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AN INTRODUCTION TO ESSAYS
ON JUVENILE JUSTICE

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This special issue of the William Mitchell Law Review presents a series of essays analyzing some of the concerns that arise when children interact with the court system. Lending context and focus are the reports of the Supreme Court Advisory Task Force on Juvenile Justice and the Attorney General's Youth Task Force. These reports represent a significant effort to identify needed changes in what commonly is called the "juvenile justice" system. They identify and discuss ways in which Minnesota can respond to changes in the pattern of criminal activity committed by people under the age of eighteen. The statistics reflected in the reports are strong evidence that teenagers in this state are committing more serious crimes at a younger age, even while the overall crime level in the state remains relatively stable. There can be no quarrel that the criminal justice response, as presently configured, is inadequate for the small number of teenagers who commit very serious crimes. But, by themselves, changes in the criminal justice response are empty gestures.

The juvenile justice system, or, more accurately, the "juvenile criminal justice" system as it was conceived some forty years ago, arose from the basic notion that young people who commit crimes should be treated differently than adults. That concept had three underlying premises:

1. That the objective of the system should be principally rehabilitation, with punishment a secondary goal;
2. that, consistent with the principal aim, the response of the system should be highly individualized and should focus on designing a "disposition" or sentence tailored to the needs

1. The number of juvenile apprehensions statewide for violent crime, a small subset of serious crime, increased 47% from 1985 to 1991, although the total number is still only about 1,650. DANIEL STORKAMP, MINNESOTA CRIMINAL JUSTICE STATISTICAL ANALYSIS CTR., MINNESOTA PLANNING, KIDS IN THE JUVENILE JUSTICE SYSTEM 4-5 (1994).
2. In Minnesota, the total number of serious crimes known or reported to law enforcement agencies has fluctuated from 1980 to 1991, but overall has increased by only four percent. DANIEL STORKAMP, MINNESOTA CRIMINAL JUSTICE STATISTICAL ANALYSIS CTR., MINNESOTA PLANNING, OVERVIEW OF JUVENILE CRIME IN MINNESOTA 5 (1993).
of the teenage offender, rather than one linked directly to the seriousness of the crime; and
3. that the juvenile court judge should retain a high degree of discretion in order to design the proper sentence, and that the system should be largely secret to protect offenders from lifelong stigma associated with an adolescent error in judgment.

These assumptions are increasingly coming under attack because Minnesotans, indeed all Americans, are frightened that our streets are unsafe. Moreover, many believe that the threat to our safety is from our children. In a recent survey by the Metropolitan Council, sixty-one percent of Twin Cities residents identified crime as the area's most important issue, and eighty-nine percent listed it among their top three worries. Although this was the third year that crime topped the list, a considerably smaller percentage of people had identified it as their biggest concern in previous years.

This apprehension, fueled by several high-profile crimes committed by young people in the past several years, persuaded the Minnesota Legislature, in the 1992 Omnibus Crime Bill, to establish the Supreme Court Advisory Task Force on Juvenile Justice, and also led to the Attorney General's creation of the Youth Task Force on the same subject. The recommendations of these groups are worthy of the public's attention, and, indeed, many of the "get tough" recommendations of the two groups have already been adopted into law by the Minnesota Legislature. However, to the extent that they focus exclusively on more effective ways of punishing juveniles, both reports miss the mark.

No one understands better than judges, prosecutors, defense lawyers, probation officers, and other professionals in the juvenile justice business that our work is too little, comes too late, and is of the wrong kind. Whatever procedural modifications we make to the juvenile court system, whatever new programs we create in juvenile corrections, whatever additional accountability

3. Indeed, in recent years many states have rejected the rehabilitative ideal of the juvenile court system in favor of an explicit focus on public safety and punishment. See generally Martin L. Forst et al., Punishment, Accountability, and the New Juvenile Justice, 43 Juv. & Fam. Ct. J. 1 (1992).


we demand from teenage offenders and juvenile judges alike, the increase in juvenile crime is likely to continue unabated.

After a grand twenty-five year experiment in this country of increasing the prison sentences of adults convicted of serious crimes, we have proven beyond question that we can incarcerate more people than any other nation in the world and still be less safe than we were twenty-five years ago. If this premise is true for adult offenders, and I believe it is, it is equally true for teenagers who scare us by their violent behavior. Those same citizens who identified crime as their biggest worry were very clear as to where they placed the blame for the crime problem. Only twelve percent identified inadequate gun control measures or failures of the criminal justice system. More than fifty percent cited problems such as the breakdown of the family, lack of parental support, violence in the media, and lack of educational and economic opportunities. And all of the evidence, both anecdotal and statistical, collected by the Supreme Court's Task Force supports these conclusions by the wise citizens of the Twin Cities.

The Citizens Council on Crime and Justice, a Minneapolis organization which has worked for many years on issues of criminal justice policy, recently issued an analysis of the childhood factors that appear to contribute to violent behavior later in life. The Citizens Council's report includes factors that common sense affirms: low family income, family violence, family chaos, low self-esteem, and low education levels. As a general matter, the Citizens Council has concluded that violent crime increases as the wellbeing of children deteriorates. What is troubling is that the wellbeing of Minnesota's children is clearly on a downward slide.

We know, for example, that instances of substantiated child abuse more than doubled from 1980 to 1990, to a rate of 790 per

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6. Draper, supra note 4, at 7B.
7. This view appears to be confirmed in statewide surveys as well. More than 75% of respondents in the 1993 Minnesota Crime Survey believe that the use of drugs, the breakdown of the family, and the lack of parental discipline contribute to violent crime. MINNESOTA CRIMINAL JUSTICE STATISTICAL ANALYSIS CTR., MINNESOTA PLANNING, TROUBLING PERCEPTIONS: 1993 MINNESOTA CRIME SURVEY 2 (1994).
100,000 children under age eighteen. More alarming are the findings of a 1989 survey in which twenty-four percent of Minnesota teenagers reported that they were beaten by an adult in their homes.

We know that childhood poverty in Minnesota has increased seventy-eight percent in the ten year period prior to the 1990 census. Some twenty percent of Minnesota children live in a family with a household income below the federal poverty level, and in communities of color, the numbers are as high as thirty-three percent.

We know that one in five Minnesota babies is born to parents who are not married, a sharp increase over ten years, and that these children are more likely to be poor than children born to married parents.

We know that, although Minnesota has one of the highest high school graduation rates in the country at eighty-eight percent in 1987, the rate for African American youth was only fifty percent; for American Indian youth, fifty-two percent; and for Hispanic youth, seventy-three percent.

These, and other statistical measures, confirm what we know from living with and loving our own teenagers: that young people today face the same challenge that we did—to grow up whole and decent and productive—in circumstances that have changed dramatically. Some would question what government can do in the face of significant changes in family structure and support systems, and that is a legitimate question. But experts in juvenile justice identify some very specific measures which they believe would help limit the increase in juvenile crime.

First, we must strengthen the family in its primary responsibilities. Experience tells us that this is one instance where “the earlier, the better.” Early childhood programs directed at teaching parents how to parent and, where parenting is ineffective, the availability of other adult role models for children have proven

11. KIDS CAN’T WAIT, supra note 9, at i.
12. Id.
13. Id. at 38.
14. Id. at 39.
15. Id. at i.
16. See generally STRATEGY, supra note 8.
to be very valuable. Headstart, a highly cost-effective govern-
ment program, should be extended to all eligible children, and
constructive programs to prevent teenage pregnancy should be
fully supported financially. Where families are troubled by job
loss, chemical abuse issues, or health care crises, local public or
private agencies should provide necessary support until parents
are back on their feet, acknowledging that the turnaround may
not happen quickly. In instances of family violence, both treat-
ment and reeducation services and a criminal justice response
must be provided. Fundamentally, we must recognize that par-
ents cannot be expected to do their job of raising healthy chil-
dren without adequate nutrition, health care, housing,
childcare, and educational and economic opportunities.

Second, we must support core social institutions. Don Fraser,
former Congressman and Mayor of Minneapolis, was a strong
advocate for the proposition that supporting families and youths
was best accomplished through community institutions, both
public and private. Libraries, schools, churches, and similar safe
places should be regarded as the second level safety net for chil-
dren. Adults in these settings can help in two ways. First, they
can notice what is happening with youth and be alert to symp-
toms of young people in trouble. Second, they can provide in-
formal, alternative sources of interest, attention, and nurturing
which all children need so much. Government can help in this
regard by providing funding to non-traditional, community
based programs, which are the best places to make contact with
juveniles in the neighborhood.

Third, we must acknowledge that there is something to sup-
port in the rhetoric of “family values,” if by that we mean the
 provision of settings where hope is nurtured, where excellence is
 rewarded, where violence is not tolerated, where responsibility is
taught, and where relationship is prized over power. And for
each of these private values, there is a mirror image public value
which must be reflected in public policy decisions.

The recommendations in the two reports that follow are ap-
propriate and much needed changes in the criminal justice re-
sponse to a small number of violent adolescents. But real
“juvenile justice” would assure all young people in Minnesota
that they will have a safe place to live, a decent school, adequate
health care, enough to eat, and at least one adult in their life
who loves and cherishes them. We must not be fooled into be-
lieving that by tinkering with the mechanics of criminal law and
juvenile corrections we will make a dent in the rise in violent juvenile crime. The machines that churn out numbers of hopeless, desperate young people are still running at top speed, and only by turning off the engines of poverty, family breakdown, community violence, and failed opportunity will we succeed in making Minnesota safe for all of us.