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CHANGING PATTERNS OF JUVENILE JUSTICE IN DISTRICT ONE
JUVENILE COURT, UTAH, AS AFFECTED BY THE 1967
U. S. SUPREME COURT DECISION ON GAULT

by
Ruth V. Mickelson

A thesis submitted in partial fulfillment
of the requirements for the degree

of
MASTER OF SCIENCE

in
Sociology

Approved:



UTAH STATE UNIVERSITY
Logan, Utah

1970

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Ruth V. Mickelson

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ABSTRACT

Changing Patterns of Juvenile Justice in District One

Juvenile Court, Utah, as Affected by the 1967

U. S. Supreme Court Decision on Gault

by

Ruth V. Mickelson, Master of Science

Utah State University, 1970

Major Professor: Nile Meservy

Department: Sociology

A determination was made of the degree to which the four requirements of Gault were met in District I of the Utah Juvenile Court between July 1, 1967 and June 30, 1969. The requirements handed down in 1967 by the U. S. Supreme Court were as follows: (a) guarantee to the right of notice given to the juvenile himself and to his parents; (b) right to counsel, representation by counsel in juvenile delinquency proceedings; (c) right to confrontation and cross-examination by prosecuting witness; and (d) privilege against self-incrimination in juvenile delinquency proceedings.

Observable procedures indicate that sustained effort is being made by District I, Utah, toward affording protection of basic legal rights to juvenile court clients and their families. However, the juvenile court records, as the source of information for this study, show the four

requirements of Gault as being met only in part during the period of time specified. It was also found that, with only two changes, the Utah Juvenile Court Act of 1965 would have already been fulfilling, in Utah, the requirements provided by the subsequent 1967 U. S. Supreme Court decision on Gault. These two recommended changes were, first, a provision requiring that it be recorded whether or not the child was notified of his rights; and second, that a provision be added to record the name of the complainant, his presence, and if his testimony was used during the proceeding.

(117 pages)

CHAPTER I
INTRODUCTION

The juvenile court, according to Ellett (1940-1942), should be guardian not penal in nature. Nothing the child says can incriminate him because his welfare is the object of the court. To socialize the child means to extract the whole truth about the circumstances and to cooperate with the child in finding the best solution to his problem. The juvenile court aims at treating the wayward child in a way that he may become a useful citizen in the future.

The State of Utah Biennial Report of the Secretary of the Juvenile Court and Probation Commission (1940-1942) discusses the foundations of the juvenile court:

It is [also] predicated upon a philosophy that crime in its larger sense is not of spontaneous origin but is the outgrowth of a developmental process which had its foundation springs in childhood and youth. The juvenile court is also built upon the theory that the individual is the product of his accumulated experiences plus hereditary endowment; in other words, the criminal is not born but is made. (State of Utah Biennial Report of the Secretary of the Juvenile Court and Probation Commission, 1940-1942, p. 11)

It is the purpose of the court only to step into a case when other forces have failed to result in success. When the court does step in, it does not replace other agencies. Instead, it views the child's relationship to society and then tries to redirect the forces necessary to correct any anti-social behavior of the child.

The Committee on the Standard Juvenile Court Act of the National Council on Crime and Delinquency in Cooperation with the National Council of Juvenile Court Judges and the U. S. Children's Bureau (1959, p. 9) stated "the well-established fundamental purpose of the courts dealing with children is to protect them and restore them to society as law-abiding citizens. . . ."

In 1967, the U. S. Supreme Court handed down what is known as the Gault decision designed to further establish the welfare of the juvenile. It is the purpose of this study to determine to what degree the requirements of this Supreme Court decision are being met in District I, Utah. District I includes Cache, Box Elder, and Weber counties.

In 1965, the State of Utah passed a juvenile court law. It is also the purpose of this study to determine if this Utah Act established guarantees to juveniles which fulfilled, with only two changes, those guarantees provided in the 1967 Supreme Court Decision. These two changes will be discussed at some length later in this thesis.

Definition of Terms

Some legal terms and phrases are used in the text of this study. To provide a better understanding of the text, these words and phrases will now be defined.

Adjudicatory hearing

The second of three stages of a juvenile court hearing. (The first

stage is a jurisdictional stage to determine if a petition should be filed. The third is the sentencing process or dispositional stage.) The adjudicatory stage

. . . constitutes the determination of whether the petition or other formal procedure authorized at the conclusion of the first stage is supported by facts and whether those facts correspond to the jurisdictional ground asserted in the pleading. (George, 1968b, p. 42)

Advocate

One that defends and pleads the cause of another.

Chancery

According to Lou (1927), chancery is welfare or balancing of interests. The court of chancery assumes the duties which parents are unable or unwilling to fulfill.

Detention

"Holding a child, usually prior to trial, in close physical custody . . . in a special juvenile detention center" (Cavan, 1962, p. 238).

Equity

Webster defines the law of equity as:

The system of law which originated in the extraordinary justice formerly administered by the king's chancellor and was later developed into a body of rules supplementary to or aiding the common and statute law. The term has come to designate the formal system of legal and procedural rules and doctrines according to which justice is administered within certain limits of jurisdiction. (Webster, 1963, p. 281)

Esteem

"The evaluation of an individual's role behavior in a given status; the judgment of his fellows of how well he fulfills the expectations of his role" (Sociology 5, no date, p. 3).

Ex-officio commission

A commission created by virtue of an office already held by members of the commission.

Habeas corpus

". . . A writ for inquiring into the lawfulness of the restraint of a person who is imprisoned or detained in another's custody" (Webster, 1963, p. 373).

Incorporated municipality

Webster (1963, p. 557) states that a municipality is a "town, city, or other district having powers of local self-government." Incorporated is defined by Webster (1963, p. 423) as "united in one body."

Judicial district

A certain area held accountable for administrative responsibility.

Juvenile delinquency

Cavan (1962, p. 15) gives a nonlegal definition of juvenile delinquency: ". . . the failure of children and youth to meet certain obligations expected of them by the society in which they live."

Good (1945, p. 23) also gives a nonlegal definition: ". . . any child or youth whose conduct deviates sufficiently from normal social usage to warrant his being considered a menace to himself, to his future interests, or to society itself." Nonlegal definitions vary from authority to authority. For the purpose of this study, the legal definition used by the United States Children's Bureau will apply here. Cavan, in her book, quotes from the Bureau as follows:

Juvenile delinquency cases are those referred to courts for acts defined in the statutes of the State as the violation of law or municipal ordinance by children or youth of juvenile court age or for conduct so seriously antisocial as to interfere with the rights of others or to menace the welfare of the delinquency himself or of the community. (Cavan, 1962, p. 15)

Patris patriae

The crown or king of a country assuming the role of a father or guardian (Lou, 1927).

Partisans

Followers.

Probation

"Supervision of a delinquent child after the court hearing but without commitment to a training school" (Cavan, 1962, p. 238).

Sovereign

Highest in power or position.

Status

A definition of status, which is used in Intermediate Sociology, Sociology 170, at Utah State University, is as follows:

. . . the relative position, rank, or standing of a person in the group. [Status] designates a position in the general institutional system, recognized and supported by the entire society, spontaneously evolved rather than deliberately created and rooted in the folkways and mores. (Sociology 170, no date, p. 20)

Defining the Schedule

Questions one through five on the schedule are self-explanatory and will not be dealt with in this chapter (see Appendix for schedule).

Item 6. Parent-child or parent substitute-child relationship at the time of commitment. Responses shown here were "inadequate" or "adequate."

Parent-child or parent substitute-child relationship was felt, by this writer, to be "adequate" on the following basis: (a) consistent, reasonable discipline administered by parents and understood by juvenile; (b) understanding, on the part of the parents, of the juvenile's problems; (c) acceptance of the juvenile by his parents; (d) desire by the parents to help the child during this period; (e) equal attention given by parents to juvenile and other siblings; and (f) acceptance by the juvenile of limits set by his parents. If the writer felt, after reading the social history of the child, that these guidelines were being met in the home, then an "adequate" relationship was recorded. If most of these requirements were missing, then an "inadequate" relationship was recorded. In

many instances, the probation officer used the word "adequate" or "inadequate" in describing the parent-child relationship.

Item 7. Physical living conditions at the time of commitment were also defined as "adequate" and "inadequate." "Adequate" living conditions were included if the following were present: (a) adequate sleeping and living quarters for the number of family members, (b) cleanliness of the house and yard, (c) other adequate facilities such as furniture. "Inadequate" refers to physical living conditions which do not meet these criteria.

Items 8 through 25 were answered directly from the fact sheet in the social history or from papers contained in the legal record.

Origin and Nature of Problem

Relevant literature appears to indicate that the guarantees of the due process of law, prior to the U. S. Supreme Court decision on Gault in 1967, were denied to juveniles in many instances.

In this study, the case in question is that of Gerald Francis Gault, age 15. George (1968b) describes the case: Gerald and a friend were picked up by police in Arizona after a complaint was made on them by a neighboring lady. During the process of being convicted, Gerald was denied six constitutional rights: (a) guarantee to the right of notice given to the juvenile himself and to his parents; (b) right to counsel, representation by counsel in juvenile delinquency proceedings; (c) right

to confrontation and cross-examination by prosecuting witnesses; and (d) privilege against self-incrimination in juvenile delinquency proceedings. The Gault case was later taken to the U. S. Supreme Court. The Supreme Court's decision on Gault resulted in the above four guarantees to juveniles. The following two rights were not upheld in the U. S. Supreme Court decision: (d) the right to a transcript of the proceedings, and (f) the right to appellate review.

The landmark U. S. Supreme Court decision on Gault sets down the guarantees of: (a) guarantee to the right to notice given to the juvenile himself and to his parents; (b) right to counsel, representation by counsel in juvenile delinquency proceedings; (c) right to confrontation and cross-examination by prosecuting witnesses; and (d) privilege against self-incrimination in juvenile delinquency proceedings.

As stated by George (1968b, p. 15), "the Gault case . . . is the first in a series of legal battles in which due process requirements will be expanded far beyond what has been thought to be their constitutional limits."

These new requirements must be met in each of the juvenile courts. This means a complete revision in most of our courts. However, in 1965 Utah passed a juvenile court law including provisions for protection of legal rights for the juvenile. It is assumed, by this writer, that the 1965 Utah Juvenile Court law would fulfill, with two changes, the requirements listed above as set down in the Gault decision. The two recommended changes are: first, a provision requiring that it be recorded

whether or not the child was notified of his rights to protect against self-incrimination, and second, that a provision be added to record the name of the complainant, his presence, and if his testimony is used during the proceeding. Thus, the 1965 Utah Juvenile Court Law, with the above two recommended changes, would already have fulfilled the four requirements of Gault; namely, notice, counsel, confrontation, and cross-examination. If these two changes are justified, then Utah's District I would seem to have fulfilled the above four requirements.

One aim of this study is to determine to what degree the four requirements set down by the U. S. Supreme Court decision on Gault are being met in District I, Utah, as indicated by the juvenile court records of this district. District I is comprised of three Northern Utah counties: Cache, Box Elder, and Weber. The period covered in this study is from July 1, 1967, to June 30, 1969. It will be determined whether or not the following requirements were met during this time: (a) guarantee to the right of notice given to the juvenile himself and to his parents; (b) right to counsel, representation by counsel in juvenile delinquency proceedings; (c) right to confrontation and cross-examination by prosecuting witnesses; and (d) privilege against self-incrimination in juvenile delinquency proceedings.

A second objective of this study is to see if the 1965 Utah Juvenile Court Law will fulfill, with only two changes, the guarantees set down in the U. S. Supreme Court decision on Gault. These two recommended changes are: first, a provision requiring that it be recorded whether or

not the juvenile was notified of his rights to protect him against self-incrimination, and second, that a provision be added to record the name of the complainant and if he is present and his testimony used during the juvenile court proceeding.

A third aim of this study is to learn about the factors of age, race, and sex of the juveniles involved in this sample. It is hoped that this information will provide the writer with knowledge relevant to characteristics of juveniles committed to a state industrial institution.

A fourth aim is to become familiar with the family background of the juvenile by looking at his living arrangement at the time of commitment, the parent-child or parent substitute-child relationship at the time of commitment, the physical living conditions of the juvenile, parent employment, number of siblings, and natural parents' marital status at the time of commitment.

The information regarding the third and fourth aims of this study will be included in the Appendix instead of the text. The writer feels this information is not necessarily relevant to the Gault decision, but could be useful for other juvenile court studies.

Method and Procedure

Permission was obtained from Mr. Joseph Tite, Director of Probation in District I, Utah, to use the juvenile court records from Cache, Box Elder, and Weber counties. Fifty-nine cases were used from these three counties. This is the total number of cases resulting in commitment to a

state juvenile institution during the period of July 1, 1967, to June 30, 1969. Commitments were made only to the Utah State Industrial School at Ogden, Utah, and the Youth Unit of the State Hospital at Provo, Utah.

A pre-test was administered in the Logan City court to see if the schedule was adequate and if adequate information was available from the records. After this pre-test, changes were made to gain the necessary information, and the schedule was then administered to the entire district.

After tallying the responses to each question, a separate table was arranged to score, on a percentage basis, the responses to each question. Through this percentage system, it will be determined to what degree the four objectives, stated above, were met.

Within the context of this thesis, the basic study, as described under this heading of Method and Procedure, is prefaced in some detail by Juvenile Court and Gault Case historical background material to offer the greatest possible clarification and strength to the study.

CHAPTER II
HISTORY OF THE JUVENILE COURT

Origin in the United States

Comments on the historical background of the juvenile court movement in the United States are necessary for a better understanding of the philosophies and principles behind the court system as it stands today.

The juvenile court is of recent origin, particularly in the United States. However, many authors, including Lou (1927), Robison (1963), Grunhut (1956), Mack (1925), Hurley (1925), Cavan (1962), and Cadbury (1938), have traced the legal principles underlying the movement from far back into legal history.

From the work of the above authors, two main schools of thought have evolved concerning the origin of the juvenile court movement: first, the idea of chancery or equity, and second the English Common Law theory. A distinction between these two ideas is made below.

Chancery

Robinson (1932c) reported that the sovereign during the old courts of equity was the ultimate parent of all minors who required care and protection. The crown was parens patriae or final parent authority. Its power was exercised through the chancellor.

The court of chancery assumes duties which parents are unable or unwilling to fulfill. Lou states:

The essential idea of chancery is welfare or balancing of interests. It stands for flexibility, guardianship, and protection rather than rigidity and punishment. The common-law doctrine that the crown is parens patriae, father of his country, is but the medieval way of expressing what we mean today when we say that the state is the guardian of social interests. (Lou, 1927, p. 4)

The principle of individual prevention is important to chancery. It is the responsibility of the state to see that the child's treatment prevents him from further wrong-doing. However, according to Grunhut,

. . . in the juvenile court this preventive purpose implies more than the mere negative aim of making him avoid further criminal activities. Rather are its efforts directed to the positive end of giving the young delinquent a better start in life. . . . (Grunhut, 1956, p. 1-2)

These aims cannot be achieved only through legal precepts; they require discretion on the part of the administrator.

According to Robison, the arguments, that the juvenile court is primarily of chancery origin, are as follows:

1. The juvenile court embodies the concept of welfare or balancing of interests. . . .
2. Along with English common law, chancery jurisdiction and procedure were transplanted to America. In the English common law, the Crown is the parens patriae, the father of the country. In its modern equivalent, the state is the guardian of the social interests of the child and thus the ultimate parent. Sovereign states have assumed prerogatives and obligations of the Crown and still continue to enlarge their summary jurisdiction for the protection and care of the individuals abnormal in person. . . . Following this line of reasoning, the juvenile court laws in the United States may be regarded as a logical extension of the principles of chancery in guardianship in the English court of neglected and destitute children to cover delinquent behavior as well. (Robison, 1963, p. 232)

Other writers on the juvenile court accept the chancery origin of the court only as it applies to the neglected, dependent, or destitute child. They prefer to trace the application of the juvenile court's jurisdiction over delinquency to criminal law rather than to an extension of the principle of chancery.

English common law

Robison (1963, p. 232) reported that those, who agree with the common law principle of criminal responsibility, are referring to the English common law which states that ". . . no person can be guilty of a crime unless he acted with a guilty mind. A child under the age of 7 is considered incapable of felonious intent. . . ."

Cavan in regards to English common law points out:

. . . children could be held responsible if it could be shown that they were sufficiently intelligent to understand the nature and consequences of their misdeeds and if they could distinguish between right and wrong. Such children could be subjected to the same criminal type of trial and punishment as adult criminals, even to infliction of the death penalty in extreme cases. (Cavan, 1962, p. 234)

This law, which was in Section 7915 of the Compiled Laws of Utah in 1917, held that no child between the ages of 7 and 14 should be convicted of a crime without clear proof that he knew the wrongfulness of the act at the time he committed the crime.

Lou (1927) indicated that a new way of dealing with delinquent children was needed to replace the old chancery court's jurisdiction over dependent children. This, he felt, was the reasoning behind the departure

from the courts of chancery.

As Robison stated:

Lou concludes that the juvenile court procedure has traces of both chancery and criminal law origin and that its logical justification is the recognition that the older criminal courts did not succeed in preventing crime. In contrast, the juvenile court, concerned with care and rehabilitation, attempts to replace the punitive and retributive attitude prevailing in courts of more general jurisdiction. (Robison, 1963, p. 232)

Flexner and Oppenheimer (1922) concluded that regardless of the conflicting views held by writers as to the origin, the principles underlying the movement were not new but were applied from the earlier courts of chancery, therefore, being an outgrowth rather than a departure from legal theory.

Cavan (1962) stressed that the two forces, chancery and English common law, were merged. From this merger came the concept that children under a certain age are not responsible for criminal acts and that some children are in the need of protection by the courts.

Illinois Juvenile Court Law

The first juvenile court did not formally develop until 1899. However, attempts were made, before this time, to remove children from criminal courts and to soften "the harshness of the laws" (Lou, 1927, p. 134).

The Illinois Juvenile Court Law was originated because of this deep concern over children for whom no appropriate institutional care was available. This law was not new in and of itself. Lou (1927) reported

that the only new concept was that the child, who broke the law, was not to be regarded as a criminal. The law was passed to regulate the treatment and control of children.

Provisions of the Illinois Juvenile Court Law, according to Cadbury, were as follows:

1. For the separate hearing of children's cases in a court having chancery rather than criminal jurisdiction.
2. For the detention of children apart from adult offenders.
3. For a probation system. (Cadbury, 1938, p. 72)

Other beneficial results of the Illinois Juvenile Court Law are pointed out by Bloch and Flynn who state,

. . . that the act eliminated arrests of children by warrants, the use of indictment, and virtually all other features of criminal proceedings, and it provided a separate juvenile courtroom, separate records, and informal procedures. (Bloch and Flynn, 1956, p. 311)

The aim of the state, according to Hurley (1925, p. 320), ". . . is primarily to adjust the differences existing between its citizens and to provide for the wants and necessities of its dependents." Before the Illinois Juvenile Court Law was passed, the state appeared to be neglecting its duty.

Summary

Two main schools of thought exist on the origin and development of principles behind the juvenile court movement in the United States.

First is the idea of chancery. Chancery "stands for flexibility, guardianship, and protection rather than rigidity and punishment" (Lou, 1927, p. 4).

The second is the English common law system which stated that no child under seven was capable of committing a crime. If a child was considered capable of committing a crime, then he was to be tried under the criminal law.

The Illinois Juvenile Court Law was originated because of concern for the care of children. Its foundations evolved from a combination of principles basic to both the law of chancery and the English common law.

History of the Utah Juvenile Court

The spread of the juvenile court movement has been tremendous and extended into most parts of the world. Every year new laws have been passed giving more freedom and power to the juvenile courts. There were no traditions in the administrative end of the movement; therefore, new procedures had to be developed. Through experience and testing, standard techniques have been formulated. The juvenile court movement, according to Robinson (1936-1938), spread rapidly because it was protecting severe penalties against the child. The new law would be a protection for the child.

During this time, Lou (1927) tells that many other states passed similar laws, thus making the pioneering state of development for the juvenile court lasting until about 1904.

According to Hurley, some of these states were as follows:

Wisconsin Juvenile Court, March 26, 1901; Buffalo Juvenile Court, May 1, 1901; New York Juvenile Court, January 1, 1902;

Maryland Juvenile Court, June 1, 1902; Ohio Juvenile Court, April 18, 1902; Indiana Juvenile Court, 1903; and Denver Juvenile Court, 1903. (Hurley, 1925, p. 329)

This was still a time when the courts were in experimental stages and administration had many weak points. Many methods were tried and each one was an improvement upon the other.

Utah was also involved in the pioneering stage of the development of the United States juvenile court system. A detailed discussion of Utah's juvenile court history will show the movement toward progressive legislation and an up-to-date system.

Early legislation

According to Ziegler (1969, p. 1), Utah was developing methods of treatment for juveniles even before the Illinois Juvenile Court Law of 1899. In 1852, a law was enacted by Utah legislature ". . . whereby a child could be removed from his home with or without his parent's consent and bound out to other persons." A territorial reform school was established in 1888. "In 1894 children, who were beyond parental control because of 'incurability' or 'vicious conduct,' were made subject to the district court's jurisdiction for possible commitment to the territorial reform school." And in 1898, neglected and vagrant children could be placed in a "paternal school" by the court.

Application of the juvenile court movement in Utah, as reviewed by Robinson (1932a), dates back to 1905 when the legislature enacted a law permitting larger cities to establish juvenile courts as a branch of the

city court system. A city juvenile court commission was set up to organize these courts. The commission consisted of the mayor, school superintendent, and chief of police.

The 1905 Act, approved March 16, 1905, is described by Robinson as follows:

An act providing for Juvenile Courts, providing for the appointment of probation officers, outlining their duties and specifying their compensation; providing a method of procedure against juvenile delinquents, specifying places for their temporary and permanent detention, and the compensation for their care; providing for the time and place of trial; defining delinquent child and delinquent person; providing punishment for all delinquents. (Robinson, 1932a, p. 6)

In 1907, the Juvenile Court Commission, which then consisted of the governor, the state superintendent of public instruction, and the attorney general, had the powers to establish juvenile courts in larger cities of the state, according to Ellett (1940-1942). This was done at the state's expense. Before this time, the expense was paid by the city administration, and the court's jurisdiction was limited to the cities in which they had been originated. The 1907 legislature, according to Winters (1964-1965), also set up a Juvenile Court and Probation Commission on a statewide basis. This commission lasted until 1941.

Utah Juvenile Court Commission

Ellett (1940-1942) reported that a separate juvenile court in each judicial district was set up in 1909 and was completely different from the district courts. From the Minutes of the Meetings of the Juvenile Court

Commission (1909) it can be found that in 1909 a detention home for girls was also established.

In 1910, at the meeting of the Juvenile Court Commission, a discussion took place regarding the lack of uniformity of the list of offenses for bringing in a delinquent child. Because of this irregularity, they decided to list offenses under three main headings: (a) offenses against society, (b) offenses against the person, and (c) offenses against property. This was done to help save the child from being "tagged" or "branded" a criminal for his acts.

The year 1913, according to Ellett (1940-1942), saw the juvenile courts of each of the 10 judicial districts being staffed by one judge and a chief probation officer with powers to appoint additional probation officers. This system continued until 1931.

"The establishment of juvenile courts in Utah is authorized under Section 1814, Chapter 9 of the Compiled Laws of Utah, 1917" (National Probation and Parole Association, 1929, p. 6).

At the meeting of the Juvenile Court Commission (December 18, 1926), Section 1814 of the Compiled Laws of Utah, 1917, was discussed in reference to the use of jails and prisons for detention rooms for juveniles:

In any and every incorporated municipality, children under the age of sixteen years, who are brought before any court of summary jurisdiction for examination, under any of the provisions of this chapter, shall not before trial or examination be confined in the jails, lock-ups, or police cells used for ordinary criminals or persons charged with crime, nor, save as hereinafter mentioned,

shall children be tried or have their cases disposed of in the police court ordinarily used as such. It shall be the duty of such municipalities to make separate provisions for the custody and detention of each child prior to their trial or detention examination, whether by arrangement with some member of the police force or other person or society who may be willing to undertake the responsibility of such temporary custody or detention on such terms as may be agreed upon, or by providing suitable premises entirely distinct and separate from the ordinary jails, lock-ups or police cells, and it shall be the duty of the court to try all such children or examine into their cases and dispose of them where practicable, in premises other than the ordinary police court premises, or, where this is not practicable, in a private office of the court, if practicable, then in the ordinary police court room, but only in such last mentioned case when an interval of two hours shall have elapsed after the criminal trials or other examinations for the day have been disposed of. . . . (Minutes of the Meetings of the Juvenile Court Commission, 1907-1939, p. 139)

As can be seen from the above law, it then was the practice to protect the juvenile from any association with criminal courts, prisons, or the criminals themselves.

It can be found, according to Ellett (1940-1942), that the Utah Juvenile Court Commission in 1928 initiated a survey of its courts because of the lack of improvement in the system. The commission then obtained the services of the National Probation and Parole Association to conduct the survey.

National Probation and Parole Association

The purpose of the Utah survey, as given by the Field Secretary, Drowne, was:

. . . to study the organization and administration of the juvenile court system and the procedure followed by the several courts in disposing of the delinquent, dependent, and neglected boys and

girls brought before them. In addition to the actual survey work, school officials, county attorneys, mayors, city marshals, sheriffs, representative businessmen and others in each community were interviewed to learn the standing and general reputation of the courts. (National Probation and Parole Association, 1929, p. 5)

Each district court was investigated by the National Probation and Parole Association, and recommendations were given to help each particular court system. The National Probation and Parole Association lists the following recommendations given to District I:

1. Preliminary investigations should be more thorough. . . .
 2. Probation should be used in more cases instead of suspended sentences. . . .
 3. A carefully worked out plan of treatment should be formulated in each case, and the probation officers, through talks with the child and visits to the home and school, should see that satisfactory progress is made.
 4. The judge of this court should take a more active interest in supervising the work of two probation officers.
 5. In disposing of cases, orders for the payment of fines and for commitment to the detention rooms should be made only when necessary. . . .
 6. The juvenile court should hear all cases of contributing to the delinquency, dependency, or neglect of a juvenile that arise within the district.
 7. The judge of this court should receive a somewhat higher salary so that he can afford to spend more of his time in the work.
- (National Probation and Parole Association, 1929, p. 20)

The National Probation and Parole Association (1929, p. 11) felt that the shortcomings in each court were due to a lack of "knowledge as to what constitutes good juvenile court work."

Winters (1964-1965) reported that this survey resulted in a complete revision of Utah's juvenile court laws. It was proposed and presented to the legislature in 1931 and was enacted into law at that time. Ellett explained:

This act was an attempt to conform in general with juvenile court standards formulated by the United States Children's Bureau and was designed to embody the best results of experience of the various states with juvenile court administration. (Ellett, 1940-1942, p. 8)

The act of 1931, according to Winters (1964-1965), remained with amendments until the Utah Juvenile Court Act of 1965. Robinson elaborated on the powers of the 1931 act:

. . . extends the parental protection of the court to the point of giving it exclusive original jurisdiction over delinquent, dependent, or neglected children; to determine paternity, custody or guardianship, and to grant adoptions. The act applies to all children under the age of 18 and for the purpose of continuing treatment beyond the eighteenth birthday the juvenile court can continue jurisdiction over a case until the child reaches the age of 21. (Robinson, 1932d, p. 3)

Purpose of the juvenile court in 1932

In a letter to the Board of Commissioners of the Utah State Bar, dated March 18, 1932, Robinson spoke of the principles behind the establishment of the juvenile court.

Underlying the establishment of juvenile courts in the United States is the principle that these agencies are to work for the social adjustment and correction of the anti-social child who, through the acts of himself or others, is threatened with becoming a menace to society. To accomplish this end, the juvenile courts are generally given the widest and most complete discretionary power to do almost any and all things which a court might do toward restraint and correction or which a parent might, but all too often does not, do to provide such care, guidance, and control as will conduce to the child's welfare and the best interests of the state. (Robinson, 1932b, p. 2)

Robinson (1932c) pointed out that there had been a departure, over the past years, from criminal jurisprudence to more concern of social causes and effects of crime. The court's emphasis on the individual and

the circumstances that led up to his crime resulted in making more effective use of the social sciences in helping the juvenile.

It is stated in the State of Utah Biennial Report of the Secretary of the Juvenile Court and Probation Commission (1938-1940, p. 8): "The Utah law [of 1931] carries into effect the fundamental conception of a juvenile court as a parental agency, designated to assist and protect the delinquent, dependent and neglected child." Again from this report, it can be found that, at this period of time, Utah was the first state to provide for a "satisfactory system" of record keeping.

Juvenile Court Commission abolished--1941

The Biennial Report of the Secretary of Juvenile Court and Probation Department (1940-1942) states that in 1941 the existing Juvenile Court Commission was abolished and that its powers were assigned to the Public Welfare Commission by Chapter 67, Laws of Utah, 1941. This new commission had the power to create bureaus, divisions, and departments under it to carry out the duties of the commission. Winters (1964-1965) reports that this step was taken as an economy measure.

The juvenile court operations were later transferred from the Department of Public Welfare into a new Bureau of Services for Children, according to the State of Utah, Department of Public Welfare, Fourth Biennial Report (1942-1944).

Midcentury White House Conference on Children and Youth

The Midcentury White House Conference on Children and Youth, called by President Truman, December 3-7, 1950, at Washington, D. C., had as its purpose:

[T_o] consider how we can develop in children the mental, emotional, and spiritual qualities essential to individual happiness and to responsible citizenship and what physical, economical, and social conditions are deemed necessary to this development. (State of Utah, Department of Public Welfare, Seventh Biennial Report, 1948-1950, p. 40)

And again, from the Seventh Biennial Report (1948-1950), it is pointed out that this conference was one of the most significant steps in studying the needs of children. Because of this conference, a committee was appointed in Utah to study the following areas of child life: the home, the schools, the church, health services, programs of vocational guidance and placement, recreation, protective and correctional agencies and programs, and social service agencies and programs. The recommendations of this committee, concerning improvements in the environment of the child, were joined with those recommendations of the White House Conference.

Question of separation of powers

According to Ziegler:

The administration of the juvenile court by the Public Welfare Commission continued fairly unquestioned until the latter part of the 1950's when a growing number of persons became increasingly concerned about the disregard of the principal of separation of powers between the executive and judicial branches of government.

The constitution of the United States and of the State of Utah establishes the principal of three separate but equal departments of government: the legislative, the executive, and the judicial. Under the 1941 legislation, the law provided "the public welfare commission shall have general control and supervision over juvenile courts and probation officers." It was this supervising authority granted to the executive branch of government [Welfare Department] to control and supervise the judicial branch [juvenile court] that raised great concern about the constitutionality of the existing system. (Ziegler, 1969, p. 2)

Because of this controversy, a bill was prepared in 1963 (to be discussed later) and was later to become the Utah Juvenile Court Act of 1965.

In 1949, John Farr Larson, then director of the Bureau of Services for Children of the State Department of Public Welfare, also raised the question of a "violation of the constitutional principle of separation of powers," according to Winters (1964-1965, p. 503).

However, others did not agree with this point of view, and a controversy continued until 1958 when a campaign was initiated by the juvenile court judges for freedom in their profession. Winters (1964-1965) reported that the 1959 Legislative Counsel studied the juvenile courts in their relationship to the welfare department. At the same time, a committee from the Utah State Bar made a similar study. In May 1962, a report from this committee recommended a discontinuation of welfare control. The committee gave no charges of mismanagement to the welfare department but said it must look to the future with this recommendation. On the 1962 recommendations, Winters reported:

Other recommendations were for the same "status" for juvenile courts as for district courts, for an administrative board, probation officers attached to the court itself instead of the welfare department, strengthening of the protection of legal rights of parents and children in juvenile court proceedings, and citizens' committees to advise the courts and aid in their public relations. A bill to accomplish these purposes was drafted during 1962 and introduced in the 1963 legislature, where it passed the house but was defeated in the senate. (Winters, 1964-1965, p. 503)

To this strategy instigated by the Bar Association, the welfare department, according to Winters, responded in two ways:

1. All juvenile court judges' terms were due to expire on June 30. One welfare commissioner announced that there would be no recriminations because of the judges' open advocacy [to the bill], but added that "we must have loyalty in the future."

2. The welfare department announced a re-organization of the juvenile courts and an establishment of the office of administrative judge. (Winters, 1964-1965, p. 503)

These two responses were criticized by the Bar Association.

Winters (1964-1965) stated that in August 1963 the Supreme Court of Utah declared that the 1931 statute, which gave the welfare department power to remove judges, was unconstitutional. In 1965, the 1963 bill was revised, and a bill was passed in both houses without a dissenting vote.

Juvenile Court Act of 1965--Utah

Winters (1964-1965) reported that the provisions of the Juvenile Court Act of 1965 included selection of judges, status of judges, citizens advisory committees, and protection of legal rights. It removed the juvenile court from the control and supervision of the Department of Public Welfare and modernized the court procedures.

Ziegler commented on the scope of the 1965 Act:

The Juvenile Court Act of 1965 defines its purpose to be the securing for each child coming before the Juvenile Court such care, guidance, and control, preferably in his own home, as will serve his welfare and the best interests of the state; to preserve and strengthen family ties whenever possible; to secure for any child, who is removed from his home, the care, guidance, and discipline required to assist him to develop into a responsible citizen, to improve the conditions and home environment responsible for his delinquency; and, at the same time, to protect the community and its individual citizens against juvenile violence and juvenile law breaking. (Ziegler, 1969, p. 2-3)

Provision was made for selection of judges instead of appointment by the welfare commission, according to Winters:

A five-man ex-officio commission was established to be known as the Juvenile Court Commission, consisting of the chief justice, the state bar president, and the chairman of the welfare commission, or their alternates, plus the state superintendent of public instruction and the state director of public health. This commission will not appoint, but will nominate at least two candidates for each vacancy from which the Governor will make the appointment. (Winters, 1964-1965, p. 503)

A second provision of the Utah Juvenile Court Act of 1965 is concerned with the status of judges. Winters makes two statements on this subject: (a) Juvenile judges will rank equally in their own and other's eyes with the district judges. Esteem was just as important for the juvenile judges as the district judges. (b) Juvenile judges will receive equal treatment with the district judges on matters of salary, retirement, physical features, and other benefits.

A third provision was that citizens advisory committees be set up to study Utah courts and make recommendations on court operations and

delinquency control and make recommendations to the judges and assist them in promoting better community relations.

The fourth and most important provision, as related to this study, is that of protection of legal rights. Winters stated:

. . . the new Utah act tightens up on . . . safeguards, including limit of the length of time a child may be held in detention without a court order, a record of juvenile court hearings, especially where deprivation of custody is involved and guarantee of the right to counsel in juvenile courts and the right to court-appointed counsel for persons unable to employ an attorney. (Winters, 1964-1965, p. 503)

The above quote discussed two of the requirements set down in Gault: (a) guarantee to the right of notice given to the juvenile himself and to his parents, and (b) right to counsel, representation by counsel in juvenile delinquency proceedings.

Ziegler discussed further the requirements of the 1965 Utah Juvenile Court Law:

. . . the Juvenile Court Act of 1965 places the following statutory limitations on non-judicial adjustment of a case: The facts must be admitted and established, and consent must be obtained from the parent or custodian and from the child, if the child is of sufficient age and understanding. The statute further provides that efforts to affect a non-judicial adjustment may not extend for a period of more than two months without leave of the judge of the court who may extend the period for an additional two months.

If from the results of the preliminary inquiry, it appears that it would be in the interest of the child or of the public for the court to intervene in the family, then a petition is filed and the parents and child notified to appear before the courts. . . . During any phase of the hearing, the child and his parents may be represented by counsel. Once the court has determined that this child is within its jurisdiction and has moved to the dispositional phase of the hearing, the court relies heavily upon a social investigation prepared by the probation department. The written report of the social investigation, which is presented to the court,

attempts to identify the causes of the child's delinquency or the situation, which brings the child before the court as dependent or neglected, and provides the court with a recommendation for an appropriate way to deal with the problem. (Ziegler, 1969, p. 7)

As can be seen in the above quote, the 1965 Juvenile Court Act of Utah had already provided most of the guarantees to juveniles that the subsequent 1967 U. S. Supreme Court decision on Gault provided. In the first paragraph is stated, ". . . facts must be admitted and established . . ." This statement suggests, although not stated in the exact words, that the third requirement of Gault, (c) right to confrontation and cross-examination by prosecuting witnesses, has already been met. For facts to be "established," testimony is needed from more than just the juvenile.

The first paragraph of the above quote also suggests that the fourth requirement of Gault, (d) privilege against self-incrimination in juvenile delinquency proceedings, has been met since the paragraph states that the child must be ". . . of sufficient age and understanding . . ." before he can admit to the facts in the case.

The second paragraph quoted by Ziegler fulfills the first requirement of Gault, (a) guarantee to the right of notice given to the juvenile himself and to his parents. The second requirement of Gault is also met in this paragraph, (b) right to counsel, representation by counsel in juvenile delinquency proceedings.

Thus, it can be seen that if one sentence had been added to the 1965 Act to record whether or not the juvenile was notified of his rights

and one sentence added to require the complainant to be named and to be present at the proceeding, the four requirements of Gault, as stated above, would have been completely provided for in the 1965 Juvenile Court Act of Utah. However, the 1965 Act, as written, has provided most of the guarantees to juveniles that the subsequent 1967 Gault decision by the U. S. Supreme Court provided.

The 1965 Utah Juvenile Court Act provided further guarantees to the juvenile. These are discussed by Ziegler as follows:

In matters where the child may be a threat to the community or to himself or where there is a breakdown in the structure of the family, the court may place the child on probation or under protective supervision, transfer custody from the parent to an individual or agency, commit the child to the Utah State Industrial School or terminate all parental rights. The court has broad discretion concerning the disposition of a case and is restricted only by the lack of community or court resources and by the statutory prohibition that a child cannot be committed to jail or prison.

When a child is placed on probation or under protective supervision, he is usually supervised in his home by a probation officer of the court. Probation is a process of helping an individual accept and live within the limitations required by society. The probation officer attempts to develop the potentials of a child through counseling or casework services, arranging psychiatric assistance when needed, assisting with school curriculum problems, etc. (Ziegler, 1969, p. 7)

When a juvenile is placed on probation in Utah, a list of conditions is given to him and to his parents (refer to Appendix). These conditions must be obeyed by the juvenile, and the form listing these conditions must be signed by the child, his parents, and the probation officer.

A Petition of Expungement (to erase) may be requested by the

juvenile (refer to Appendix). If the conditions indicated on the petition have been met, then the juvenile court records of the child are closed for inspection.

U. S. Supreme Court Decision on Gault

The basic rights of the juvenile appearing before a court were made even more apparent in the 1967 Gault decision handed down by the U. S. Supreme Court. Good juvenile courts were already assuring their juveniles of the rights set down by Gault. It is the other courts that needed to be affected by this U. S. Supreme Court decision. There were four main requirements set down by Gault: (a) guarantee to the right of notice given to the juvenile himself and to his parents; (b) right to counsel, representation by counsel in juvenile delinquency proceedings; (c) right to confrontation and cross-examination by prosecuting witnesses; and (d) privilege against self-incrimination in juvenile delinquency proceedings.

The Gault decision and its effect on Utah will be discussed at length in Chapter III.

Words on the juvenile court movement in Utah

In a speech given at the 1967 Idaho Annual Health Conference, John Farr Larson, Judge of the Second District Juvenile Court of Utah, spoke on the "Role of the Juvenile Court in Juvenile Delinquency." He spoke of the three basic elements in the operation of a juvenile court

today: (a) protection of the individual rights, (b) protection of the public, and (c) the court helping each child reach his potential in his role as a responsible citizen. He felt the third element was the separating point between juvenile and other courts.

Judge Larson (1967) quoted portions of an address given by former U. S. Supreme Court Chief Justice Earl Warren. Judge Larson felt these to be appropriate concerning the history of the juvenile court system in Utah.

As you know, the dual roles of the court have given rise to vexing problems in defining its function and establishing appropriate limits upon its authority.

In the early history of the court, the tendency was to regard its social welfare and "parens patriae" functions as of primary importance. During the past twenty-five years, however, there has been evidence of a mounting concern about the need for the court to pay greater attention to safeguarding the legal rights of the child. As is perhaps inevitable under such circumstances, extremist points of view have been espoused by partisans of the two main opposing concepts. In one camp are those who maintain that the juvenile court, as a court of law, must surround the juvenile with all the legal processes which would be available to him were he tried as an adult. The opposing view is that the social, emotional, educational, health and economic needs are paramount and the task of the court is to meet these requirements without concerning itself with legal niceties.

Surely, the child, who is the subject of a delinquency complaint, is entitled to comparable, if not greater, safeguards. And indeed the task of the juvenile court judge would be a less complicated one if his responsibility began and ended with fulfilling the "nice quilllets of the law." But the juvenile court is more than an instrument of justice; since its inception, more than 50 years ago, this court has been recognized as an instrument of social policy. Hence, the juvenile court judge must give equal attention both to the needs of the child and the adequate protection of society. (Larson, 1967, p. 11-12)

Summary--A highlight of Utah's history

The history of Utah's Juvenile Court system shows a picture of progressive movement at keeping an up-to-date system. Highlights of Utah's history are as follows:

Utah's early legislation started even before the world's first juvenile court was developed in 1899. Utah was developing methods of treatment for its juveniles as early as 1852. In 1905, a law was passed permitting larger cities to establish juvenile courts as a branch of the city court system. The 1917 legislation made it clear that juveniles should be separated from criminals.

The National Probation and Parole Association, in 1928, conducted a survey of Utah's juvenile court system which resulted in a complete revision of the system as instructed in the legislation of 1831.

The Juvenile Court Commission, set up in 1905, was abolished in 1941 and its powers assigned to the Public Welfare Commission.

In 1950, President Truman called the Midcentury White House Conference on Children and Youth to study the needs of children. A study was done in Utah at this same time and recommendations made to coincide with those of the conference.

A question of the separation of powers between the branches of government was raised during the 1950's. Friction continued until in 1963 the Supreme Court of Utah declared the 1931 statute to be unconstitutional and a formal bill passed to this affect in 1965. This bill removed the juvenile court from the Department of Public Welfare and also modernized

court procedures. This 1965 Act provided most of the guarantees to juveniles that a subsequent U. S. Supreme Court decision provided. In 1967, the basic rights of juveniles were denied a 15-year-old boy. As a result, new legislation was handed down by the Supreme Court. This was the 1967 U. S. Supreme Court Decision on Gault. This latest legislation will be discussed at length in the following chapter.

CHAPTER III

GAULT AND DUE PROCESS STANDARDS

In Re Gault, 387 U. S. L (1967)

In 1967, the U. S. Supreme Court handed down a decision affecting the procedures in juvenile courts. This decision resulted from a denial of guarantees provided by the due process of law to a 15-year-old boy in Arizona. The guarantees, which became re-established in the framework of juvenile court procedures, were: (a) guarantee to the right of notice given to the juvenile himself and to his parents; (b) right to counsel, representation by counsel in juvenile delinquency proceedings; (c) right to confrontation and cross-examination by prosecuting witnesses; and (d) privilege against self-incrimination in juvenile delinquency proceedings.

George (1968b) gives an excellent review of the Gault incident resulting in commitment of a juvenile. On June 8, 1964, Gerald Francis Gault and a friend, Ronald Lewis, were picked up by the sheriff of Gila County, Arizona, after a complaint was made by Mrs. Cook, a neighborhood lady.

The complaint was that Gerald and his friend had made obscene remarks to her over the telephone. Gerald was, at this time, on six month's probation following an incident in February 1964.

Although Gerald's parents were at work when he was picked up,

no effort was made to notify them about Gerald. Mrs. Gault returned home from work at 6:00 P.M. and later learned of Gerald's whereabouts from the mother of Ronald Lewis. The two mothers immediately went to the detention home and were told a hearing would be held at three o'clock, June 9.

No transcript was kept of this hearing. Those present were: Gerald, his mother, his older brother, and probation officers. Gerald's father was out of town working. No summons or other form of notification was sent to him.

A petition for this hearing was filed the day of the hearing, June 9, but no copy was given to Gerald's parents. The petition informing her of Gerald's charges was not seen by Mrs. Gault until August 17. The complainant was not required to be present; no record was made of the proceedings, and information on the hearing could only be obtained from a habeas corpus brought after the hearings were over.

When Gerald was released from custody, June 12, only a note informing her of a habeas corpus hearing to begin June 15 of the following week was signed by probation officer Flagg and left for Mrs. Gault. Mrs. Gault asked that the complainant be present at this hearing. Judge McGhee denied this request testifying that Gerald admitted to making some "less obscene remarks." There was no other evidence about Gerald's testimony given. A referral report was never shown to Gerald or his parents. At both the June 9th and June 15th hearings, neither parent received a copy of the petition or written notice of the

hearing. They also were not informed of their right to subpoena and cross-examine the witness. Their right to confrontation and right to counsel was denied. No attempt was made to look into the history of Gerald's past behavior. No records exist of the delinquency charge putting him on probation before this time. Only a referral report of this matter was made by the Probation Department.

At the conclusion of the June 15th hearing, Judge McGhee had Gerald committed to the state industrial training school "for the period of his minority, unless sooner discharged by due process of law." He was only 15 at the time, which could have meant a possible six-year committment.

Judge McGhee based his findings on Gerald's being delinquent on his past probation charge of stealing a baseball glove and also on the boy's statements of admissions to making lewd phone calls. The charge in the final report read, "habitually involved in immoral matters."

According to Clark (1968), on August 3, 1964, a petition for habeas corpus was filed in the Arizona Supreme Court. This, in turn, ordered a hearing by the Superior Court of Maricopa County, which was held August 17, 1964. At this hearing, there was conflict concerning testimony given at the two earlier Gault hearings. Judge McGhee gave testimony such that it was vague as to what law Gerald had violated. He spoke on disturbing the peace, using lewd language, and "habitually being involved in immoral matters." Because no record was available on

the proceedings, facts had to be gathered from the testimonies of Mrs. Gault, Judge McGhee, and Mr. Flagg. Gerald did not testify at this hearing.

The Superior Court dismissed the petition and returned Gerald to the Arizona Industrial School. An appeal was then made to the Supreme Court of Arizona which also made a denial of the habeas corpus and upheld the action taken by the juvenile court.

Clark pointed out that "the Supreme Court of Arizona classified the assignments of error under three main headings:"

1. That the Arizona Juvenile Code was unconstitutional for failure to give notice to parents and children of specific charges, for failure to require timely, adequate and proper notice of the hearing, and for failure to provide for an appeal;
2. That the juvenile court in fact denied Gerald Gault and his parents due process of law by failing to provide proper notice of both the delinquency charge and the hearing, for failure to notify them of their constitutional rights to counsel and to remain silent, and by relying upon unsworn hearsay testimony, by failing to provide a proper record of the delinquency proceedings, and by removing Gerald from the custody of his parents without any showing of their incompetency or inability to care for him;
3. A group of miscellaneous errors dealing with the habeas corpus hearing in Maricopa County and the original detention of Gerald. (Clark, 1968, p. 14)

The petition was rejected by the Supreme Court of Arizona on the premise that juvenile court statutes and codes are constitutional. Several cases as reference to this point were cited. The court next used the parens patriae (role of father) doctrine which was to benefit and protect the juvenile.

When the Gault case went before the U. S. Supreme Court on May 15, 1967, it was claimed by the counsel for Gault that Gerald had

been denied six fundamental constitutional rights. Four of these were confirmed: (a) guarantee to the right of notice given to the juvenile himself and to his parents; (b) right to counsel, representation by counsel in juvenile delinquency proceedings; (c) right to confrontation and cross-examination by prosecuting witnesses; and (d) privilege against self-incrimination in juvenile delinquency proceedings. Two claims, (e) the right to a transcript of the proceedings, and (f) the right to appellate review, were not confirmed.

According to Clark,

The rationale of the Gault decision is that the impact of a delinquency proceeding upon the juvenile is analogous to the impact of a criminal proceeding upon an adult. This being so, the juvenile is entitled to those constitutional safeguards which would be given an adult in a criminal proceeding. (Clark, 1968, p. 19)

Requirements of Gault

When the Gault case was sent before the U. S. Supreme Court, May 15, 1967, George states:

The court first reviewed the history of the juvenile court system and its aim of protecting the juvenile against the harshness and hazards of an adult criminal proceeding . . . and noted that the statutes consistently had been sustained as constitutional on the theory that they were an exercise of the state's parens patriae power and that they were viewed as inherently civil or equitable proceedings so that the normal procedural guarantees of a criminal trial were inapplicable to them. Despite the aim of the legislation and the early decisions affirming its constitutionality, however, the court concluded that "failure to observe the fundamental requirements of due process has resulted in instances, which might have been avoided, of unfairness to individuals and inadequate or inaccurate findings of

fact and unfortunate prescriptions of remedy." Due process has returned from its extended holiday. (George, 1968b, p. 31)

Due to this rule, several requirements were imposed upon the court proceedings.

Notice of charges

The first constitutional requirement is that there be notice of charges given to the juvenile himself and to his parents. George (1968b) points out that the notice must be in writing and must contain the specific charges on which the proceeding is to be based. The notice must be given at the earliest practicable time in advance to permit preparation (five days in Utah).

Banks and Dunbar (1968) stated that the purpose of a notice is to clarify the issues in the case.

Ketcham (1967) raised the question of confidentiality of the notice if it is given as stated in Gault. Ketcham suggests that the parents and child appear for a preliminary nonjudicial conference. Then the charges could be given in privacy and any questions answered.

Weinstein and Goodman (1967) pointed out that the notice would give the child and his parents the opportunity to decide what action they wished to take. Also, this notice would help avoid the possibility of "double jeopardy," by serving as a basis for charges being heard and dismissed.

George (1968a) doubts whether, in many cases, there is constitutionally adequate notice. He stated that in many instances a notice

is withheld because it would be detrimental to one's health or disrupt treatment.

Carver and White (1968, p. 65) pointed out that the Fourteenth Admendment requires ". . . that a juvenile in state proceedings, which could lead to his commitment, must be given notice sufficient to permit preparation of a defense to charges."

Carver and White also make it clear that the Supreme Court wanted adequate notice given. They quoted from the court decision on Gault:

Due process of law requires . . . notice which would be deemed constitutionally adequate in a civil or criminal proceeding. It does not allow a hearing to be held in which a youth's freedom and his parent's right to his custody are at stake without giving them timely notice, in advance of the hearing, of the specific issues that they must meet. (Carver and White, 1968, p. 66-67)

Most constitutional rights can be waived, as pointed out by George (1968b), but the waiver must be intelligently made. This also holds true for the requirement of notice.

George (1968b) includes in his book a copy of the transcript of the Supreme Court hearing. On page 30 of the transcript, three requirements to be included in the notice are given:

1. It must state what acts are complained of.
2. It must state what statute or applicable rule of law such acts violate.
3. It must give some indication of the consequence of a finding against the accused. (George, 1968b, transcript p. 30)

Also taken from the U. S. Supreme Court transcript is a quote from a commentator named Antieau, speaking on the subject of notice:

As of constitutional right . . . a child brought before a juvenile court is entitled to a clear statement of the nature and cause of the proceedings against him so that he can prepare his defense. Since many children will be unable to comprehend the accusation, this right must, of necessity, belong also to the child's parents or guardians. (George, 1968b, transcript p. 33)

Regarding notice of charges, George (1968c) also states that the parents must receive notice so they can assist the juvenile in the matters of procedure.

Right to counsel

The next question taken up by the Supreme Court was whether or not the juvenile is entitled to be represented by counsel.

The President's Commission on Law Enforcement and Administration of Justice (1967) spoke extensively on the role counsel should play in a juvenile court proceeding:

The commission believes that no single action holds more potential for achieving procedural justice for the child in the juvenile court than provision of counsel. The presence of an independent legal representative of the child, or of his parent, is the keystone of the whole structure of guarantees that a minimum system of procedural justice requires. The rights to confront one's accusers, to cross-examine witnesses, to present evidence and testimony of one's own, to be unaffected by prejudicial and unreliable evidence, to participate meaningfully in the dispositional decision, to make an appeal have substantial meaning for the overwhelming majority of persons brought before the juvenile court only if they are provided with competent lawyers who can invoke those rights effectively. The most informal and well-intentioned of judicial proceedings are technical; few adults without legal training can influence or even understand them; certainly children cannot. Papers are drawn and charges expressed in legal language. Events follow one another in a manner that appears arbitrary and confusing to the uninitiated. Decisions, unexplained, appear too official to

challenge. But with lawyers come records of proceedings; records make possible appeals which, even if they do not occur, impart by their possibility a healthy atmosphere of accountability. (President's Commission on Law Enforcement and Administration of Justice, 1967, p. 68)

Lockwood (1968, p. 99), speaking on the role of counsel, points out ". . . that in addition to the traditional role of representation, the lawyer should participate meaningfully in the dispositional decision. In other words, the lawyer must truly be both advocate and counselor." In the role of representative, counsel must understand procedures particular to the juvenile court, have some knowledge of child psychology, understand methods of social work, and be able to interpret technical language to both the parent and child.

As an advocate, counsel must be concerned with protecting his clients' legal and constitutional rights. If parents and child have conflicting views, it may be necessary to have separate counsel.

George quotes from the U. S. Supreme Court Transcript:

We conclude that the Due Process Clause of the Fourteenth Amendment requires that in respect of proceedings to determine delinquency, which may result in commitment to an institution in which the juvenile's freedom is curtailed, the child and his parent must be notified of the child's right to be represented by counsel retained by them or, if they are unable to afford counsel, that counsel will be appointed to represent the child. (George, 1968b, transcript p. 34)

The probation officer, George (1968b) notes, represents the state not the juvenile, and the judge is an arbiter and defender. Thus, only an attorney can adequately represent the juvenile.

The Supreme Court, as quoted extensively by Carver and White,

did not agree with the state of Arizona when it denied the right of counsel to Gerald and his parents.

Probation officers . . . are also arresting officers. They initiate proceedings and file petitions . . . alleging the delinquency of the child, and they testify . . . against the child. . . . The probation officer cannot act as counsel for the child. His role in the adjudicatory hearing . . . is as arresting officer and witness against the child. Nor can the judge represent the child. There is no material difference in this respect between adult and juvenile proceedings. . . . A proceeding, where the issue is whether the child will be found to be "delinquent" and subjected to the loss of his liberty for years, is comparable in seriousness to a felony prosecution. The juvenile needs the assistance of counsel to cope with the problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether he has a defense and to prepare and submit it. The child requires "the guiding hand of counsel at every step in the proceeding against him." (Carver and White, 1968, p. 68)

Questions raised by Ketcham (1967) on the subject of counsel are as follows: (a) who is to notify the child and his parents of this right; (b) how should they be given this right; (c) when should this right be explained, at the time of arrest or later; (d) by whom and why should this right to counsel be waived; (e) what happens if no response is given; and (f) if contradiction arises between parent and child, what happens?

Right to confrontation and cross-examination

Gerald Gault's confession, as pointed out by Carver and White (1968), was ruled by the U. S. Supreme Court to be disregarded because it had been obtained in violation of the Fifth Amendment. Also, the right to confrontation and cross-examination, which is a part of due process, was denied.

According to George (1968b), the U. S. Supreme Court felt the idea of confrontation and cross-examination to be central to the idea of fair judicial proceedings. It shows the reliability of the fact-finding process in the United States' court system. George quoted Wigmore as saying:

For two centuries past, the policy of the Anglo-American System of Evidence has been to regard the necessity of testing by cross-examination as a vital feature of the law. The belief, that no safeguard for testing the value of human statements is comparable to that furnished by cross-examination and the conviction that no statement (except by special exception) should be used as testimony until it has been probed and sublimated by that test, has found increasing strength in lengthening experience. . . . [It] is beyond doubt the greatest legal engine ever invented for the discovery of truth. (George, 1968b, p. 44-45)

The U. S. Supreme Court went on to point out that, where action might be taken that would injure an individual (such as removing his freedom), he must have an opportunity to show that the charges are untrue.

The U. S. Supreme Court ruled, according to Ketcham, that:

We now hold that, absent a valid confession, a determination of delinquency and an order of commitment to a state institution cannot be sustained in the absence of sworn testimony subjected to the opportunity for cross-examination in accordance with our law and constitutional requirement. (Ketcham, 1967, p. 1706)

Self-incrimination

The Gault decision decrees that the privilege against self-incrimination applies to juvenile delinquency matters. According to George, the U. S. Supreme Court rejected the idea that it had no basis in juvenile delinquency proceedings and stated the following:

It would indeed be surprising if the privilege against self-incrimination were available to hardened criminals but not to children. The language of the Fifth Amendment, applicable to the States by the operation of the Fourteenth Amendment, is unequivocal and without exception. And the scope of the privilege is comprehensive. (George, 1968b, p. 35)

It appears that charges must be proved by means other than questioning the juvenile in court. Waiver of this privilege means that a "specific warning" must be given in the first place. Failure to speak on the part of the juvenile will not be used against him.

The majority opinion of the U. S. Supreme Court, as stated by George, is as follows:

In fact, evidence is accumulating that confessions by juveniles do not aid in "individualized treatment," . . . and that compelling the child to answer questions, without warning or advice as to his right to remain silent, does not serve this or any other good purpose. . . . [It] seems probable that, where children are induced to confess by "paternal" urgings on the part of officials and the confession is then followed by disciplinary action, the child's reaction is likely to be hostile and adverse--the child may well feel that he has been led or tricked into confession and that despite his confession, he is being punished. (George, 1968b, p. 36)

On the subject of interrogating juveniles, as reported by George, the U. S. Supreme Court also concluded:

We conclude that the constitutional privilege against self-incrimination is applicable to the case of juveniles as it is with respect to adults. We appreciate that special problems may arise with respect to waiver of the privilege by or on behalf of children and that there may well be some differences in technique--but not in principle--depending upon the age of the child and the presence and competence of parents. The participation of counsel will, of course, assist the police, juvenile courts and appellate tribunals in administering the privilege. If counsel is not present for some permissible reason when an admission is obtained, the

greatest care must be taken to assure that the admission was voluntary, in the sense not only that it has not been coerced or suggested but also that it is not the product of ignorance of rights or of adolescent fantasy, fright or despair. (George, 1968b, p. 37)

Implications of Gault and due process
in the juvenile court

George (1968b) points out that the Gault decision requires jurisdiction of the juvenile court to be broken down into its component parts. There are three basic types of proceedings: delinquency, child neglect, and child custody proceedings. Gault, as stated earlier, is limited to delinquency proceedings which curtail a juvenile's freedom by resulting in commitment to an institution.

In the delinquency proceeding, Gault is chiefly concerned with the adjudicatory stage or the decision making stage. This stage, according to George,

. . . constitutes the determination of whether the petition or other formal procedure authorized at the conclusion of the first stage is supported by facts and whether those facts correspond to the jurisdictional ground asserted in the pleading. (George, 1968b, p. 43)

This adjudicatory stage is called the second stage of a delinquency proceeding.

George goes on to define the other two stages, although as of this date, Gault is not concerned with these.

The first stage, or the jurisdictional hearing, . . . is the initial determination of whether a petition should be filed or a formal pleading lodged.

This stage . . . becomes in effect the equivalent to the

preliminary examination in states using the information system in adult criminal cases or to the grand jury in the states adhering to the traditional indictment system.

The third stage is the dispositional hearing . . . which may appropriately be conducted if at the conclusion of the second stage the juvenile is adjudicated to be delinquent. The right to counsel extends to this third stage, but it is questionable whether the other Gault requirements, and particularly the right to confront witnesses, apply as well. This stage is the equivalent to the imposition of sentence in an ordinary criminal case. (George, 1968b, p. 42-44)

According to Ketcham (1967), Justice Fortas delivered the opinion of the U. S. Supreme Court on May 15, 1967. This opinion covered 59 pages; the concurring opinions ran 21 pages, and Justice Stewart's dissent was four additional pages.

From this writing, Ketcham (1967, p. 1700) has summarized four guidelines to be followed in the court: (a) the court should be a legal proceeding from which a decision is made from the facts and evidence given, (b) accompanying the change to a more legal proceeding will be a shift in discipline, (c) "[i]nstead of devoting much time to the prevention of delinquency . . . the juvenile court will be expected to concentrate upon adjudication and ordered correction," and (d) narrowing of juvenile court jurisdiction will be a result.

Ketcham (1967) also points out six immediate effects from the Gault decision: (a) Past theory of parens patriae will be changed. Constitutional protections must now be granted the juvenile as well as an adult; (b) reduction of freedom for juvenile court judges who have, in the past, been a parens patriae or father symbol; (c) no longer will there be "civil" juvenile court proceedings. Now formality, regularity, and

orderliness will be increased; (d) fatherly discretion concerning procedure in courts will be changed by having a clear understanding of due process requirements; (e) an increase in lawyers will be needed; and (f) communities will look at the input-output powers of their courts.

To help the increased number of cases, the President's Commission on Law Enforcement and Administration of Justice has suggested, according to Ketcham (1967), that less serious cases be transferred to Youth Services Bureaus. To reduce intake, the commission has recommended: (2) a reduction of the upper age limit of juveniles within the court's jurisdiction; (b) the wide range of juvenile offenses to be narrowed; (c) transferring adult cases, such as "contributing," to an adult court; (d) the transfer of traffic cases to a traffic court; and (e) transferring abandoned and neglected cases to the domestic relations court.

Professor Ronald Boyce at the Juvenile Rights Conference, Salt Lake City, Utah, also listed recommendations to be followed:

1. Regarding notice, statutory pleading forms in the state code should be followed. Use facts if no pleading forms are available for the offense. Notice should be served on both child and parents, allowing at least five days exclusive of weekends and holidays.

2. Notice should contain advice as to right to counsel and parties should be advised again at the hearing. The court should obtain a specific declination if counsel does not appear. The juvenile court should establish a specialized, interested roll of attorneys, not a general calling of the bar.

3. Direct testimony from witnesses is to be preferred. Confrontation and cross-examination should be allowed.

4. No statement from the juvenile should be taken without advice and clear waiver. There should be no comment made on refusal to testify.

5. The court should have witnesses present rather than wait to see if the child will contest the matter. (Boyce, 1967, p. 3-4)

Garff (1967, p. 9), at the same Juvenile Rights Conference, listed three areas of change the President's Commission on Law Enforcement and Administration of Justice has recommended. According to the report, however, "Utah is one of the better courts in the country in the terms of the criticisms in the Commission Report." The three recommendations listed by Garff are as follows:

1. Principal rehabilitative efforts should be in the community before assumption of jurisdiction by the juvenile court.
2. The court's jurisdiction should be narrowed to cases of manifest danger to child or community.
3. Court procedures should be infused with safeguards to assure fair and reliable determinations. (Garff, 1967, p. 9)

Larson (1967, p. 10-11) strongly feels that, if the juvenile court is to fill its new role, research must play a greater role. "Research is sorely needed regarding the effect of the juvenile court hearing on the child." Also, research is needed in the areas of authority, caseload size, types of probation officers, treatment needs, and methods in the entire correctional field.

Due Process

Since the Gault decision came about because due process rights were denied Gerald, examination into these rights is warranted. This section will, therefore, be devoted to a discussion of due process and the basic protections offered therein.

Bill of Rights

The Bill of Rights of 1789 refers to the first ten amendments to the Federal Constitution. According to Neigher (1967), they were intended to serve as limitations on the Congress, the Executive, and the Judiciary branches of the Federal Government. Only four of the ten amendments, the Fourth, Fifth, Sixth, and Eighth, are related to criminal process. Of these four mentioned, only the Fifth and Sixth Amendments were issues in the Gault decision. However, the Fourteenth Amendment must also be discussed as it relates to the application of the entire ten amendments.

The most pertinent part of the Fourteenth Amendment to this study is Section 1 which states:

. . . no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, or deny to any person within its jurisdiction the equal protection of the laws. (Commanger, 1968, p. 147) (Italics mine.)

The "due process" clause in the Fifth Amendment was made applicable to the states because of the above Fourteenth Amendment.

Fifth Amendment

The provision regarding grand jury indictments in the Fifth Amendment has as its purpose:

. . . to insure that persons will not be brought to trial arbitrarily when there is no reasonable basis for believing they are guilty of a crime, and that those who are brought to trial will be adequately informed of the charges against them. (Neigher, 1967, p. 10)

The next clause of the Fifth Amendment as quoted from Commanger (1968, p. 146) provides ". . . that no person shall . . . be subject for the same offense to be twice put in jeopardy of life or limb." According to Commanger (1968, p. 146), the next provision is that ". . . no person shall be compelled in any criminal case to be a witness against himself." This last provision, as pointed out by Neigher (1967, p. 10), involves two aspects: "(1) The right to be free from coercion designed to extract a confession, and (2) the right to remain silent without having an inference of guilt drawn from that silence."

Due process requires that Congress not make laws that are unreasonable or arbitrary. Also, once laws are made, they must be applied fairly.

Sixth Amendment

This amendment is of particular importance in the Gault decision.

It reads as follows:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the States and District wherein the crime shall have been committed; which District shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defense. (Commanger, 1968, p. 146) (Italics mine.)

The phrase regarding notice is more relevant to Gault. Thus, as stated previously, the accused must have sufficient notice to allow him time to prepare a defense.

The phrase above, which states the right "to be confronted with

the witnesses against him," also is relevant to the present study. As stated by Neigher (1967, p. 11), "the philosophy underlying this clause is that the accused should be met by his accusers face-to-face and be able to subject the testimony of the witnesses against him to cross-examination."

Also, in the Sixth Amendment is included the power to compel witnesses to appear for testimony.

And, finally in the Sixth Amendment is included the right to "have the assistance for counsel for his defense."

It should be evident to the reader that the legal precedents handed down by the Gault decision are neither numerous nor complex. At any proceeding where a child may be committed to a state institution, that child and his parent or guardian must be given notice in writing of the specific charges against the child sufficiently in advance of the proceedings to permit adequate preparation. The child and his parents or guardian must be notified of the child's right to be represented by counsel, and if financial considerations so require, counsel must be appointed for them. The child and his parents or guardian must be advised of the child's right to remain silent. Admission or confessions obtained from the child without the presence of counsel must undergo the greatest scrutiny in order to insure reliability. In the absence of a valid confession, no finding of "delinquency" and no order of commitment of the child for any length of time may be upheld unless such finding is supported by confrontation and sworn testimony of witnesses available for cross-examination. (Neigher, 1967, p. 16)

Summary of Gault and Due Process Standards

Gerald Francis Gault was picked up by a sheriff in Arizona after a complaint was made by a neighboring lady. During the course of the juvenile court proceedings, Gerald was denied six constitutional guarantees

of due process of law: (a) guarantee to the right of notice given to the juvenile himself and to his parents; (b) right to counsel, representation by counsel in juvenile delinquency proceedings; (c) right to confrontation and cross-examination by prosecuting witnesses; (d) privilege against self-incrimination in juvenile delinquency proceedings; (e) the right to a transcript of the proceedings, and (f) the right to appellate review.

When the case was appealed to the U. S. Supreme Court, the first four guarantees were upheld in the Supreme Court decision. The latter two were not. Therefore, the 1967 U. S. Supreme Court decision on Gault guaranteed the following requirements to all juveniles: (a) guarantee to the right of notice given to the juvenile himself and to his parents; (b) right to counsel, representation by counsel in juvenile delinquency proceedings; (c) right to confrontation and cross-examination by prosecuting witnesses; and (d) privilege against self-incrimination in juvenile delinquency proceedings.

The Gault decision is concerned with the adjudicatory or decision making stage of the juvenile delinquency proceedings. The due process guarantees denied to Gerald were contained in the Fifth and Sixth Amendments of the Bill of Rights and also in the Fourteenth Amendment which made the "due process" clause in the Fifth Amendment applicable to all the states.

The four requirements guaranteed to juveniles by the 1967 Gault decision are to be used in each juvenile court of the United States. The

primary purpose of this paper is to present evidence concerning the degree that the requirements of Gault are being guaranteed in District I, Utah. This evidence is presented in Chapter IV. Further findings and discussion on age, sex, race, and family background of juveniles involved in the study can be found in the Appendix.

CHAPTER IV
RESULTS AND DISCUSSION ON GAULT

In the following section, a discussion of the findings concerning the proceedings surrounding the juvenile court hearings (included in this study) at the time of commitment will be given. These proceedings include: (a) total number of previous court appearances by the juvenile before his commitment, (b) offenses of the juvenile resulting in commitment, (c) parent or parent substitutes present at hearing, and (d) how summons were served. This review is essential to the understanding of why the juvenile was committed and to the nature of parental support the juveniles received at the time of their court hearing.

A review of the findings of Gault will then follow. This review will aid in the determination of the extent to which the requirements of Gault were being met during the period designated by this study. The four requirements are as follows: (a) guarantee to the right of notice given to the juvenile himself and to his parents; (b) right to counsel, representation by counsel in juvenile delinquency proceedings, (c) right to confrontation and cross-examination by prosecuting witnesses; and (d) privilege against self-incrimination in juvenile court proceedings. After these findings have been reviewed, a discussion will be offered on each requirement of Gault. Some of the data indicated that two of the requirements of Gault, (c) right to confrontation and cross-examination

by prosecuting witnesses, and (d) privilege against self-incrimination in juvenile court proceedings, are not being fully met. In actuality, these requirements were being met during the time of this study, and a discussion will be presented to substantiate this conclusion.

Findings on Juvenile Court Proceedings

Looking at the record of previous court appearances for the juvenile, it was found that 37.3 per cent or 22 of the juveniles had appeared in court zero to two times previous to being committed to an institution. However, 35.6 per cent or 21 juveniles had appeared three to five times previously. One-fourth or 25.4 per cent of the juveniles had appeared in excess of six times. Thus, a total of 36 or 61.0 per cent of the juveniles had appeared in court in an excess of three times before being committed to an institution. These percentages do not, of course, take into consideration the number of warnings a child had received or the number of times the juvenile was released without action being taken. As is stated in Table 1, these figures were taken from the child's first commitment that fell within the period of time of this study. Many juveniles had been committed prior to the starting time of the study, and many were re-committed after their first commitment, the commitment used in this study.

Table 2 reports the offenses for which juveniles were committed. Exactly twice as many juveniles were committed because of behavioral problems than for the next most frequent offense, illegal entry. Twelve cases or 17.6 percent were in the illegal entry category as compared to

Table 1. Total number of previous appearances in court before commitment^a

Number of appearances	Number of responses	Per cent
0 - 2	22	37.3
3 - 5	21	35.6
6 plus	15	25.4
Not recorded	<u>1</u>	<u>1.7</u>
Total	59	100.0

^aAuthor used juvenile's first commitment that fell within the period of July 1, 1967 - June 30, 1969. Many juveniles had been committed previous to this, and many were re-committed.

Table 2. Offenses of juveniles resulting in their commitment

Offense	Number	Per cent
Assault	3	4.4
Automobiles	6	8.8
Firearms	0	0.0
Illegal entry	12	17.6
Jeopardy of self	5	7.4
Mischief or vandalism	1	1.5
Sex offenses	0	0.0
Theft	11	16.2
Behavioral problems	24	35.3
Misdemeanor	2	2.9
Felony Violations	3	4.4
Other ^a	1	1.5
Not recorded	<u>0</u>	<u>0.0</u>
Total	<u>68^b</u>	100.0

^aParents would not accept responsibility of child.

^bTotal of first column is greater than the sample of 59 cases because some juveniles were charged with more than one offense.

24 cases or 35.3 per cent in the behavioral category. The behavioral problems involved those juveniles who had run away from home. As stated previously, it was not this one offense alone that resulted in a juvenile being committed, but a combination of problems. On the basis of these percentages, it would appear that behavioral problems are a result of an unfavorable family situation or home life, an observation which is prevalent in current literature. Looking at the rest of Table 2, three cases or 4.4 per cent were assault, 3.8 per cent or six cases automobile cases (stated as "depriving the owner of his auto"), 7.4 per cent or five cases of jeopardy of self, 1.5 per cent or one case mischief or vandalism, and 2.9 per cent or two cases of misdemeanors. Theft comprised 16.2 per cent or 11 cases. This was the third most frequent offense (refer to Appendix).

Of considerable interest to the study is the percentage of parents or parent substitutes present at the hearing. Table 3 shows that in the largest number of cases, 47.4 per cent or 28 of the 59 cases, only a mother figure was present. However, closely following the cases, where only a mother figure was present, was 33.9 per cent or 20 juveniles where both parental figures were present at the court hearing. In six cases or 10.2 per cent, only a father figure was present. In 8.5 per cent or five of the cases, neither parent was present.

Table 4 shows the number of juveniles present at their court hearing. Fifty-seven of the 59 children were present at the hearing for a total of 96.6 per cent. Only two or 3.4 per cent were not present.

Table 3. Parents or parent substitutes present at court hearing

Person present	Number	Per cent
Father or father substitute	6	10.2
Mother or mother substitute	28	47.4
Both of the above	20	33.9
Neither of the above	5	8.5
Not recorded	<u>0</u>	<u>0.0</u>
Total	59	100.0

Table 4. Was juvenile present at hearing

Response	Number	Per cent
Yes	57	96.6
No	2	3.4
Not recorded	<u>0</u>	<u>0.0</u>
Total	59	100.0

Concerning the manner in which a summons was served, 96.6 per cent or 57 summons were delivered in person in a written statement. Mr. Tite (1969) informed this writer that each of the natural parents must receive a separate summons. If separated, both parents are located and

served. If unknown, the summons must be printed in the newspaper four times and a form signed by the probation officer or the one searching for the parent stating that he has not been able to locate the parent. The parent substitute is summoned if both natural parents are deceased (see Table 5).

Table 5. How summons were served

Process	Number	Per cent
Written	1	1.7
Verbal	0	0.0
Delivered in writing	57	96.6
Not recorded	<u>1</u>	<u>1.7</u>
Total	59	100.0

Summary of procedures surrounding
juvenile court proceeding

A review of the findings of procedures surrounding the juvenile court hearing of children involved in this study was made. The findings are summarized as follows: (a) The largest percentage of juveniles had appeared before the juvenile court in excess of three times. One-fourth of the total sample had appeared over six times; (b) Twice as many juveniles were committed to an institution because of "behavioral

problems" than for any other offense; (c) In the largest number of cases, only a mother figure was present at the hearing. However, about one-third of the juveniles had both parental figures present; (d) Fifty-seven of the 59 children in this study were present at their court hearing; and (e) In over 95 per cent of the cases, a written summons was delivered in person to parents.

Findings of Gault Requirements

The date of the juvenile court proceeding for each juvenile was broken down into six-month periods. The number of cases in each period was very close. However, there were more cases appearing in court from July of 1968 through December of 1968 than during any other period of time in this study (see Table 6).

Table 6. Date of juvenile court proceeding

Date	Number	Per cent
July 1967 - December 1967	13	22.0
January 1968 - June 1968	14	23.7
July 1968 - December 1968	18	30.6
January 1969 - June 1969	14	23.7
Not recorded	<u>0</u>	<u>0.0</u>
Total	59	100.0

The first requirement of Gault deals with both parents and child being notified of their rights. Mr. Tite (1969) pointed out to this writer that the requirement of notifying the child of his rights would not be clearly reflected in the Juvenile Court records. This observation appears to be true as indicated in Table 7.

Table 7. Were parties advised on legal rights

Response	<u>Parents advised</u>		<u>Child advised</u>	
	No.	%	No.	%
Yes	53	89.8	5	8.5
No	0	0.0	0	0.0
Not recorded	<u>6</u>	<u>10.2</u>	<u>54</u>	<u>91.5</u>
Total	59	100.0	59	100.0

In 91.5 per cent or 54 of the cases, no record was kept as to whether or not the child was notified of his rights. After looking further into this matter, it was found that each court proceeding is tape recorded and the tape kept on file. If needed, one could listen to the hearing to see that the child was notified of his rights by the judge in each proceeding.

This author attended a court proceeding in Weber county on July 22, 1969. At the beginning, Judge Anderson, present District I juvenile court judge, told the juvenile of her rights and asked both the parents and the child if they wanted an attorney. This right to counsel

was waived. The forms used to record the minutes from each court proceeding were drawn up from the Utah Juvenile Court Act of 1965, and this one requirement was not included. However, it is assumed that each child is notified by the judge and also usually by the person taking the child into custody. As to the parents being advised of their rights, Table 7 shows that 89.8 per cent or 53 of the 59 parents were advised of their rights, with only 10.5 per cent or six of the cases not being recorded.

As stated in Chapter III of "Gault and Due Process," a child and his parents are entitled to representation by legal counsel. Counsel must be assigned if either a child or his parents request it. If the family cannot afford legal counsel, then the court must appoint a representative for them. According to Table 8, only 25.4 per cent or 15 of the cases were represented by a lawyer. However, 71.2 per cent or 42 children and their parents waived this right. Only two cases did not have this information recorded. Regarding the responsibility for legal counsel (whether legal counsel was appointed by the court or expense accepted by the family), only one case was recorded as having the family accepting the expense. Fourteen cases or 23.7 per cent of those with legal advice did not record the means of appointment of defense counsel.

A third requirement of Gault, right to confrontation and cross-examination by prosecuting witnesses, is treated in Table 9. It was not recorded as to whether or not the complainant was present or his testimony used in 72.9 per cent or 43 of the cases, possibly because a

Table 8. Was juvenile or family represented by counsel; if no, did they waive their right; if not waived, did court appoint counsel

Response	Represented by counsel		Waived right		Court appointed	
	No.	%	No.	%	No.	%
Yes	15	25.4	42	71.2	1	1.7
No	42	71.2	15	25.4	44	74.6
Not recorded	<u>2</u>	<u>3.4</u>	<u>2</u>	<u>3.4</u>	<u>14</u>	<u>23.7</u>
Total	59	100.0	59	100.0	59	100.0

Table 9. Right to confrontation and cross-examination

Situation	Number	Per cent
Complainant present at hearing	16	27.1
Complainant not present but testimony used	0	0.0
Complainant not present and testimony not used	0	0.0
Not recorded	<u>43</u>	<u>72.9</u>
Total	59	100.0

police officer will often file the complaint, and it is not recorded on the legal transcript (see Appendix) if the police officer or the complainant is present during the hearing for testimony. Usually, if a citizen files the complaint, he will appear, simply because of his interest involved. In only 27.1 per cent or 16 of the cases was the complainant recorded as being present. However, in none of the cases recorded, was testimony used without the complainant being present.

Concerning self-incrimination, a fourth requirement of Gault, Table 10 shows that 53 or 89.8 per cent of the 59 juveniles admitted that charges against them were true. This was kept in writing on each of the legal forms. Only four of the cases did not have this recorded. Two juveniles or 3.4 per cent did not admit to the charges brought against them, but the charges were proven by testimony from complainants.

Table 10. Child admitted allegations to be true

Response	Number	Per cent
Yes	53	89.8
No	2	3.4
Not recorded	<u>4</u>	<u>6.8</u>
Total	59	100.0

Also concerning self-incrimination, Table 11 shows that 44.0 per cent or 26 of the charges brought against the juveniles were proven by direct testimony from the juvenile, while only 3.4 per cent or two of the charges were proven by means other than questioning the juvenile. However, 27.1 per cent or 16 of these cases made use of testimony from both the juvenile and the complainant. One-fourth or 25.5 per cent did not record how charges were proven, other than the child admitting to the charges as indicated in Table 10.

Table 11. Privilege against self-incrimination in proceedings

Situation	Number	Per cent
Charges proved by means other than questioning juvenile in court	2	3.4
Charges proved by direct testimony from juvenile	26	44.0
Both of above	16	27.1
Not recorded	<u>15</u>	<u>25.5</u>
Total	59	100.0

At the conclusion of each hearing, reported in this study, each juvenile was committed to an institution. A total of 96.6 per cent or 57 of the 59 juveniles was committed to the Utah State Industrial School. Two

of the cases or 3.4 per cent were committed to Provo Hospital for psychological testing and evaluation (see Table 12).

Table 12. Place of commitment

Institution	Number	Per cent
Utah State Industrial School	57	96.6
Provo Hospital	2	3.4
Other	0	0.0
Not recorded	<u>0</u>	<u>0.0</u>
Total	59	100.0

Summary of findings of Gault requirements

Findings on each of the four requirements of Gault, (a) guarantee to the right of notice given to the juvenile himself and to his parents; (b) right to counsel, representation by counsel in juvenile delinquency proceedings; (c) right to confrontation and cross-examination; and (d) privilege against self-incrimination in juvenile delinquency proceedings, were given in Tables 6-12. The findings were as follows: (a) Fifty-three of the 59 parents were notified of their rights. Only five of the children were recorded as being notified of their rights; in the other 54 cases, this information was not recorded; (b) The largest percentage of juveniles and their families were not represented by counsel.

However, when not represented, all the families waived this right. It was not recorded, in the largest number of cases, who assumed the responsibility for counsel appointment, the family or the court; (c) It was not recorded, in the largest number of cases, whether or not the complainant was present at the juvenile court proceeding; (d) In almost 90 per cent of the cases, the juvenile admitted the charges against him to be true; and (e) In the largest number of cases, it was recorded that offenses against the juvenile were proven through his direct testimony. In 16 of the 59 cases, both testimony from the juvenile and the complainant were used.

Table 6 reviewed the data of each juvenile court proceeding. The largest number of cases fell within the period of July 1968 through December 1968. Table 12 names the institutions to which juveniles were committed during the period of this study. Fifty-seven of the 59 juveniles were committed to the Utah State Industrial School. The other two juveniles were committed to Provo Hospital.

Discussion

Table 1, total number of previous appearances in court before commitment, indicates a large number of juveniles had appeared in the juvenile court of District I in an excess of three times before being committed. Since it is assumed that many of the juveniles were on probation from previous court appearances, the excess of juvenile court

appearances prior to their commitment seems to raise a question regarding the success of probation. Cavan on this subjects points out:

Most attempts to measure the success of probation are limited to the percentage of children who misbehaved so thoroughly during the probation period that they were considered to have violated probation or whose behavior was increasingly delinquent and necessitated commitment to a correctional school. (Cavan, 1962, p. 292)

Cavan goes on to point out that there are many factors, while a juvenile is on probation, which may contribute to future delinquent behavior. These factors might be running with a gang, intolerable conditions at home, pressure for conformity, and work experiences, to suggest a few.

Table 2, offenses for which juveniles are committed, revealed that "behavioral problems" were the largest category for offenses. This appears to indicate a certain amount of rebelling against the family or conformity while belonging to a delinquent gang. Therefore, a description of offenses and the number of appearances in court seem to correlate with the above statement by Cavan (1962).

Table 3, parent or parent substitutes present at court hearing, showed that in the largest number of cases only a mother figure was present at the court hearing. This seems to correlate with Table 16, in Appendix, which brought out the fact the largest number of juveniles were living with a mother figure only, at the time of commitment. Previous discussion on the importance of positive family relationships would fit into the above mentioned correlation.

The importance of a juvenile being at his own court hearing, Table 4, is quite obvious; thus, the writer feels that a discussion on this point is unnecessary.

Tite (1969), as stated earlier, indicated that summons must be served in person to both parents of the juvenile. It seems that District I is meeting this requirement, according to the results of Table 5, how summons was served. Almost 97 per cent of the summons in this study were written and delivered in person.

George (1968b, p. 34) stated "the U. S. Supreme Court felt that representation by counsel in juvenile delinquency proceedings is imperative." It would appear from looking at Table 7, representation by counsel, that this requirement of Gault was met during the study. Though the number of juveniles being represented by counsel was small, there had been a waiver of right to counsel by all parents and juveniles not being represented by a defense counselor.

Again from George (1968b, p. 33), "the first constitutional mandate under the due process clause is that there be notice of charges given to the juvenile himself and to his parents." Table 8, were parties advised on legal rights, indicated that, through the data given, half of the Gault requirement was being met, that of notifying parents. Almost 90 per cent of the parents in this study were advised of their rights. Looking at data on the child, this right appears to have been reversed. In over 90 per cent of the cases, it was not recorded whether the child was notified of his rights. However, taped recordings of the hearings are

available and indicate that the child was notified of his rights.

The Fourteenth Amendment, as pointed out by George (1968b), contains a portion which reveals that it is important to have the complainant present at the proceeding. Table 9, right to confrontation and cross-examination, points out that in the largest number of cases, in this study, it was not recorded whether the complainant was at the juvenile court proceedings.

George (1968b, p. 35) stated "since the analogy is privilege in the adult criminal proceedings, the requirement would appear to be that the delinquency acts charged must be proved by means other than questioning the juvenile in court." On this subject, Table 11, privilege against self-incrimination in proceedings, reveals that only in a small number of cases (18) were there means used other than just the testimony of the juvenile. However, in 15 cases it was not recorded what means were used.

CHAPTER V
SUMMARY AND CONCLUSIONS

Summary

The objectives of this study were as follows: first, to determine to what degree the four requirements handed down by the U. S. Supreme Court decision on Gault were being met in District I, Utah. The information necessary to make the determination was taken from the juvenile court records of District I, and only from those cases which resulted in a commitment to an institution between July 1, 1967, and June 30, 1969. These requirements were: (a) guarantee to the right of notice given to the juvenile himself and to his parents; (b) right to counsel, representation by counsel in juvenile delinquency proceedings; (c) right to confrontation and cross-examination by prosecuting witnesses; and (d) privilege against self-incrimination in juvenile delinquency proceedings.

A second objective of this study was to see if the provisions in the 1965 Utah Juvenile Court Act, with two changes, would have fulfilled the guarantees set down in the U. S. Supreme Court decision on Gault in 1967.

A third aim of this study was to become acquainted with the factors of age, sex, and race of the juveniles involved in this study.

A fourth and final aim was to investigate the family background of

the juvenile at the time of his commitment by looking at his living arrangement, the parent-child or parent substitute-child relationship, the physical living conditions of the juvenile, his parent's employment, number of siblings, and the natural parents' marital status. The latter two aims are discussed and summarized in the Appendix.

The sample of 59 cases was taken from the juvenile court records from District I, Utah, which includes Cache, Box Elder, and Weber counties. This was the total number of cases resulting in commitment to an institution during the period of this study. The data for the sample were taken from the legal and social history records of each juvenile.

Before discussing the above objectives, a review was made of the juvenile court movement in the United States and in the state of Utah.

Findings

The record of previous court appearances, for the juveniles in this study, showed that over 60 per cent of the juveniles had appeared before the court in an excess of three times. One-fourth of the total sample had appeared in excess of six times.

Twice as many juveniles, 35.3 per cent, were committed to an institution because of behavioral problems than for the next most frequent offense, illegal entry. The latter category included 17.6 per cent.

In nearly one-half of the cases, 47.4 per cent, only a mother or mother-substitute was present at the court hearing. In only one-third

of the cases, 33.9 per cent, were both parents present at the child's hearing.

A written summons was delivered in person to parents in 96 per cent of the cases. If the address of the natural parent was unknown, the summons was printed in the newspaper four times previous to the court proceeding; then a waiver was signed by the probation officer or person searching for the parent as to why he had not been located.

The largest number of court appearances, 30.6 per cent of the total, was between July 1968 and December 1968.

In 89.8 per cent of the cases, parents were advised of their legal rights. However, in 91.5 per cent of the cases, no information was recorded as to whether or not the child was notified of his rights. It was found, through investigation by this writer, that the child is advised of his rights at the beginning of the court proceeding. This information is seldom recorded on the legal transcript but is available on the tape recording kept of the juvenile court proceeding.

Only one-fourth of the juveniles or his family, 35.4 per cent, were represented by counsel. However, 71.2 per cent of the families and juveniles waived this right. This information was written on the legal transcript of the court proceeding. In 23.7 per cent of the cases, no information was recorded as to whom assumed responsibility for appointment of counsel, the court or the family.

In 72.9 per cent of the cases, no information was recorded as to the complainant being present at the court proceeding.

In 89.8 per cent of the cases, the juvenile admitted the charges against him to be true. This fact was recorded on the legal transcript of the court proceeding.

In 44 per cent of the cases, charges were proved only through direct testimony from the juvenile. In 27 per cent of the cases, both the testimony from the juvenile and testimony from other persons were used. In only 3 per cent of the cases were the charges proved only by means other than questioning the juvenile in court. This information was taken from the legal record.

Fifty-seven of the 59 juveniles or 96.6 per cent were committed to the Utah State Industrial School. The other two juveniles were committed to the Youth Unit of the Utah State Hospital.

Conclusions

Regarding the first aim of this study, a review of the juvenile court record, along with a first-hand inquiry regarding policy and procedures gives indication that a major effort was made to meet the four requirements of the Gault decision in District I, Utah, between July 1, 1967, and June 30, 1969. However, as mentioned earlier, the record alone gives only partial support to such an impression. Relative to this, the following explanations should be noted: it can be readily seen by looking at the record of the juvenile court hearing that notice was given to the parent of the juvenile. Concerning the guarantee to the juvenile to be notified of his rights, this writer has been reliably informed that

each juvenile court hearing is commenced with the judge notifying the child of his rights. This procedure does not, however, appear on the court proceedings record. Consequently, one would listen to the tape recording of each hearing to be assured that the child had, in fact, been notified of his rights.

It is presently difficult to determine, through the juvenile court records, whether or not the third and fourth requirements, right to confrontation and cross-examination by prosecuting witnesses and privilege against self-incrimination in juvenile delinquency proceedings, were fully being met. The court record did not provide for the name of the complainant, whether or not the complainant's testimony was used to prove the charges against the juvenile, or if the complainant was cross-examined by the defense (a right guaranteed by the fourth requirement).

The second requirement of Gault, right to counsel, representation by counsel in juvenile delinquency proceedings, was being fully guaranteed juveniles in District I. Although only 25.4 per cent of the sample was represented by counsel, 71.2 per cent of the sample waived this right.

Thus, the record of court proceedings, when used as the only source of information, does not reflect the full extent to which these Gault requirements are being met in District I, Utah.

Regarding the second aim of this study, it is further concluded from the discussion in Chapter II on the 1965 Utah Juvenile Court Act that if one sentence had been added to the 1965 Act to record whether

or not the juvenile was notified of his rights and one sentence added to require the complainant to be named and to be present at the proceeding, the four requirements of Gault would have been completely provided for in the 1965 Utah Juvenile Court Act.

These findings are not represented to be an over-all critical analysis of the juvenile court system in Utah.

Suggestions for Further Study

Further research could be directed toward identifying the feelings of family members toward the handling of court procedures. Did they feel they had a fair representation? Were they adequately notified of all rights?

Much, in the way of family background, would be beneficial in this area of juvenile delinquency. A detailed social history of each case would give better ideas as to why the juvenile is in his present situation. Possibly, new delinquency prevention methods could be suggested.

A longitudinal study to find the effects of commitment on the behavior of the juvenile could be carried out. Sociologists need to know more about the effectiveness of present corrective methods. How much and what kind of rehabilitation occurs during the period of commitment?

As of the present date, the effects of Gault only are felt in the adjudicatory hearing. Further study to see the effects of Gault requirements, being carried out in the jurisdictional stage or the first stage and into the dispositional or sentencing stage, would be beneficial.

Also, Gault is only concerned with delinquency proceedings. Research into the possibilities of adding these requirements to the neglect and child custody proceedings would be of interest.

Information needed for the present study was taken only from the juvenile court proceedings records. It is a further possibility that additional study could be made on the first, third, and fourth requirements of Gault, using the tape recordings of the juvenile court proceedings during this same period to determine to what degree these requirements were met on the tape recordings.

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APPENDIX

Findings and Discussion on Sex, Race, Age, and
Family Background of Juvenile Cases in
District I, Utah

The sample

Utah has a juvenile court system made up of five districts. The sample for this study came from District I which includes Cache, Box Elder, and Weber counties. All juvenile court cases, resulting in commitment between July 1, 1967, and June 30, 1969, were included in the sample. The sample amounted to a total of 59 cases, 19 coming from Cache and Box Elder counties and 40 coming from Weber county.

Findings

Factors of sex, race, and age. The present study shows a much higher percentage of boys being involved in delinquent acts. Males comprised 76.2 per cent or 45 out of the 59 total number of cases. Only 14 out of 59 cases were female, representing 23.8 per cent of the total sample (see Table 13).

Regarding race, the sample was divided into two main groups, white and Spanish. The white group included 61.0 per cent or 36 cases of the total population. The Spanish group consisted of 27.1 per cent or 16 of the 59 total cases. The other 11.9 per cent included 6.8 per cent negro or four cases and 3.4 per cent or two cases listed as other (Swiss). Only one case did not have race recorded, and this was because the social history of the juvenile was not available (see Table 14).

Table 13. Sex of juveniles resulting in commitment to an institution, July 1, 1967, to June 30, 1969, in District I, Utah

Sex	Number	Per cent
Male	45	76.2
Female	<u>14</u>	<u>23.8</u>
Total	59	100.0

Table 14. Race of juveniles in District I, Utah, committed to an institution

Race	Number	Per cent
White	36	61.0
Negro	4	6.8
Indian	0	0.0
Spanish	16	27.1
Oriental	0	0.0
Other ^a	1	1.7
Not recorded	<u>1</u>	<u>1.7</u>
Total	59	100.0

^aSwiss

The largest age group of juveniles involved in this study was from 14-16 years of age. This age group included 71.2 per cent of the entire sample or 42 of the 59 cases. The next closest age grouping was the 17-19 year olds. This age group had 20.3 per cent or 12 cases of the population. Four cases or 6.8 per cent were in the 11-13 age range, and only one case or 1.7 per cent was reported below the age of 10 (see Table 15).

Table 15. Age, in years, of juveniles committed to an institution

Age	Number	Per cent
10 or below	1	1.7
11-13	4	6.8
14-16	42	71.2
17-19	12	20.3
Not recorded	<u>0</u>	<u>0.0</u>
Total	59	100.0

Summary of sex, race, and age. On the summary of the factors of sex, race, and age of juveniles committed to an institution in District I, Utah, from July 1, 1967, to June 30, 1969, it can be seen that the largest percentage of the sample was comprised of males, belonging to the white racial group, between the ages of 14 and 16.

Family background of juveniles. Findings on family background are presented in the following pages. Attention is given to living arrangement of the juvenile, parent-child or parent substitute-child relationship, parents' employment, number of siblings, and natural parents' marital status. This has been done for a better understanding of the juveniles involved in the study.

As to the juvenile's living arrangement, at the time of commitment, Table 16 shows that the largest group, 20 cases or 33.9 per cent of the population, were living with their mother or mother substitute only. A total of 17 cases or 28.8 per cent were living with natural parents. Seven of the 59 juveniles or 11.8 per cent were living with their mother and stepfather, while only one juvenile or 1.7 per cent of the study was with his father and stepmother. A total of five cases or 8.5 per cent were with adoptive parents; two cases or 3.4 per cent were with their father or father substitute; two cases or 3.4 per cent were in a foster home; and three cases or 5.1 per cent were living with a relative. One male from Weber county was living by himself after being released from the Job Corps in Ogden, Utah.

This living arrangement, as stated before, was at the time of the juvenile's commitment.

The relationship between the juvenile and his parent or parent substitute at the time of commitment can be summarized by referring to Table 17. There was a total of 83.0 per cent or 49 of the 59 cases in which the parent-child relationship was "inadequate." The criteria for

Table 16. Juvenile's living arrangement at the time of commitment

Arrangement	Number	Per cent
Natural parents	17	28.8
Adoptive parents	5	8.5
Mother and stepfather	7	11.8
Father and stepmother	1	1.7
Mother or mother substitute only	20	33.9
Father or father substitute only	2	3.4
Foster home	2	3.4
Relatives	3	5.1
Other ^a	1	1.7
Not recorded	<u>1</u>	<u>1.7</u>
Total	59	100.0

^a

Self

Table 17. Parent-child or parent substitute-child relationship and physical living conditions at the time of commitment

Situation	<u>Relationship</u>		<u>Living conditions</u>	
	No.	%	No.	%
Adequate	6	10.2	23	38.9
Inadequate	49	83.0	9	15.3
Not recorded	<u>4</u>	<u>6.8</u>	<u>27</u>	<u>45.8</u>
Total	59	100.0	59	100.0

"adequate" parent-child relationship were set up in Chapter I to include: (a) consistent discipline, (b) understanding on the part of the parent of the juvenile's problems, (c) acceptance of the juvenile by parents, (d) desire by parents to help juvenile, (e) equal attention given to all siblings, and (f) acceptance by the juvenile of standards set by parents. Information on this matter was obtained from the social history of the juvenile which was written by a probation officer assigned to work with the juvenile. Both the attitudes of the juvenile and of his parents were recorded in the history. Often a probation officer recorded that the parents were inconsistent or did not know how to handle matters of discipline. On the other hand, the juvenile, who could not confide in his parents, was rebelling against inconsistent or no discipline or simply would not live at home.

Only six of the 59 cases, 10.2 per cent, felt there was an "adequate" relationship. This relationship was most often reported in the cases of juveniles living with relatives or in foster homes. An "inadequate" relationship, which caused a removal from natural parents, resulted in juveniles living with relatives or in foster homes. Table 17, also, represents information at the time of commitment.

Living conditions of the juveniles at the time of commitment were also reported in Table 17. The largest group, 27 cases or 45.8 per cent, did not record whether the physical living conditions of the home were "adequate" or "inadequate." A total of 23 cases or 28.9 per cent of the homes were recorded as "adequate," while 15.3 per cent or nine cases

were recorded to be "inadequate." This information was also obtained from the social history written by the probation officer. A large number of the histories simply gave the location or the dimensions of the home; therefore, no statement existed as to whether it was "adequate" or "inadequate." Criteria for recording "adequate" or "inadequate" was set in Chapter I. "Adequate" conditions would include the following: (a) adequate sleeping and living quarters for the number of family members, (b) cleanliness of house and yard, and (c) other adequate facilities such as furniture. "Inadequate" refers to a lack of the above conditions.

Concerning parents' employment, at the time of commitment, 28.8 per cent or 17 of the juveniles were living in homes in which neither of the parents or parent substitutes were employed. This alone might appear to explain why housing was inadequate in 15.3 per cent of the cases. These families, without employment, were on welfare. The largest percentage of the sample, 33.9 per cent or 20 cases, had the father or father substitute working full or part-time. In 15.2 per cent or nine of the cases, both parents were working in some capacity, and five cases or 8.5 per cent of the juveniles had their mother or mother substitutes working. This information was not given in cases where the juveniles were in foster homes or living with relatives. Thus, 13.6 per cent or eight of the employment situations were not recorded (see Table 18).

The size of the family, from which the juveniles come and the role it plays in socialization, has been discussed by many authors. Thus,

Table 18. Parents' employment, neither, part, or full-time, at the time of commitment

Employment	Number	Per cent
Father working	20	33.9
Mother working	5	8.5
Both working	9	15.2
Neither working	17	28.8
Not recorded	<u>8</u>	<u>13.6</u>
Total	59	100.0

the number of siblings, either natural or brought in through other marriage, was felt to be important to this study. The largest percentage of the cases came from families of three to five siblings. This group consisted of 33.9 per cent or 20 of the juveniles. Next was the group of cases having more than five siblings. This percentage was 28.8 or 17 cases. Next was the group of cases coming from families of one to two siblings. This contained 22.0 per cent or 13 cases. Only six of the 59 cases did not have the number of siblings recorded (see Table 19).

The childhood years are of most importance in the development of an individual. The preponderance of incomplete family settings, as illustrated in Table 20, and marital status of the juvenile's natural parents at the time of his commitment may partially explain the juvenile's

Table 19. Juvenile's number of siblings, natural or through parental marriage

Number of siblings	Response in number	Per cent
0	3	5.1
1-2	13	22.0
3-5	20	33.9
More	17	28.8
Not recorded	<u>6</u>	<u>10.2</u>
Total	59	100.0

Table 20. Natural parents' marital status at the time of commitment

Status	Number	Per cent
Parents living together	17	28.8
Father deceased	8	13.6
Mother deceased	3	5.1
Both parents deceased	3	5.1
Divorced or separated	19	32.2
Living together but not married	0	0.0
Father deserted	4	6.8
Mother deserted	0	0.0
Father unknown	1	1.7
Mother unknown	1	1.7
Both unknown	1	1.7
Other ^a	1	1.7
Not recorded	<u>1</u>	<u>1.7</u>
Total	59	100.0

^aFather deceased but never married.

tendency to turn to delinquency. Combining the two categories--parents divorced or separated and father deceased--gives an indication of the number of children in incomplete family settings. Almost one-third or 32.2 per cent of the natural parents were divorced or separated, and 13.6 per cent or eight of the natural fathers were deceased. This number amounted to a total of 45.8 per cent of the juveniles coming from homes where an opportunity for ideal parental identification was absent. This is compared with only 28.8 per cent or 17 of the natural parents living together at the time of the juvenile's commitment. Further, there were three cases or 5.1 per cent of the mothers being deceased and three cases or 5.1 per cent of both parents being deceased. Also included on the negative side of natural parents' marital status are 6.8 per cent or four of the fathers having deserted and 1.7 per cent or one case where a mother deserted. One case was recorded as having the mother and/or father being unknown. And one male child's natural father was deceased but had never married the natural mother. The figures in Tables 17 and 20 indicate a very discouraging picture of the juvenile's family background.

Discussion

Many authors, including Cavan (1962), Gran (1961), Bandura and Walters (1959), and Gleuck (1952, 1962), have written on the importance of family relationships and juvenile delinquency.

Cavan commented on family background and juveniles committed to an institution:

In general, reports from training schools give little specific information about the families of boys and girls committed to them. Available information indicates that more training school children come from broken homes than is true for delinquents in general or for nondelinquent children. Even in the smaller training schools with a limited number of children, the variety of broken and incomplete homes is very great, each suggesting different problems in the child's background. (Cavan, 1962, p. 307)

Cavan's comment appears to support Table 16, living arrangements of juveniles at the time of commitment, used in the present study. Only 17 out of the 59 juveniles were in homes with their natural parents. This was only 28.8 per cent of the sample. The other 81.2 per cent of the juveniles were in broken homes.

Table 20, natural parents' marital status at the time of commitment, is also supported by Cavan's comment above. Again, only 17 out of the 59 natural parents were living together. This appears to show a very low family stability setting.

Gleuck and Gleuck stated:

It is now found that rearing by parents, whose incompatibility has been so great that it actually resulted in open breach [desertion, separation, and divorce], gave added force to the delinquency potentiation of . . . youngsters. (Glueck and Glueck, 1969, p. 122)

The above statement further backs up the findings reported in Tables 17 and 20. The foregoing information indicates a seemingly obvious fact; that is, favorable family relationships do not appear to produce juvenile delinquency.

Bandura and Walters, in regard to parent-child relationships, stated:

The theory of antisocial aggression that is offered in [their] book assumes that such a disorder originates primarily from the disruption of a child's dependency relationship to his parents. (Bandura and Walters, 1959, p. 31)

This disruption is evident in the number of broken and unnatural homes as indicated in Tables 16 and 20 of this study.

Cavan (1962, p. 30) goes on to point out "when economic or occupational background of parents is given, the number receiving public assistance or who are employed or working at unskilled labor is large."

Again, results from the present study seem to correlate with those done by other authors. Table 18 indicates that approximately only one-third of the fathers involved had some form of employment. In another 28.8 per cent of the cases, neither parent was working.

Glueck and Glueck compared working habits of fathers of delinquent and nondelinquent boys:

Only half as many of the fathers of the delinquent group as of the nondelinquent could be characterized as having good work habits. . . . At the other extreme, five times the proportion of the fathers in the delinquent group as in the nondelinquent were generally poor workers. . . .

The extent to which the parents of the delinquents were unable to fulfill their family obligations without outside help is further reflected in the fact that the average number of social welfare agencies that had to step in to serve the families of the delinquents in one way or another . . . was a figure almost double that of the . . . number of agencies serving the families of the nondelinquents. (Glueck and Glueck, 1952, p. 44-45)

Here again, Glueck and Glueck seem to be in agreement with Table 18. The 17 families in Table 18, in which neither parent figure was working, were being helped by public welfare.

Cavan, in the following statement on family relationships,

supports the findings in Table 17. This table indicates a high rate of "inadequacy" in parent-child relationships. Cavan states:

Basically, the family carries a heavy responsibility for the character and personality formation of every child. . . . Many parents are unable to give their children the love and guidance they need; many are unable to introduce their children into the cultural mores or help them meet the social expectations of the larger community. (Cavan, 1962, p. 7)

The definition of juvenile delinquency used for this study is supported through the above statement. In Chapter I, p. 4-5, it was stated that a juvenile delinquent is one whose conduct becomes a menace to himself or society. He is a youth who cannot meet expected obligations to society. As Cavan pointed out in the above statement, it is the responsibility of the parent to instruct the child. The present study, as indicated by Tables 16, 17, and 20, shows an inadequacy between parent and child which would indicate one reason why a juvenile might not adjust to society.

The subject of Table 19, the number of siblings in the juvenile's family, is discussed by Glueck and Glueck (1952, p. 54) who feel it is ". . . generally supposed that delinquents stem from larger families than do nondelinquents." The findings in Table 19 are in agreement. There was 62.7 per cent of the juveniles who were in families with three or more siblings. Of this 62.7 percent, 28.8 per cent of the juveniles had six or more siblings.

According to Cavan (1962, p. 28), "boys far outnumber girls in court appearances. . . . The ratio is consistently about four boys to

one girl, year after year." Table 13, sex of juveniles resulting in commitment to an institution, July 1, 1967, to June 30, 1969, in District I, Utah, appears to be in accordance with Cavan's figures. During that period of time, there were 76.2 per cent or 45 males as compared to 23.8 per cent or 14 females.

Adolescence, age thirteen to early adulthood, is pointed out by Cavan (1962, p. 49) as being a time when the child ". . . begins to substitute his peer groups for his family as his most important reference group." From this group, his standards are set and also his attitudes and behaviors are shaped. This period is a time of decisions and uncertainties for the juvenile. It seems to this writer that, if according to our societal standards, the child may become involved with peer groups favoring undesirable behavior; the result may be that of delinquency. Table 14 appears to represent a parallelism with Cavan's discussion on adolescence; that is, the largest age grouping being committed to an institution was the group falling into the 14-16 year age bracket.

It may be seen from the discussion above that rarely is any one single factor responsible for the problem of delinquency. Generally there is a combination of factors that leads to a juvenile's delinquent charge (refer to Juvenile Court Referral Classification Code Sheet).

SCHEDULE

Date_____

Place of Record_____

- (1) ID Number _____
- (2) Sex
1. male
 2. female
 3. not recorded
- (3) Race
1. white
 2. negro
 3. Indian
 4. Spanish
 5. oriental
 6. other
 7. not recorded
- (4) Age
1. -10
 2. 11-13
 3. 14-16
 4. 17-19
 5. 20-21
 6. not recorded
- (5) Child's living arrangement at the time of commitment
1. natural parents
 2. adoptive parents
 3. mother and stepfather
 4. father and stepmother
 5. mother or mother substitute only
 6. father or father substitute only
 7. foster home
 8. relatives
 9. other
 10. not recorded
- (6) Parent-child relationship at the time of commitment taken from social history
1. inadequate
 2. adequate
 3. not recorded

- (7) Physical living conditions at the time of commitment taken from social history
 1. adequate
 2. inadequate
 3. not recorded

- (8) Vocational status (part or fulltime) of parents or parent substitute
 1. father working
 2. mother working
 3. both working
 4. neither working
 5. not recorded

- (9) Total number of siblings--full blood or through parental marriage
 1. 0
 2. 1-2
 3. 3-5
 4. more
 5. not recorded

- (10) Natural parents' marital status
 1. parents living together
 2. father deceased
 3. mother deceased
 4. both parents deceased
 5. divorced or separated
 6. living together but not married
 7. father deserted
 8. mother deserted
 9. father unknown
 10. mother unknown
 11. both unknown

- (11) Date of trial
 1. 7/67-12/67
 2. 1/68- 6/68
 3. 7/68-12/68
 4. 1/69- 6/69
 5. not recorded

- (12) Reason for commitment
 1. assault
 2. car theft
 3. firearms violation
 4. illegal entry
 5. jeopardy of self (drunkness, etc.)

6. mischief or vandalism
 7. sex offenses
 8. theft
 9. behavioral problems
 10. misdemeanor
 11. felony violations (checks, etc.)
 12. other
 13. not recorded
- (13) Total number of previous appearances in court
1. 0-2
 2. 3-5
 3. 6 plus
 4. not recorded
- (14) Parents present at hearing
1. father or father substitute
 2. mother or mother substitute
 3. both father and mother or both father and mother substitute
 4. neither
 5. not recorded
- (15) Child present at hearing
1. yes
 2. no
 3. not recorded
- (16) Parents advised of legal rights
1. yes
 2. no
 3. not recorded
- (17) Child notified of rights
1. yes
 2. no
 3. not recorded
- (18) How summons served
1. written
 2. verbal
 3. delivered written notice
 4. not recorded
- (19) Represented by counsel
1. yes
 2. no
 3. not recorded

- (20) Court appointed counsel
1. yes
 2. no
 3. not recorded
- (21) Waived right to counsel by both parents and child
1. yes
 2. no
 3. not recorded
- (22) Right to confrontation by prosecution witnesses
1. complainant present at proceeding
 2. complainant not present at proceeding but testimony used in case
 3. complainant not present at proceeding but testimony not used in case
 4. not recorded
- (23) Privilege against self-incrimination in proceeding
1. charges proved by means other than questioning juvenile in court
 2. charges proved by direct testimony from juvenile
 3. both of the above
 4. not recorded
- (24) Child admitted allegations to be true
1. yes
 2. no
 3. not recorded
- (25) Where committed
1. Utah State Industrial School
 2. Youth Unit, Utah State Hospital
 3. other
 4. not recorded

Comment:

JUVENILE COURT REFERRAL CLASSIFICATION CODE SHEET

VIOLATIONS OF LAW

ASSAULTS

- 001 Assault
- 002 Assault & Battery
- 003 Assault with Deadly
Weapon
- 009 Other (specify)

AUTOMOBILE CASES

- 010 Auto Theft
- 011 Depriving Owner of
Vehicle
- 012 Illegal Entry of Vehicle
for Theft (Car Prowl)
- 013 Tampering with Vehicle
(Car Strip)
- 014 Gas Theft
- 019 Other (specify)

FIRE, FIREARMS, FIRE ALARMS,
FIREWORKS

- 020 Arson
- 021 Fire Setting
- 022 Unlawful Use of Firearms
- 023 False Alarms
- 024 Fireworks
- 029 Other (specify)

ILLEGAL ENTRY

- 030 Burglary
- 031 Unlawful Entry to Injure,
Damage, or Annoy

JEOPARDY OF SELF

- 040 Public Intoxication
- 041 Possession of Alcohol
- 042 Minor in Tavern
- 043 Possession of Tobacco
- 044 Wrongfully Inhaling Fumes
- 045 Attempted Suicide
- 046 Use of Narcotics, Amphet-
amines, Barbiturates, etc.
- 049 Other (specify)

MISCHIEF OR VANDALISM

- 050 Destruction of Property
- 051 Fighting
- 052 Disturbing the Peace
- 053 Riot
- 054 Trespass
- 055 Throwing Objects at Vehicle
- 059 Other (specify)

SEX OFFENSES

- 060 Rape
- 061 Illicit Sex Acts
- 062 Unnatural Sex Acts
- 063 Molest
- 064 Indecent Acts
- 069 Other (specify)

THEFT

- 070 Grand Larceny
- 071 Petit Larceny
- 072 Bicycle Theft
- 073 Shoplifting
- 074 Receiving Stolen Property

OTHER VIOLATIONS OF LAW

FELONY TYPE

- 080 Robbery
- 081 Bad Checks and Fraud
- 082 Homicide
- 083 Negligent Homicide
- 089 Other Felony Type

MISDEMEANOR TYPE

- 090 Cruelty to Animals
- 091 Curfew
- 092 Tampering with Railroads
- 093 Resisting Arrest
- 094 Refusing to Disperse
- 095 Fish & Game Violation
- 096 Boating Violation
- 099 Other (specify)
- 097 Foul and Abusive Language
- 098 Giving False Information

BEHAVIORAL PROBLEMS

- 100 Out of Control (Ungov.)
- 101 Runaway
- 102 Runaway-Transient
- 103 Habitual Truancy
- 104 Truancy
- 105 Truant in Auto
- 106 Contempt of Court
- 109 Other Behavior or Condition
Endangering to Welfare
(specify)

NEGLECTED OR DEPENDENT

- 150 Abandoned
- 151 Mistreatment or Abuse
- 152 Improper Care Due to
Faults or Habits
- 153 Improper Care--Failure to
Provide Subsistence,
Education, Medical Care or
Other Care
- 154 Dependent
- 155 Permanent Termination of
Parental Rights

OTHER JURISDICTION--JUVENILE

- 250 Consent for Marriage
- 251 Consent for Employment
- 252 Consent for Enlistment
- 253 Expungement of Record
- 254 Determination of Custody
on Transfer from District
Court
- 255 Change of Custody
- 257 Request for Renewal of
Custody
- 258 Request Termination
- 260 Review Hearing
- 261 Probation Officer Progress
Report

ADMINISTRATIVE

- 300 Supervision under Interstate
Compact
- 301 Supervision--Other District
- 302 Supervision of Parolee
- 303 Investigation for other Agency
- 304 Courtesy Supervision
- 309 Other Administrative Case

ADULT CASES

- 350 Contributing to Delinquency
of a Minor
- 351 Contributing to Neglect of
of Child
- 352 Wilful Abuse, Neglect or
Abandonment
- 353 Contempt of Court--Adult
- 359 Other (specify)

REFERRAL SOURCE

- 1. Law Enforcement Agency
 - A. County Sheriff
 - B. City Police
 - C. Highway Patrol
 - D. Fish & Game
 - E. Federal Law Officer
 - F. Other State Law Officer
 - G. Court Probation Officer
 - H. Other Law Enforcement
- 2. School
- 3. Family or Relatives
- 4. Public Welfare
- 5. Private Welfare
- 6. Juvenile Court
- 7. District Court
- 8. Self
- 9. Other

IN THE DISTRICT JUVENILE COURT FOR _____ COUNTY,
STATE OF UTAH

MINUTES

Case No. _____

Name	Age (Birthdate)	Residence
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Date of Hearing _____	Probation Officer _____
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Persons Present: Father	Yes	No	Mother	Yes	No
Child	Yes	No			

Father, Mother, Child _____	represented by counsel	Yes	No
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Name of Counsel _____

Parties advised of legal rights:	Yes	No
Waived right to Counsel	Yes	No
Child _____	admits allegations	
to be true:	Yes	No

ORDER:

Date to come back before Court:

IN THE DISTRICT JUVENILE COURT

FOR _____ COUNTY, STATE OF UTAH

STATE OF UTAH

PROBATION ORDER
AND AGREEMENT

A person under eighteen years of age

Case No. _____

IT IS HEREBY ORDERED that you be placed on probation under the supervision of the Probation Department of this Court under the following conditions:

1. That you do not commit further acts of delinquency;
2. That you attend school regularly until you are 18 years of age or graduate from senior high school or be released from attendance by the Board of Education;
3. That you comply with all lawful and reasonable requests of your parents or custodian with whom you are living;
4. That you notify the Probation Department of any change of your address, change of school or change of employment;
5. That you do not get married without the consent of your parent and the above court;
6. That you do not leave the state without the consent of your probation officer;
7. That you do not purchase an automobile without the consent of your parents and probation officer;
8. That you pay restitution in the sum of \$____; fine in the sum of \$____ to be paid on or before the ____day of____, 19____;

Dated this _____ day of _____, 19____. _____
Judge

AGREEMENT

I HEREBY AGREE to conform to and obey the terms of my probation as stated above and as outlined by my Probation Officer; I FURTHER AGREE to report to my Probation Officer as directed.

Child_____
Parent_____
Probation Officer_____
Parent

IN THE DISTRICT JUVENILE COURT

FOR _____ COUNTY, STATE OF UTAH

STATE OF UTAH, in the interest of

ORDER EXPUNGING RECORD
Case No. _____

A person _____ years of age

The Petition for Expungement of Record having come from this Court
on the _____ day of _____, 19 _____ the Petitioner and

being present, the court having heard and examined all the
evidence adduced at the hearing finds that the Petitioner

1. Has been terminated from continuing juvenile court jurisdiction or has been unconditionally released from the State Industrial School for more than one year;
2. Has not been convicted of a felony or a misdemeanor involving moral turpitude since such termination of juvenile jurisdiction nor are there proceedings involving such felony or misdemeanor pending or being instituted against the Petitioner;
3. Has been rehabilitated to the satisfaction of the Court.

It is therefore ORDERED that all the records in Petitioner's case in
the custody of this Court and the records of
be sealed; except traffic matters.

That the Petitioner's case shall be deemed never to have occurred
and the Petitioner may properly reply accordingly upon any inquiry in the
matter. Dated this _____ day of _____, 19 _____.

BY THE COURT

Judge

VITA

Ruth V. Mickelson

Candidate for the Degree of

Master of Science

Thesis: Changing Patterns of Juvenile Justice in District One Juvenile Court, Utah, as Affected by the 1967 U. S. Supreme Court Decision on Gault

Major Field: Sociology

Biographical Information:

Personal Data: Born at Logan, Utah, May 28, 1945, daughter of Don and Elaine Vanderbeek; married William Dwight Mickelson, June 6, 1968.

Education: Attended elementary school in Logan, Utah; graduated from Logan Senior High School in 1963; received the Bachelor of Science degree from Utah State University, with a major in Sociology, in 1967; completed requirements for the Master of Science degree in 1970, with a major in Sociology.

Professional Experience: 1968 to date; Elementary School Teacher, Vacaville Unified School District, California.