

Judge Must Have Complete History To Reach Proper Decision in Cases

(Editor's note: Irving Ben Cooper is Chief Justice of the Court of Special Sessions of New York City, one of the largest criminal courts in the world. Last year, he handled about 5,000 offenders, between the ages of 16 and 19. This is the last of three dispatches in which Judge Cooper presents his views on society's treatment of juvenile delinquents.)

By CHIEF JUSTICE IRVING BEN COOPER
As told to Jack V. Fox
United Press International

New York - (UP) - Let me take you into my court and show you what I mean when I say that every young person who has committed a crime must be given personalized attention.

Let me present overwhelming proof why a judge must have the whole life history of a young man before he can decide whether he has before him a human being who can be helped to a decent place in society or one whose anti-social pattern is so advanced that he must be put away for his own sake and that of his fellow beings.

Permit me to illustrate what I mean when I say the punishment must fit the person as well as the crime.

One morning not long ago two boys came into my court. Both were 18. One had been in New York only a short time from Puerto Rico. The other was a native New Yorker of Irish ancestry. We'll call them Salvador and Michael.

Difference in Appearance

What a difference in their surface appearance! Michael had a clean-scrubbed look. His white shirt and neat tie, his immaculately combed hair set off a face of alertness and intelligence. His demeanor was one of respect for the court.

Salvador stumbled in with head down. He wore a leather jacket and had the glossy ducktail haircut. He was sulky.

The crimes with which they were charged were very different, too.

Michael had broken into a bakery shop with four other boys after a party at which they had all drunk too much. They shattered the plate glass window and then, with by-passers looking on, crawled in and out of the shop throwing pastry at one another and taking a small amount of money from the cash register. It sounded something of a lark.

Distributors Plan Institute at Oregon

Eugene - The 20th annual conference of the Oregon Retail Distributors' Institute will be held at the University of Oregon May 3 and 4.

Retailers from throughout the state have been invited to attend and discuss problems related to their fields.

Among persons who will address conference meetings will be Gov. Mark Hatfield, Chancellor John R. Richards of the state system of higher education, and Dean Richard W. Lindholm of the university school of business administration.

CHILDREN HAVE 'RIGHTS'

United Nations, N.Y. - (UP) - Despite an objection from a Belgian delegate on an apparent confusion in terminology, the Commission on Human Rights declared Tuesday that every child has the right to "compulsory education."

NO RECOURSE

Chicago - (UP) - Police told Boston Linwood, 52, they couldn't find a single law to help him. Linwood had complained his car was the victim of a hit-and-run horse.

Salvador and another Puerto Rican boy had been picked up by police officers in the streets. Both were found to be carrying evil-looking switchblade knives. The officer's testimony showed clearly they were preparing to use them in a gang fight.

Which of those boys was the greater menace to society? Which stood a fair chance of being turned into a decent citizen? From the facts stated above, it would certainly appear to be Michael.

But what a difference beneath that surface!

Our probation department investigated both boys thoroughly. Neither had a criminal record that would have been ordinarily available to a judge. But this is what a thorough inquiry showed:

Michael had a background that was savage and vicious. He had been in Children's Court for robbery and sexual abuse of younger boys in his neighborhood. The home from which he came was a nightmare of parental irresponsibility. His two older brothers were in prison.

Parents in Court

Salvador had not been in trouble before. He had done fairly well in school. From responsible people in his neighborhood, including a clergyman, testimony was given illustrating the kindness the mild young man had shown. His parents, although unable to speak English and quite frightened, were in court to back up their son.

I sent Michael to the Elmira, N. Y., reformatory for three years - the maximum sentence in such a case.

I sentenced Salvador to a reformatory, too, but I suspended his sentence and put him on probation. But first I gave him a warning:

"Look here, young man. If you step out of line one inch, if you get into any more trouble, I'll deprive you of your liberty immediately. And remember I can put you in reform school any time before the end of three years from today."

Takes Chance

"I'm going to take a chance on you. But you won't get a second one. If you let me down, if you get into bad company again you can expect no more help from me."

"You must report regularly to the probation officer. And I want to see you personally here in the court room in four weeks. I'll have a report on how you have behaved. It better be good."

I sounded tough and I meant it. But I can tell you right now that I will be very much surprised if Salvador doesn't justify the chance I took on him. I know because I have taken the same kind of chance on thousands of young people and very few indeed have let me down.

Salvador has a lot going for him. His family, the church, the school where he was doing pretty well. And he will discover, as have thousands, that the probation officer is not a cop set to snoop on him but an older friend who may be the best source of guidance he ever had.

Progress in Future

Salvador is one whose actual progress lies in the future. Let's examine a case where the results are in.

Mary Crane came before my court about five years ago. She had stolen several thousand dollars from the cashier's cage where she worked in a department store. There was no question of her guilt. But what of the story behind it?

Mary came from a low-medium income family. Her

mother owned a candy store. In her young girlhood, Mary suffered a polio attack which left one of her legs permanently crippled. In the hospital, her mother admonished: "Don't think of it. Here's some candy for you."

Candy became an obsession with the girl. It ruined her complexion in adolescence. Though only five feet six, she gained weight until she was 190 pounds. When she was back a grade in school, she became terribly disappointed, got her mother's permission to quit high school and got the job in the department store.

Gifts Gain Attention

She found that she could gain attention, and something of a semblance of friendship, by giving gifts to people. Whenever a birthday came around on her floor of the store, Mary had a present ready. She showered her family with gifts. She took friends to the theater and to dinner. People wondered where the money was coming from. It was coming from Mary dipping into the cashier's till—but she spent nothing on herself except taxi fare so that people wouldn't look at her crippled leg.

Caught stealing a marked bill, Mary came before my court. Here is a transcript of what she told us later:

Q. How did the judge who presided on that occasion impress you. What did you say to him? A. I said to him what I had been thinking - I'm frightened.

Q. What did he say? A. Didn't like it. Did not like it! He did not like my defeatist attitude - an attitude that I had assumed. I think almost consciously. (Poor little me—help me.) Which is not really me.

Q. And that was a turning point. Not like Criminal?

Q. Now let's turn to the transcript again about Mary's probation.

Q. What was your reaction to your probation officer as you talked with her in her office?

A. What impressed me most was that she did not make me feel like a criminal. It was her softness. She did not condemn. She did not condone. It was her general attitude of non-condemnation that impressed me most about her... the ease with which I could talk with her... her understanding and wish to help.

Q. And you were convinced that she was really on your side? A. Yes, absolutely. It was a real way of friendliness she created in that little office - a very little office. I felt her sincerity - I was grateful for that and for her rather large ability to understand.

Q. And when you left to go home you were greatly relieved? A. I remember saying to my Mama, "Mama, she's going to help me. She is so nice and I feel that something good is going to come out of all this"... And I began to look forward to my next visit.

Mary came back all the way. She went to high school again and graduated valedictorian. Today she has a professional job that points to the very top.

Results Appalling

We in New York are considerably better off than most courts with similar jurisdiction in our country. The bulk of our national population comes to court in the hope that justice will be done. Yet the results are truly appalling, primarily because of the penny-wise, pound-foolish operating budgets of our criminal courts.

In the time it takes to hear a lawsuit between two giant corporations, important as it may be, my court will have

vitaly affected the lives of 150 young people and those close to them.

If we have the facilities, so many of them can be permanently helped; so many can be removed from society and given the institutionalized treatment they must have.

Characteristically, Mr. Justice Cardozo - one of the truly

great jurists of our land - pointed to the crux of the problem:

"Run your eyes over the life history of a man sentenced to the chair: There, spread before you in all its inevitable sequency, is a story of the rake's progress more implacable than any that was ever painted by a Hogarth. The reformatory, Sing Sing, or Dannemora, and then at last the chair. The heavy hand of doom was on his head from the beginning. The sin, in truth, is ours - the sin of a penal system that leaves the victim of his fate when the course that he is going is written down so plainly."

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