquency: The Police, State Courts and Individualized Justice, 79 HARV.L.REV. 775,796 (1966).

[15]Kent v. United States, 383 U.S. 541,556 (1966).

[16]383 U.S. 541 (1966).

[17]Id. at 555.

[18]387 U.S. 1 (1967).

[19]Id. at 14.

[20]Id. at 15.

[21]397 U.S. 358 (1970).

[22]403 U.S. 528 (1971).

[23]Id. at 545.

[24]Id. at 533.

[25]Kay & Segal, The Role of the Attorney in Juvenile Court Proceedings: A Non-Polar Approach, 61 GEO.L.J. 1401, 1409 (1973).

[26]McMillian & McMurtry, supra note 1.

[27]Gault reiterates and builds upon the criticisms of the parens patriae theory which were first expressed in Kent v. United States, 383 U.S. 541 (1966): "The theory ... of juvenile laws is rooted in social welfare philosophy rather than in corpus juris... The State is parens patriae rather than prosecuting attorney and judge. But the adminition to function in a 'parental' relationship is not an invitation to procedural arbitrariness."

[28]Platt & Friedman, The Limits of Advocacy: Occupational Hazards in Juvenile Court, 116 U.PA.L.REV. 1156 (1968).

[29]Kay & Segal, supra note 25.

[30]ABA CODE OF PROFESSIONAL RESPONSIBILITY AND CANONS OF JUDICIAL ETHICS: IOWA CODE, STATUTES AND RULES FOR ADMISSION TO THE IOWA BAR, (1975).

[31]Id.

[32]Id.

[33]113 Cal. Rptr. 170, 520 P.2d 986, 988 (1974).

[34]IOWA CODE § 232.28 (1975) reads: "The child, parents, guardian, or custodian shall have the right to legal counsel. If the minor, parents, guardian, or custodian desire but are unable to employ counsel, such counsel shall be appointed by the court."

[35]Orcutt v. State, 173 N.W. 2d 66, 73 (Iowa 1969).

[36]223 N.W.2d 173 (Iowa 1974).

[37]Id. See also IOWA CODE § 611.2 (1975).

[38]Pursuant to IOWA CODE § 231.8 (1975) juvenile probation officers are appointed by the juvenile judge and serve as officers of the court.

[39]The exception here is the attorney who has no respect for the juvenile justice system nor what it purports to do for the child in the name of parens patriae. In this situation, the lawyer views the dispositional possibilities as harmful to the youth and thus utilizes every technicality possible to insure the juvenile's release.

[40]The questionnaire was prepared and administered by Drake University Law student, Mike Nosler, as part of the course requirements for "Law and the Juvenile" during the Spring semester, 1974.

[41]The questionnaire was prepared and administered by Drake University Law student, Jennifer Rose, as part of the course requirements for "Law and the Juvenile" during the Spring semester, 1975.

[42]Comment, Children's Liberation - Reforming Juvenile Justice, 21 KAN. L. REV. 177 (1973).

[43]In Re Winship, 397 U.S. 358 (1970) (proof beyond a reasonable doubt in evidentiary standard before commitment to institution can be made); In Re Gault, 387 U.S. 1 (1967) (right to counsel, right to confront witnesses, privilege against self-incrimination, right to notice); RLR v. State, 487 P.2d 27 (Alas. 1971) (right to jury trial); Piland v. Clark County Juvenile Court, 85 Nev. 489, 457 P.2d 523 (1969) (right to speedy trial).

[44]Developments in the Law - Equal Protection, 82 HARV. L. REV. 1065,1071 (1969).

[45]Id.

[46]Frontiero v. Richardson, 411 U.S. 677 (1973).

[47]Id.

[48]San Antonio Independent School Dist. v. Rodriguez, 411 U.S. 1 (1973).

[49]Comment, supra note 42.

[50]Comment, supra note 8, at 659.

[51]Id. at 646.

[52]Id. at 648.

[53]Id. at 652.

[54]IOWA CODE § 232.34 (1975) permits a child who has been adjudicated delinquent to be committed to the commissioner of social services or his designee for placement. Such placement can include commitment to one of the training schools in the state.

[55]McMullen, The Lawyer's Role in the Juvenile Court, 8 PRACT. LAW. 49, 54 (1962).