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The Loble Method Of Delinquency Prevention

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THE JOLIE METHOD OF DELINQUENCY PREVENTION

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This thesis for honors recognition has been approved for the Department of Sociology by

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Date: March 22, 1948
I. The Loble Law
II. History of Juvenile Court
III. Comparison of Loble Law with Other Methods
Judge Iester H. Loble of the First Judicial District of Helena, Montana makes the following statements on juvenile delinquency; they are all basic to his preventive theory:

1. The twin enemies of crime are fear of punishment and fear of publicity.

2. Discipline begins in the high chair not in the electric chair.

3. 97% of the youngsters today are as good as those of any generation, the 3% are worse.

4. Secrecy in the juvenile courts indicts the class and does not pinpoint the individual.

5. Open public hearings with the parents present and full newspaper coverage gets results. Our law authorizes this in juvenile felony cases.

6. If a youth is old enough and tough enough to topple a tombstone, wreck a church or a school house, hold up a service station, snatch a woman's purse or beat up an old man, he is old enough and tough enough to have a public trail with his parents in the front row and full newspaper coverage.

7. It is outrageous, as in so many places, to find the law suddenly cringing before its hoodlum youngsters and going to absurd lengths to stay on the right side of them.

8. My experience shows the quickest way to break up a gang is a public hearing, naming names and the blame placed where it belongs, on the hoodlum and his parents.¹

¹Loble, Judge Iester H., This I Know. (Helena, Montana)
9. I have in my District a 49% decrease in juvenile felony cases. The law has been in effect three years. There is a continuing decrease in juvenile felony cases.

10. The woodshed is coming back, indifferent parents are diminishing, they don't want the publicity or the heat.

11. It is a myth that publicity glamorizes the juvenile and makes him worse. Any juvenile who likes to see his name in the paper as a criminal is in a class with those who threaten witnesses, and is dangerous and should be so dealt with.

12. There is no such word as juvenile any more. It is juvenile delinquent. This is not fair to the good kids about whom we don't say enough.

13. Open courts establish public confidence. The public is entitled to know what happens to the juvenile hoodlum.

14. The so-called progressive thinkers, mollycoddlers, and dreamers got us into this and they can't get us out.

15. Preventive and rehabilitation programs are not enough.

16. The juvenile problem can be solved.

17. Some think if you don't look it will go away. It won't.2

In order to put these principles in effect the following, the Loble Law, was developed:

Montana Law on Publicity of Juvenile Trails, Section 10-633. ...provided, however, that whenever the hearing in the juvenile court is3:

2Ibid., pp. 1-2.
had on a written petition charging the commission of any felony, persons having a legitimate interest in the proceeding, including responsible representatives of public information media, shall not be excluded from such hearing...

Section 10-633.

...No publicity shall be given to the identity of an arrested juvenile or to any matter or proceeding in the juvenile court involving children proceeded against as, or found to be, delinquent children, except where a hearing or proceeding is had in the juvenile court on a written petition charging the commission of any felony.  

The man who introduced this law into the Montana legislature is Judge Lester Loble of Helena. Judge Loble spent 40 years in civil practice before running for the judgeship in 1956, which he won by 30 votes. The next time he ran, he won by 5,000 votes; the next time he had no opposition as he says himself, "The people are for my program."6

The First District Court of Helena is a multifunction court hearing juvenile, criminal, and civil cases.7 Of his new job as judge of this court Loble said, "Confidently, I took the oath of office, donned my robes and presided over my first case. Here my confidence changed quickly from perplexity to..."
doubt, to frustration, to despair. Things were going on that I did not understand. For the first time in my life, I was unsure of my own opinion — Frightened, too, just plain scared. As far as Loble was concerned there was nothing for a juvenile court judge to do but look, listen, and shut up; the exact opposite of everything that he had ever felt or practiced.

Feeling this Judge Loble developed his own system of court proceedings for juvenile cases as well as certain preventive measures. He turns the spotlight of publicity on children charged with delinquent acts and lectures them and their parents in open court. This is a simple theory on the surface and it has the added advantage of relieving the community of its responsibility. Far from being a new method, it was used in the seventeenth, eighteenth, and nineteenth centuries and was found ineffective. About 65 years ago informal hearings for cases involving juveniles were adopted for practical, ethical, and humane reasons. Thus the Loble Law and theory strike at the heart of a good juvenile court, its private hearings.

Soon after his election Loble went to the National Council of Juvenile Court Judges hoping to find a solution to the problems of his court; instead all he found was frustration for the council had no new suggestions. He then went

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8 Loble, pp. 5-6.  
9 Ibid., p. 18.  
10 Open hearings, pp. 1-2.
to J. Edgar Hoover for help, who told Loble that the weapons to fight crime were being taken away from the police and the courts. Hoover and Loble then went on a tour of juvenile courts in New York; everywhere they saw caseworks in position of high importance; this turned Loble against the juvenile courts.\textsuperscript{11}

Judge Loble believes that there is no direct answer to the question: What are the causes of delinquency? But he does believe that it starts with the parents and that punishment should be swift and certain. Further more, he believes that the old have let the young down; at the time he developed his theory he was 65. He agrees with sociologist Paul Goodman that a "person can't grow up without trust".\textsuperscript{12}

Loble's method calls for an "open" court which means that communication coverage of any kind can be used except cameras. To Loble it makes no difference who the father of the child is. The juvenile may have a lawyer if he desires one. Also, the judge can be disqualified from hearing the case; all the juvenile has to do is say that he does not believe he will receive a fair trial under the judge presently trying him. This has never happened to Loble. Even with these safeguards for the defendant, Loble's real concern is for the victim rather than the law breaker.\textsuperscript{13}

\textsuperscript{11}Loble, pp. 17, 19, 29.
\textsuperscript{12}Ibid., pp. 47, 62, 63, 68.
\textsuperscript{13}Ibid., pp. 37-40, 98.
At the center of Loble's theory is his prevention program. The aims are: (1.) Get the child out of a defeating home atmosphere; there is use of foster homes in this regard. (2.) Encourage him to stay in school. (3.) See that he has work when it is advisable. Frequent use of probation is made. Another preventive measure is detention; here a juvenile who has not committed a felony but seems unimpressed by the laws is sent to jail for a weekend. He is placed in a solitary cell with bars, windows painted black, uncovered flush toilet, a slab of metal for a bed, and one blanket. Still a further preventive method for the juvenile who is more hardened than the one who would benefit from jail detention, is the 10-10-10 prison plan where a juvenile spends 10 days in a separate cell, 10 days in the kitchen, and 10 days in solitary. 14

Most of the boys Judge Loble sees in court go on to school, get scholarships and never cause any trouble again. They show the success of his method. This is related to Loble's 49% decrease in felonies. While juvenile crime figures were up 47% from 1960 to 1965, with only a 17% population growth in this same age group, in Loble's district in Montana, where the Loble Law is in force the figures are down 49%.

Even with such an astonishing decrease in the juvenile crime rate, there are those who question the Loble method to say nothing of the Loble theory. Frequently asked questions are: What about juveniles without parents? What about parents who are as irresponsible as their child? What about parents who ask Judge Loble for help in controlling their child? What about a juvenile who comes from a large family and is the only one who has ever been in trouble?¹⁶

These charges are not directly countered by Judge Loble so the best answers come from his theory. He states that he believes that if violence against society is hidden, it will repeat; he believes this is a natural law, not related to the offender's age. Also, he believes there is a correlation between recidivism and permissiveness. "Secrecy, protection, exemption from punishment, star chamber hearings—all this encourages a juvenile to continue the irresponsible, and finally the vicious, practices that get him in trouble."¹⁷

It is interesting to note three other states with "open" courts and their crime rates. In 1957 Arizona, Florida, and Georgia permitted the names of delinquents in court to be published; only Georgia permitted "open" court for secondary subsequent appearances in court. "Comprehensive, comparable statistics on juvenile delinquency are not obtainable from these states, but the crimes reported by the F.B.I., Uniform Crime Report are strongly indicative of their delinquency

¹⁶Eagle, Reading Pa., May 27, 1964.
¹⁷Loble, p. 41.
rates, because for several years the number of persons under eighteen years of age arrested for 'serious crimes' has consistently hovered just below 50 percent of all reported offenses. The combined total for four of these offenses -- auto theft, larceny, burglary and robbery, selected because they are the most common offenses of the under eighteen group -- are presented on the next page.\(^{18}\)

<table>
<thead>
<tr>
<th>State</th>
<th>1957</th>
<th>1963</th>
<th>% of Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>15,550</td>
<td>28,207</td>
<td>81</td>
</tr>
<tr>
<td>Georgia</td>
<td>22,640</td>
<td>40,869</td>
<td>80</td>
</tr>
<tr>
<td>Florida</td>
<td>43,158</td>
<td>82,815</td>
<td>90</td>
</tr>
</tbody>
</table>

These same four crimes reported for Montana in 1960, the last full year before open court system, were 6,297; in 1963 there were 7,739 or a 23 percent increase. Great Falls, the largest city in the state, under the same law as Helena, had a crime rate of 2,149 per 100,000 in 1963, the seventh highest crime rate in the United States.\(^{19}\)

What are the effects of the Loble Law on Helena. Judge Loble says there are four: (1.) The law has restored the confidence of the people in the courts. (2.) The law is fair to the good youngsters; the ones who are not responsible for what the bad ones do. (3.) We now have a large number of parents who are good juvenile probation officers, parents who never cared about their kids before. (4.) The youngster who is tried in the Loble court is better for it.\(^{20}\) Loble

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18Open Hearings, pp. 11-12.
19Ibid., p. 41.
20Loble, p. 42.
goes on to say: "I am not trying to hurt young people. I'm trying to save them. And I'm doing it. As I have noted in previous pages, the juvenile felony rate has fallen to a dramatic low level in those areas where the Loble Law prevails. Helena's citizens are safe from attack. We don't have hoods any more. They know if they punch, I'll counter-punch. After five years of this law, no more gangs, no more bum-rumblers, no hold-ups. You can walk the streets of this city at any time, day or night, and you will not be molested by a juvenile. We have not had, in the past two years, a single incident of a youngster committing an act of personal violence. 21

Who are those who oppose a system that will bring such results. The judge informs us that his enemies are the irreversible bad boy, the irredeemable, the incorrigible and all those who are preventing the public from knowing the names and histories of our young felons. 22 Chief among the latters are social workers about whom Judge Loble made the following statements:

To the layman, even to many lawyers and judges, it is, and will remain almost past understanding how case-worker processings of juvenile crime has taken the place of the courts. People who care but who know nothing -- a disastrous combination -- are in complete charge. Today juvenile court functions have fallen into the hands of semi-invisible multitudes of dreamy do-gooders who have sought and found an opportunity to take over America's juvenile

21 Loble, p. 110.
22 Ibid., p. 15.
courts on their own terms. They are cheerful, educated, idealistic, self-approving, 'in', civil, glib, phrase-prone, convinced, plan-ridden. And they are egregiously wrong, every one.

For Judge Loble the case-work concept is:

No youth should be held accountable for any action; no youth should be punished for any crime, no matter how vicious; no youth is responsible for what he does -- society alone is responsible; and finally if we had a proper society, we would have no misbehavior in our young people. Therefore let us eliminate the problems by correcting the society that created it.

In conclusion Judge Loble says, "I believe I am rehabilitating them and that the theorists are ruining them." 23

Perhaps an even further reason for Judge Loble's dislike of social worker is the investigation of his method by the National Council on Crime and Delinquency. It was felt that even though the Loble method, under various other names, had been disproven in the past, it merited further investigation especially in lieu of the 49% decrease it produced. Thus in September, 1964, an NCCD consultant was sent to Helena to obtain the figures on court intakes and dispositions from which the decreases of 49% and 68% were derived. Without the figures of total cases the percentage were meaningless. Judge Loble refused to give the NCCD consultant the figures he requested. He would only give percentages and he emphasized that these were only for cases in his courtroom, a geographical area smaller than the 4,664 square miles of his district. 24

23 Ibid., pp. 9-13.
24 Open Hearing, p. 6.
The desire of the NCCD was to examine: (1.) what changes have been made in juvenile court procedure in Montana and how they compare with those in other states and with model procedures. (2.) What actually occurred in Montana after those changes were made.

As noted above according to news media there was a 49% decrease in felonies committed by juveniles in the two counties of Loble's district and a 58% decrease in non-felony offenses committed by juveniles in the two counties of Loble's district. Now, this does not comply with the above underlined statement by Judge Loble. Here it should be noted that Judge Loble's district consists of two counties, Broadwater whose county seat is Townsend and Lewis and Clark whose county seat if Helena. According to the 1960 census Broadwater had 2,804 people, 1,198 square miles or 2.34 persons per square mile. Lewis and Clark had 28,006 people, 3,466 square miles, or 8 persons per square mile. Loble claims his figures only for Lewis and Clark County.

After meeting with confusion and rejection from Loble the NCCD tried to obtain information from the Helena Police Department and the sheriff of Lewis and Clark County; it should be observed that the figures requested, court intake and disposition are freely given in other states.25

The NCCD thus met with no cooperation officially, however, an informed source offered certain information from the

25Ibid., pp. 5-7.
Helena Police Department files on cases heard by Judge Loble in open court during 1962 and 1963. The NCCD will not vouch for the validity of these figures:

<table>
<thead>
<tr>
<th>Dispositions</th>
<th>1962</th>
<th>1963</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boys sent to Miles City (training school)</td>
<td>11</td>
<td>13</td>
</tr>
<tr>
<td>Boys sent to Boys' Ranch</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Boys sent to foster homes</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Boys sent to armed forces</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Boys sent to Twin Bridges (state institution)</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>Boys placed on probation</td>
<td>11</td>
<td>27</td>
</tr>
<tr>
<td>Boys sent to California</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Vocational</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>Girls sent to House of Good Shepherd</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>31</td>
<td>49</td>
</tr>
</tbody>
</table>

These figures lead to the following conclusions:

1. The number of dispositions is too small to justify generalization or the valid use of percentage comparisons.

2. Instead of the 40% decrease widely reported, there was a 58% increase in open court hearings in 1963 than in 1962, one cannot conclude that the procedure served as a deterrent to crime in the general child population. A fellow-up study is needed.

3. There was an increase in the use of probation, a community treatment method, which is not consistent with the reported increase of 'get tough' sentences. Probation was used in 35% of the cases in 1962 increased to 55% in 1963.26

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from the cited source, pp. 8-9.
These are valid conclusions only if the figures are the total figures of the dispositions. Since these figures came from an informed source there is no way of checking on them. The same holds true for the following set of figures and the conclusions drawn from them.

The informed source also gave the following information concerning arrests in 1962 and 1963 in Helena.

<table>
<thead>
<tr>
<th>Offense</th>
<th>1962</th>
<th>1963</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assault</td>
<td>7</td>
<td>-</td>
</tr>
<tr>
<td>Burglary</td>
<td>43</td>
<td>27</td>
</tr>
<tr>
<td>Grand Larceny</td>
<td>5</td>
<td>27</td>
</tr>
<tr>
<td>Car Theft</td>
<td>14</td>
<td>23</td>
</tr>
<tr>
<td>Forgery and Counterfeiting</td>
<td>-</td>
<td>10</td>
</tr>
<tr>
<td>Embezzlement and Fraud</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>Robbery</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>69</strong></td>
<td><strong>90</strong></td>
</tr>
</tbody>
</table>

In 1962 there were 282 arrests of juveniles for all offenses with 120 clearing of offenses. In 1963 there were 227 arrests of juveniles for all offenses with 270 clearing of offenses.

The conclusions the NCCD drew from its investigation were:

1. The juvenile court in Montana has not been scrapped, but it has been crippled.

2. The 'open' court for juveniles advocated as a new approach to the control of serious crime by juveniles is at least as old as this nation. After three centuries of use this procedure was condemned not only for ethical and humanitarian reasons but also because it was ineffective and impractical as a delinquency control measure. All
obtainable evidence indicates that it is not successful in Helena or anywhere else in the state of Montana.

3. Serious crime in Montana is not down; it has gone up 22.8% since 1960, the last full year before the introduction of open hearings.

4. In one short year (1962-1963) in the court presided over by the judge who brought the open court back to Montana, there has been a 52% increase, not a 42% decrease in juvenile felony cases heard in open court.

One of the reasons the NCCD is against the Lobel Law is that the Montana Hearing procedure relieves the judge of responsibility for protecting confidential information; this is contrary to NCCD's Standard Juvenile Court Act. This Standard Juvenile Court Act was developed in concert with the National Council of Juvenile Court Judges and the U. S. Children's Bureau.29

29Ibid., pp. 13-14.
At this point it would be beneficial to discuss the development of the juvenile court itself before proceeding further with the Montana juvenile court.

The first law defining juvenile delinquency was passed in April, 1899, in Illinois. In June of that year the court began functioning.

From the English courts of chancery the principle of "pars pro patria" had evolved in the case of Eyre W. Shatsbury in 1772 which:

enabled the court to act in lieu of parents who were deemed unwilling or unable to perform their proper parental functions.

This paved the way for the juvenile court to assume jurisdiction of dependent and neglected children. 30

Further historical roots are found in the following three areas. One is the age and criminal accountability of the accused; Anglo Saxon law attaches great importance to the question of intent, to the capacity of the accused to understand the consequences of his act and the difference between right and wrong. Another area is that of parental responsibility which requires the parents to insure social obedience of the child. Finally, the state has the right to assume guardianship over children. 31

The guardianship role of the juvenile court is a very vital one. "According to the law if a young lawbreaker is

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legally defined as a juvenile delinquent he cannot be charged with crime or treated as a criminal, like the neglected and dependent child he becomes a ward of the state.\textsuperscript{32} There are many seriously and aggressively maladjusted and antisocial youngsters who come to the attention of the courts. Some of them may finally undertake criminal careers; others may not. But all of these children need help. The question for these youngsters is how -- if at all -- the state in its guardianship will be able to provide this help.\textsuperscript{33}

After a diagnosis of the unique needs of each child, it is the function of the juvenile court to prescribe treatment. One of the main characteristics of this court function is the prehearing investigations conducted by a probation officer who is ideally a trained social worker who investigates and makes some assessment of the child and his environmental situation; often physical, intelligence, and personality tests are conducted. Another characteristic is the separate and private hearings and the confidential court records. Yet another characteristic is the informal hearings not bound by the technical rules of procedure or evidence. The final characteristic is the normal absence of a district attorney or jury. The judge usually carries on the interrogation as well as makes the

\textsuperscript{32}\textit{Ibid.}, p. 34.
\textsuperscript{33}\textit{Ibid.}, p. 40.
disposition of the case. He may designate a referee or authorize a probation officer to make the disposition in the case of minor offenses.\textsuperscript{34}

The judge who presides over such a juvenile court must show an interest in children, a willingness to draw on informed research and a sympathy for juvenile court philosophy; these are the least of his special qualifications.\textsuperscript{35}

With regards to the court in Lewis and Clark County no one can doubt the qualifications of Judge Loble with reference to desire to help children, but he seems to lack the following qualifications as he admits himself; this can be seen by referring to page 4, paragraph 2.

\textsuperscript{34}Ibid., pp. 108-109.
\textsuperscript{35}Ibid., p. 111.
Now that the background and other essential information regarding the juvenile court in general have been established, it is time to return to the Montana courts and Judge Loble's court in particular, where Judge Loble places the blame for delinquency on the family.

There are many views on the cause of delinquency. "...it is best understood as a breakdown in social control which produces - rather than is produced by - delinquent personalities and delinquent gangs." Then there is the emphasis on environmental influences, "Over the years public opinion has come to emphasize the influence of the environment on behavior and to minimize individual responsibility in all areas." Which lends itself to the view that states that delinquents are children who can't control their impulses. Whereas Anglo-American jurisprudence and its related institutions are grounded in part on the postulate that the individual is rational and therefore responsible, the trend -- especially but not exclusively, in relation to juveniles -- is to conceive the delinquent as being determined in his conduct by unconscious or other impulses he cannot control. This development can largely be credited to the recent ascendancy of psychiatric and social work philosophy, and to trends in legislation and judicial decisions, rather than to the testing and application of scientific theory.

Ibid., p. 49
27 Ibid., p. 35.
Yet the most direct source of delinquency can be found in the family's failure to maintain social control through its failure to effectively transmit the dominant values of society, through its successful transmission of delinquent values or through its central role in the development of the delinquent personality. 39

The above causes are just a few of those given as reasons for delinquency, but they are major ones. The last one, the family, is used as one of the basis of the open court in order to shame parents into assuming their proper role. However true this may be, the following warning should be heeded, "The family is often the scapegoat, while it is often a victim itself of a delinquent society." 40 In which case these parents are not likely to be shamed into assuming their proper role. Of extreme interest are the comments of other Montana judges as to whether the family is cause of delinquency. These will be discussed later on in the paper.

However, just because it is difficult to determine the cause or causes of delinquency does not mean that no different approaches to the solution of the delinquency problem should be sought. Quite the contrary, some modern critics have subjected the basic assumptions of the movement to challenge and doubt. 41

23Selfnick, and Raab, p. 62.
24 Ibid., p. 64.
The results of the juvenile delinquency law, a law nebulously formulated, have been an increase in the powers of the court acquired through administrative procedures, a circumvention of traditional legal procedures, and the emergence of an implicit and sometimes explicit attitude that the court is another social agency.\footnote{42}

In regard to the first two results of the law the following is of interest. The constitutional rights granted to adults accused of a crime do not apply to children who are brought before juvenile courts. In in re Holmes, the Supreme Court went so far as to say that:

Even from a purely technical standpoint hearsay, evidence, if it is admitted without objection and is relevant and material to the issue, is to be given its natural probative effect and may be received as direct evidence.\footnote{43}

The third result can be seen in the following statement that many juvenile courts have been accused by some of "coddling criminals".\footnote{44} This accusation comes because they have created their own child guidance clinics and foster-home placement services and have also established probationary practices which undertake treatment as well as prehearing investigations.\footnote{45}

Judge Loble advocates probationary practices involved

\footnote{42}Ibid., pp. 561-562.  
\footnote{43}Selfnick, Reaband, p. 110.  
\footnote{44}Ibid., p. 256.  
with treatment which would place his court with those who "coddle criminals". In fact between 1962 and 1963 there was a 20% increase in the use of probation in Loble's court. This is what he accuses others of doing.

Perhaps the full effect of the juvenile court in Montana can better be seen not by results of courts in general but by comparing Montana with a state with "closed courts".

The New York Family Council Act provides that the judge has the duty to advise the respondent of the right to remain silent, and provides further that it must be explained "at the commencement of any hearing". Judge George W. Smyth objects that formerly the Children's Courts of New York State "backed by People v. Lewis...were enabled to practice the philosophy of help and understanding" in juvenile delinquency proceedings, in which warnings against self-incrimination were unnecessary. He is dismayed to find that "the benign provisions" of People v. Lewis have been replaced by the provision that "the respondent and his parents shall be advised of the respondent's right to remain silent", turning the clock back 63 years.

The 1961 revision of Montana's Juvenile Court Act is quite different from that exemplified by California, New York, Oregon, and Rhode Island. Montana's act now contains the provisions that

\[\text{Hartung}, \text{p. 256.}\]
\[\text{Ibid.}, \text{p. 256.}\]
whenever the hearing in the juvenile court is had on a written petition charging the commission of any felony, persons having a legitimate interest in the proceedings, including responsible representatives of public information media, shall not be excluded from such hearing. In at least one of Montana's judicial districts juveniles so charged appear in open court and all the details of their trials may be published in all of the mass media and some of them are. Under Montana's Juvenile Traffic Act adopted as a means of reducing violations by offenders less than 18 years of age, juveniles are also tried in open court and their driving mistakes are reported in embarrassing details. It is claimed that a survey of the court records in the 18 months following passage of the act (March 1961) revealed a decrease of 49% in felony cases and 75% in traffic violation cases. To evaluate the validity of so startling a claim is impossible because of the complete absence of a description of the means used in arriving at the percentages. It is useful to contrast briefly the Montana and New York acts. Both resulted in large part from criticisms in existing juvenile court laws and practices. The criticisms in Montana can be summarized as being in large part based on the charge of undue leniency. One result is that in that state juveniles can be and sometimes are now tried in a manner not greatly different from that of adults in criminal court. The judge metes out large doses of publicity and punishment. Although the criticisms in New York were varied, there was a great concern with attempting to reconcile the conception of the juvenile court as a court of law and as a social agency. The New York act restored some semblance of constitutional rights for children in juvenile court, but without restoring the concepts of criminal trial and punishment to the proceedings. One can therefore still think of juvenile proceedings in New York as designed to protect the community through helping the child. Montana's act seems to revive the conception of punishment as constituting revenge and retaliation.\[48\]

\[48\] Ibid., p. 256-257.
It should be here observed that the reference at the beginning of the preceding quote about the Montana district in which all the details of a juvenile's trial may be published is no doubt a reference to Judge Loble's court which has received much publicity itself. Thus it can be assumed that the criticism of the Montana Act applies in particular to the Loble Court. The criticism noted that such a measure as the Montana Act is concerned with revenge and retaliation; it was noted earlier in the paper on page 5, paragraph 2 that Judge Loble's real concern is for the victim not the offender.

The revenge and retaliation of the Montana act are to a great extent achieved through the use of mass media. Neither of these aims are effective unless the public is aware of their execution.

Speaking generally, newspapers, follow the average citizen in his assumption that crime results from the free and deliberately wicked and uncaused choices of bad men. Following from that assumption, the cure for crime is to be found, according to the press, in honest but severe punishment in proportion to the wickedness of the particular crime. This is a view which is consistent with the Montana Act and shows why the newspapers would agree with such an act. In fact they would profit from such an act for crime headlines will sell more newspapers.

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Newspapers are said to increase crime; it is clear, however, that they also at times prevent crime. They increase crime by giving prestige to the criminal if they thus widen the circle of admirers before whom the delinquent can parade. Newspaper notoriety is the young thug's road to fame. It swells the ego and flatters the vanity of many pint-sized criminals who live in a world of their own, cut off from the normal world of law-abiding youngsters. It is the risk, the dare, the urge to win glamour and achieve standing among their friends that stimulates them to dangerous deeds which the newspapers will report.

Radio, television, movies, comic books, and newspapers contribute to delinquency by glorifying, overemphasizing and giving instruction in crime. The following evaluation is a reliable aid in determining the role mass media plays in the increase in delinquency:

1. The evidence is inconclusive.

2. Testimony of delinquents as to the source of their delinquency is unreliable. They share the human desire to place blame elsewhere.

3. It is plausible to conjecture that the delinquent youth interprets mass media in delinquent ways.

4. At most, the mass media seem to be a secondary factor, aggravating rather than

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50 Ibid., p. 260.
51 Ibid., p. 262.
53 Ibid., p. 203.
causing already existing dispositions to delinquency.\textsuperscript{54}

Further valuable information along this line can be obtained in the conclusions of the special subcommittee of the Senate Judiciary Committee of the 83 Congress which studied the effect of mass media on the youth of America. Their committee's findings were:

1. Little if anything is actually known of the precise effects of the mass media on our youthful population, particularly with respect to possible incitement to delinquency.

2. Much of the present condemnation of these media, whether justified or not, is based on personal opinion and unbridled resentment though there is also a considerable ground swell of general popular opinion against them.

3. The public should be given better information about the effect of these media on the developing mentality of children. Witnesses of all shades of opinion repeatedly stressed the need for more adequate research and research subsidies.

4. Given the tools of community action and an atmosphere of informed public opinion, altering citizen's groups might beneficially control radio and television programs and comic books.

5. It is likely, though not proved, that a demoralization of our youth in general, conceived in its broadest terms, results from its continual exposure to the spectacle of untrammeled sex and violence in our recreational media.

6. It would be dangerous to impose legal curbs or censorship on the mass media at this time,

\textsuperscript{54}Raab and Selznick, pp. 55-57.
However warranted this may seem to be in some cases.\(^5\)

Perhaps the only valid conclusion to be drawn from the above statements is that there is no proof that the mass media prevents crime or causes it although the latter seems more probable in most cases. But Judge Ioble flatly denies that the mass media glamorize crime and this denial is one of the basis of the Montana Act. Therefore, since the mass media is allowed in the juvenile court in Montana, the next concern is with the working relationship between the two. Standards of crime news presentation are:

1. The news should not 'offend the moral sensibilities'; it should not supply incentives to base conduct; it should not publish sordid details.

2. Crime news should deter others from imitating the criminal.

3. Unfair treatment of accused criminals is to be condemned.

4. Reporters should not assume the duties of a detective agency.

5. Rumors, gossip or assumptions of reporters regarding the accused should not be published.

6. Helpless offenders should be gently dealt with.

7. Laws and law-enforcement agencies should not be ridiculed.\(^6\)


\(^6\)Taft, p. 265.
Of even more pertinence to the present Montana Act are the following specific recommendations from the "Rocky Mountain Law Review":

1. Newspapers should be allowed admittance to juvenile courts but they should be forbidden by law from disclosing the names of the participants in the hearing. It is a too human tendency to prefer to make and compound ones errors either in private or surrounded by allies. The press can exert a balancing influence on the courts' operation. The public itself should never be permitted to attend the hearings, but there should be present some representative of the general public. The press can serve this role adequately.

2. Publication of identifying data about persons in juvenile court hearings should be forbidden by statute in such a manner that the information does not reach the newspapers from sources other than the courts.

3. Every juvenile before the court should be afforded the opportunity for a public hearing if he so desires. This is recommended by the Children's Bureau in its standard procedures, but it is often ignored. This is a possible solution to the vital question of constitutional guarantees.57

The preceding discussion is considered the most complete one on the several legal and moral aspects of the question of publicity in relation to juvenile court proceedings.58 However, this discussion advocates a limited "open court" which is contrary to the Standard Juvenile

58Ibid., p. 126.
Court Act. In its other aspects it is however a more limited court than is now in effect in Montana where the names of juveniles are printed. Also it should be noted that the Montana Act states that "responsible representatives of public information media" should be allowed at juvenile hearings. However, there is no definition of a responsible representative nor any safeguards for not admitting one who was not a responsible representative. Such vagueness in such a vital matter is questionable.

This paper has so far pointed out that the two basic premises of the Montana Act are not proven facts; they are mere speculation. The family is not the sole cause of delinquency and publicity can increase as well as decrease the delinquency rates.

In order to allow the supporters of the Montana Act to repudiate these facts, a questionnaire which was obtained almost entirely from Delinquency Can Be Stopped was sent to all of the judges in Montana with the exception of Judge Loble who has been ill and is presently out of the state receiving medical attention. Yet since the questionnaire was based on his book, answers to all of the questions are there so that in fact, if he were consistent with his theory his answers to the questions are obvious. Questionnaires are not totally valid because the form can be misleading and there is also the doubtfulness of the integrity of the answers. The latter can be waived in this case
since these men are judges who have a stable reputation and nothing to gain from a dishonest answer. The questions are ones that had been intended for Judge Loble before it was known that he was indisposed. Yet, since these fellow judges work under the same law, if they believe in it, their answers should be much the same as those given in Loble's book.

Quite the contrary, they do not appear to agree at all in any large majority with the present Montana Act, the Loble Law.

The first question in the questionnaire, "Do you hear juvenile cases?", had a 100% answer of yes. The other judge or judges in a district hear the cases of the juvenile judge when he is disqualified or for some other reason cannot hear the case. This 100% increased and the validity of the other responses.

"Do you believe open courts establish public confidence?" 45% answered no, 45% answered yes and 10% gave a qualified answer. So nothing was actually learned from the question except that the judges themselves are undecided. Judge Loble firmly believes that open courts establish public confidence.

83% of the judges believe that it is not a myth that publicity glamorizes the juvenile, while 8¾% believe that it is a myth and the other 8¾% do not know whether or not
it is a myth. This is an amazing answer considering the fact that the Loble Law is partly based on the fact that it is a myth that publicity glamorizes the juvenile. On this subject Judge Loble says, "It is a myth that publicity glamorizes the juvenile and makes him worse. Any juvenile who likes to see his name in the paper as a criminal is in a class with those who threaten witnesses, and is dangerous and should be so dealt with."59

It appeared from the questionnaire that the Montana judges were rather vague about the National Council on Crime and Delinquency. This is a surprising event. Only 34% had answers for why the NCCD opposed the present law; 8% believed it was because the Montana Act would prevent rehabilitation, 8% because the act did not have the control it advocated, 8% because of the publicity feature and 8% said it opposed only parts of the law. This means that 66% of the judges did not know why the NCCD opposed the Loble Law. When asked if they knew if the reduction in NCCD aid to Montana had had any bearing on the passing of the act, they were just as vague as before. 17% said it had no bearing on the passage of the law while 83% said they did not know. It occurs that perhaps the judges did not have any great interest in the passage of the law since they know so little about the opposite to the law.

59Loble, p. 2.
When asked if they knew that there had been a MCCD investigation of the reduced delinquency rates in Lewis and Clark County, 50% said no while 50% said yes. From one of those who knew about the investigation the following comment came, "Loble's records still have not been properly checked; he will not let them." From one of those who answered no, the knowledge of an investigation came as no shock, "No, but I am not surprised." Thus it would appear that even among so few judges as 23, they really do not know what is going on in each other's districts.

Question number seven is rather like question number one; it checks the validity of the judges. Anyone who hears juvenile cases and does not even know the basic history of the juvenile court is almost unbelievable. Far from being a new method, it was used in the seventeenth, eighteenth, and nineteenth centuries and was found ineffective; 65 years ago informal hearings were adopted. 60 92% of the judges realized this, while only 8% felt that the "open court" was a new approach. This further validates the judges and their answers as knowledgeable. Some of their comments on this question are of value, "No, the open court method is not new; it was the first law and was so bad they put in the closed hearing law." "No, this is not a new method;
this was the approach before the establishment of the juvenile courts and laws requiring confidential hearings."

Perhaps the most interesting aspect of this question is that it brings out the evidence that shows the failure of open courts for three centuries, which leads to the question: Why drop a method that has been in effect for around 65 years because it does not seem to be decreasing delinquency rates and in place of it adopt a method that has failed for three centuries? It would appear more valid and practical to alter one of the systems instead of going back to the same one that produced no decrease delinquency for three centuries.

The NCJD objected to the Montana Act for several reasons; one of the main ones was that it was felt that the Montana Act relieved the judge of the responsibility of protecting confidential information. Of the judges who answered the questionnaires 66% feel that the present system in effect in Montana does not relieve them of the responsibility of protecting confidential information; 22 2/3% think that it does relieve them of this responsibility and 11 1/3% think that perhaps it does relieve them of this responsibility.

When ever a questionnaire is employed there is always the possibility that its form will not be understood. This occurred with question number 9 which was an almost direct
quote from Judge Loble's book in which he states that the so-called progressive thinkers, mollycoddlers, and dreamers got us into this and they cannot get us out. He is referring to the increasing delinquency rates and what he considers the ineffectiveness of the "closed court" system. However, this was not clear on the questionnaire and 54% did not understand number 9 well enough to answer it. Of those who answered the question 16 4/5% agreed with Judge Loble that the social work philosophy, (this is what he considers mollycoddlers) has created the present problem and has offered no solution. The other 25 1/5% believe that the social work philosophy has not created the present delinquency problem. Thus we end up with a stalemate.

One judge wrote the following, "The inference is not only ignorant of the facts but so generalized that it is evident that the composer of this question is completely unaware of a Juvenile Court and its primary purpose. The child, as an individual, must be treated as such on both counts." This question was taken from Judge Loble. The Chief Probation Officer working under the judge who made the above statements wrote and asked that the writer of this thesis answer several questions for him. The writer intends to answer these questions, but not in this thesis.

For a law to be effective the people must have faith in it, and it is difficult to conceive of a law that
people could have faith in when the judges who execute the law do not believe in its effectiveness. 66% of the judges do not believe that the present law is reducing delinquency in Montana. 25\% do not know if it is effectively reducing it and 8\% did not understand the question. It would be difficult to explain why a majority of the men who work with the law do not believe it reduces delinquency, when the advocate of the law claims that it does reduce delinquency. One judge felt that it was a good law. He said, "I can't say as to reducing first offenses, but I know from 30 years in juvenile court that it is a wonderful law and helps many many juveniles on the proper path." Yet, another judge said, "No, the problems and causes of delinquency are much more basic than can be solved solely by the use of newspaper publicity."

The next question got back some fantastic answers; it read, "Has your court had as large a reduction in delinquency rates (49\% and 68\%) as the court in Lewis and Clark County has had?" 50\% said their courts had not such a large reduction; 30\% did not know if their courts had such a reduction. The interesting part of this question was that it did not ask if the judges believed the figures from Lewis and Clark County and yet 73\% of them voluntarily said that they did not believe the Lewis and Clark County figures. Some of the comments were as follows: "The court
has no particular need to make such a manipulated statistical gesture." "I haven't seen any A.P.U.F. or U.P. news stories from the Lewis and Clark area in any of the Montana papers." "I feel that we have more of a reduction and I do not believe Lewis and Clark gives us the true information." "I question the accuracy of the claimed reduction of Lewis and Clark County." "This court hasn't had such a reduction, but then, neither has Lewis and Clark." "These figures (49% and 68%) have never been verified." "I personally do not believe these figures!" "Many times the result showing a reduction as intimated can be very misleading."

There is no certain way of knowing why so many of Judge Loble's fellow judges do not believe the figures of delinquency reduction in his county, but it does not reflect well on his theory. If the Loble Law were working, why wouldn't the files on intakes and dispositions be open? Why wouldn't the figures be verified so no one could doubt their validity? By not verifying his reduction figures Judge Loble is only casting doubt on the effectiveness of his method, as evidenced by the comments of his fellow judges.

Judge Loble believes that delinquency starts with the parents and that punishment should be swift and certain. 92% of the judges felt that parents were not the sole cause of delinquency; 8% felt that they could only give a qualified

61Loble, p. 47.
answer. Their comments are not in support of Judge Loble's theory as can be seen: "I feel that we Americans often suffer from one serious failing which is thinking that there is one, simple pat answer or solution which will miraculously solve any problem with which we are faced."

"When parents are at fault, generally punishment isn't the answer. Most parents are interested in doing their best for their children -- sometimes they need help." The law making the parent liable for the malicious acts of the child is good, and possibly so do consider it and act differently, however, I do not believe it has reduced delinquency to any appreciable amount." "Parents are not the sole cause of delinquency, since one out of every five or six cases, discloses excellent parents." "If the parents are morally lax themselves, punishment or threat thereof is not too effective." "I do not know anyone who has the perfect formula for raising children. I have lots of ideas but I know it does not help to put parents in jail, often that is the cause."

So besides the already noted fact that the two basic premises of the Loble Law are not proven facts there is the added fact that Loble's fellow judges do not themselves agree on the validity of these two basic premises, one that publicity decreases crime and two that the family is the cause of delinquency. Also, the judges do not believe in the reduced delinquency rates of Loble's district.
These are some rather serious criticisms of the Ioble Law. It would be valid to say that at least a reexamination of this law is in order if Montana wants an effective juvenile delinquency law.
This questionnaire is written to obtain further information regarding the effectiveness of the MONTANA DELINQUENCY LAW. The information will be used in a college thesis. Please answer the questions as fully as you desire, and return as soon as possible.

1. Do you hear juvenile cases?
2. Do you believe open courts establish public confidence?
3. Do you believe it is a myth that publicity glamorizes the juvenile?
4. Why did the Montana Council on Crime and Delinquency oppose the present delinquency law?
5. Did reduction of National Council on Crime and Delinquency aid to Montana make it easier for the present law to be passed?
6. Did you know there was an NCCD investigation of the reduced delinquency rates in Lewis and Clark County?
7. Is the "open court" approach new?
8. Do you feel the Montana hearing procedure relieves the judge of the responsibility of protecting confidential information?
9. Do you believe the so-called progressive thinkers, Molly-coddlers and dreamers got us into this and they cannot get us out?
10. Do you feel the present law is effectively reducing delinquency in Montana?
11. Has your court had as large a reduction in delinquency rates (49% and 66%) as the court in Lewis and Clark County has had?
12. Do you feel parents are solely the cause of their children's delinquency and that punishing the parents helps reduce delinquency?
Questions that came from Loble's work:

3. It is a myth that publicity glamorizes the juvenile and makes him worse. Any juvenile or adult who likes to see his name in the paper as a criminal is in a class with those who threaten witnesses, and is dangerous and should be so dealt with.\textsuperscript{52}

9. The so-called progressive thinkers, mollycoddlers and dreamers got us into this and they can get us out.\textsuperscript{63}

10. I have in my District a 42\% decrease in juvenile felony cases. The law has been in effect three years. There is a continuing decrease in juvenile felony cases.\textsuperscript{64}

12. Delinquency starts with the parents and punishment should be swift and certain.\textsuperscript{65}

\textsuperscript{52}Loble, \textit{This I Know}, p. 1.
\textsuperscript{53}Ibid., p. 2.
\textsuperscript{54}Ibid., p. 2.
\textsuperscript{65}Ibid., p. 47.
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