

**JUDGING CHILDREN AS CHILDREN – A RESTORATIVE
JUVENILE JUSTICE SYSTEM**

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Restorative Justice

Restorative Justice is a “theory of justice that emphasizes repairing the harm caused by criminal behavior. It is best accomplished when the parties themselves meet cooperatively to decide how to do this. This can lead to transformation of people, relationships and communities.” Restorative justice often operates through “meetings between victims, their offenders and members of the affected community...[which] require that the offender admit responsibility for the offense.” The goal is to “end with an agreement on how the offender will make amends for the harm caused by the crime.” (CENTER FOR JUSTICE AND RECONCILIATION, What is Restorative Justice? Restorative Justice Briefing Paper 1 (2008) available at: [http://www.pfi.org/cjr/restorative-justice/introduction-to-restorative-justice-practice-and-outcomes/briefings/what-is-restorative-justice.](http://www.pfi.org/cjr/restorative-justice/introduction-to-restorative-justice-practice-and-outcomes/briefings/what-is-restorative-justice))

Changing behavior of an offender is a form of reparation, demonstrative of restorative justice. Getting the community involved and invested in the outcome of each juvenile justice proceeding will both aid in building a structure for juvenile courts and permit juvenile offenders to get involved in the community in positive ways through diversion programs.

The Youth Part Model

This paper is a result of my experience presiding over Manhattan’s Youth Part – a special court which is part of the adult criminal term of the Supreme Court of New York State. As the presiding Judge of the Youth Part, I had the responsibility of adjudicating the cases of 13-, 14-, and 15-year-old offenders who were prosecuted as adults in the adult criminal courts pursuant to New York’s Juvenile Offender Law. The approach and process we developed to resolve these cases recognized the developmental differences of children and resulted in offering many young offenders an opportunity to earn a second chance by linking them with alternative-to-incarceration programs and carefully monitoring their progress, thereby giving them an opportunity to avoid criminalization and an opportunity to be restored to society without stigmatization.

Judicial communication and interaction with young offenders is an integral part of the Youth Part Model. The judicial interactive process and the court's adjudication of a child as a "Youthful Offender" rather than a criminal – literally granting a child a second chance – symbolically represented the elimination of barriers to a child's reentry into society; in essence, incorporating the true meaning of restorative justice.

A Universal Model Juvenile Justice System that Permits Application of Restorative

Justice Principles

Loretta, a 14-year-old African-American girl, was traveling to school on the subway one morning with a classmate. Sitting across from them was another student also on her way to school. The student was wearing an attractive pair of gold earrings. Loretta's classmate, who was 15 years old, bigger than Loretta and had a reputation as a bully, noticed the earrings and decided she was going to have them. She stood up and walked over to the girl. Loretta followed. "Give me your earrings" she demanded. The student ignored her. She repeated the demand. The student tried to move away but was blocked from doing so by Loretta. Again, the classmate menacingly demanded the earrings. The student continued to ignore her. As the train slowed to stop at a station, Loretta's classmate suddenly reached down and ripped the earrings from the girl's pierced ears. As the doors opened onto the subway station, they attempted to flee from the train. A policeman was fortuitously standing on the platform. He saw the young girl screaming and holding her ears. He stopped Loretta and her classmate as they tried to run. Loretta was charged as an accomplice in the robbery and prosecuted along with her classmate as an adult pursuant to New York's Juvenile Offender law.

When Loretta first appeared before me, I was told that she had never been in trouble before and that she was a talented dancer attending one of New York City's schools for the performing arts. I asked one of the court representatives from an alternative-to-incarceration program to interview Loretta who was being held in detention and tell me what she thought of her. A few days later the program representative returned to court. She told me that she wanted to work with Loretta but that Loretta had serious problems. She had asked Loretta a typical social worker question to get a sense of who she was and what her relationship to the community was: "Loretta, if you could change three things in your life, what would you change?" Loretta replied that she would change her country, her family and her sex – her country because she believed she lived in a racist society; her family because her mother was a crack addict and she never knew her father; and her sex because she believed young women were vulnerable to physical and sexual abuse.

My goal is to describe a humane and constructive policy of juvenile justice that will form the basis for a model of justice for minors – a model based on the true nature of adolescence and the realities faced by youth in the twenty-first century.

Inscribed in marble over the entrance to the Manhattan Criminal Court building is Justinian's definition of justice – "Justice is the Firm and Continuous Desire to Render to Every Man His Due." The simplicity of this statement belies its complexity. As a judge, I was called upon to

make this exacting evaluation virtually every day. Can we logically and justly equate a child's "due" with that of an adult's – equating a child's behavior and culpability with that of an adult?

Trying children as adults instead of as children is not just. Cicero said that true law, i.e., a just law, is right reason in agreement with nature. Trying children in systems created for adults applying principles designed for adults is not right reason in agreement with nature. St. Augustine, Thomas Jefferson, Albert Einstein and many other philosophers, statesmen and scientists believed in a law that transcended human law – the natural law. The proponents of natural law contend that effective laws reflect common sense and the natural order of things, whereas laws that do not accord with the immutable aspects of this universal law are invariably destined to undermine society's quest for progress, prosperity and peace. Man-made laws, which are generally imprecise tools for the regulation of human behavior, must be constantly reevaluated in light of common sense, reason, experience and enlightened notions of human nature. Laws requiring automatic prosecution of children in adult courts are not merely imprecise tools purportedly designed to deter juvenile crime; they are largely ineffective because they do not recognize the natural developmental differences of children. In this text, the terms child and children are used in their broadest sense to include persons under 18 years of age. Legally, individuals are considered "minors" or "juveniles" in most states until they reach their 18th birthday. There may be an element of controversy in the grouping of adolescents with children in terms of assessing criminal responsibility. Nevertheless, I contend that such a classification approximates more closely developmental reality.

When we try children in adult courts, we do so as a result of flawed reasoning, penalizing them for not exercising that degree of judgment that we would expect of adults. Justice Anthony Kennedy in announcing the United States Supreme Court's decision in Roper v. Simmons from the bench, a decision which held that executing juveniles under 18 was unconstitutional, stated: "From a moral standpoint, it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed." Anyone who has had the responsibility of raising teenagers or remembers what it was like to be an adolescent recognizes, for example, the powerful pull of peer pressure, yet we essentially penalize adolescents for not resisting negative peer pressure through the application of standards of culpability that we would expect to apply to adults. That is not to say that a 14-year-old cannot know or appreciate right from wrong, but how can we hold adolescents accountable as adults in adult courts for not exercising a level of maturity that they are not physically, emotionally or intellectually expected to possess?

New York's Juvenile Offender Law and similar laws which mandate prosecution of children in adult courts without consideration of their individuality invariably inhibit a judge's discretion in granting such children a second chance.

At the turn of the twentieth century, America's juvenile justice process reflected a concept of childhood based on the notion that children are innocent, vulnerable, dependent and incapable of making mature reasoned decisions. As we enter the twenty-first century, after decades of disillusionment with the juvenile court process, the ideas and beliefs that had inspired the

progressive and humane treatment of children, especially disadvantaged children, have been largely abandoned in terms of fixing criminal responsibility.

The term “rehabilitate”, in my view, does not mean “curing” an illness or “changing” character. I view rehabilitation as engaging children in a process that assists them to “develop” character. Judges can play a significant role in that process, interacting with the children who come before them in such a way as to enable them to act as catalysts for change in a child’s life. That is essentially what we tried to do in the Youth Part. That is the challenge, as I see it, with respect to each child.

In recommending such an approach to the resolution of child offender cases, I am not unmindful of the public’s concern for protection from violent youth. Focusing on the best interests of the child in this manner does not mean circumventing the best interests of society. The two interests are, for the most part, coextensive. What’s good for the child in a democratic society is good for society as a whole. Nor does this focus neglect the interest of victims, who in many cases are unaware of the limitations of the criminal justice system as a source of solace and healing for them.

“Turning bad kids into good kids” – that is how a journalist friend once generously described my work. That, of course, is the underlying challenge for a juvenile justice system. My work in the Youth Part was not the process of an apologist for delinquent behavior nor was it an institutionalized form of letting young people “off”. It did not excuse behavior or predetermine outcomes. It did, however, involve an understanding of the vicissitudes of childhood, especially those of children living in the world’s poorest communities.

In order to appreciate the nature of the court over which I presided and my experience, it is useful to begin with an explanation of the legal context within which children are prosecuted in New York’s adult courts. In New York, children between the ages of 16 and 18 who are accused of a crime are subject to the exclusive jurisdiction of the adult criminal courts. They are prosecuted in the same fashion as adults and are subject to the same sentencing. In certain instances, they may be spared the stigma of a criminal record and a more severe adult sentence by being declared a “Youthful Offender.” Youthful Offender (Y.O.) status may be granted after conviction, at the discretion of the judge. Granting a youth Y.O. status permits the court to impose a non-incarceratory sentence, such as probation.

Children under 16 years of age are subject to a two-tiered court structure:

(1) 13-year-olds charged with murder and 14- and 15-year-olds charged with murder or other serious, violent crimes specifically enumerated as “juvenile offender” (J.O.) crimes by the legislature are automatically prosecuted in the adult criminal courts pursuant to the “Juvenile Offender Law”. Pursuant to that law, a youth convicted of a J.O. crime is subject to mandatory imprisonment and a felony record, unless granted Youthful Offender treatment;

(2) Other children under 16 years of age who are alleged to have committed “non-J.O.” offenses (which are less serious than “J.O. offenses”) are prosecuted in the Family Court as juvenile delinquents. The Family Court (juvenile court) is a court with broad authority over family

matters such as custody, child abuse and juvenile delinquency. New York's juvenile justice system thus encompasses two separate courts – an adult criminal court and a juvenile court, each with distinct and separate jurisdiction.

In enacting the Juvenile Offender law, New York's legislature did not provide the adult court with any additional resources to deal with the special needs of these children. The adult courts were expected to resolve the cases of this new category of offender with existing resources. In effect, the legislature simply delivered these children to the steps of the adult courthouse. In the Manhattan courts, a juvenile offender's case was randomly assigned to any one of approximately 50 judges sitting in the adult court Criminal Term. These courts were not equipped to deal with the needs of young children. Cases took longer to proceed to trial than in Family Court, generally resulting in less swift accountability, overcrowding at temporary detention centers and escalating costs of detention. The creation of the Youth Part was designed to focus attention and scarce resources on these children by hearing their cases in one part before one judge. Its aim was to reduce the delays in juvenile offender cases, provide consistent sentencing, increase the number of children diverted away from costly incarceration and reduce recidivism. The Youth Part was envisioned as a place where we would have an opportunity to reduce future crime rates. If we could help a teenager successfully address a drug problem, a drinking problem, return to school, find a rewarding job, or gain the maturity and tools to resist negative peer pressure, then perhaps we could prevent him from doing further harm to others as well as to himself. I wanted to work with these teenagers, once described as "our hardest to love children", because I felt that if I reached some of them and allowed them to earn the opportunity to turn their lives around, then I would be serving society to the best of my ability.

I would describe the Youth Part as a court designed to facilitate the identification of a corrigible youth from an incorrigible one, an apparatus that helps identify those youths who can demonstrate that they are capable of overcoming their problems without compromising public safety. The process of identifying the "malleable" child is essential to the fair and effective operation of any juvenile justice system. I attempted to innovatively implement the Juvenile Offender law, to develop creative and imaginative dispositions for those children whom I believed could be safely channeled out of the system; children whose background and behavior were judged suitable for placement in alternative-to-incarceration programs.

The Youth Part approach with its reliance on alternative-to-incarceration programs is more effective than simplistic notions of automatic and mandatory incarceration. This is particularly true when we consider that the vast majority of children prosecuted as adults in New York and throughout the nation will return to society at a relatively young age despite their sentences. Indeed, this approach is made even more compelling since young people who have been incarcerated are far more likely to commit new crimes upon their release than those who are placed in strict, effective alternative-to-incarceration programs.

In addition to helping children live better lives, reliance on alternative-to-incarceration programs also saves significant taxpayer dollars. In New York, the cost per annum to maintain a juvenile

in a detention center is approximately \$200,000. The cost per annum for placement of a juvenile in an alternative-to-incarceration program is approximately \$24,000.

If we agree that children are malleable, that they have the capacity to change their behavior, then we can construct a juvenile justice system that encompasses within its parameters a child's ability to change. That system would incorporate the predominant mode of prosecuting children for delinquent behavior which existed in the United States almost from the inception of the juvenile court movement in the early 1900s. That early system favored the prosecution of children in separate juvenile courts, courts that would ideally have the authority, resources and support to place and link children with appropriate support programs to service their special needs. That system also had a built-in "safety-valve", i.e., the authority of juvenile court judges to exercise their discretion to "transfer" certain children to the adult criminal courts, but only after an individualized assessment of each child's crime, potential and culpability. This judicial waiver or transfer system was gradually eroded in the latter part of the twentieth century resulting in the wholesale movement of young offenders into the adult system without such a hearing.

A Youth Part under the leadership of a motivated judge, with the help of committed staff, cognizant of the concerns of the victim and society, can transcend the often impersonal court bureaucracy and connect with a youth, his family, his neighborhood and the community. It is not a panacea but a creative response to the inflexibility of punitive laws. It can serve as a vehicle through which imaginative and innovative ideas can be implemented; a court where the atmosphere is such that the presiding judge would be able to recognize and respond effectively to the "salvageable" youth. I recognize that my reference to a judicial assessment of "salvageability" risks being misconstrued as an arrogant assumption of authority not warranted in a due process judicial context. That is not my intention. The word salvageable is a strong word. By using it I mean to convey the reality that given the shortcomings of a system, which requires incarceration of juveniles in essentially non-rehabilitating institutions, judges, who have the responsibility of sentencing these offenders, are often left with no viable alternatives and, therefore, are confronted with decisions that may indeed affect the ability of such youths to live productive and law abiding lives. Consequently, when I use the word salvageable I use it in that context and, where appropriate, substitute the word "incorrigible", a description with less authoritarian connotation.

The overarching objective is to reaffirm the concept that children are developmentally different from adults, that a judge can be a formidable force in shaping the lives of the children who appear before him or her, and that recognition of these developmental differences, coupled with effective interactive techniques between a judge and child, will improve the quality of justice for children.

I began with the story of Loretta to illustrate the dimension of the problems these young offenders present. The issue for me is, adapting a phrase that dramatically illustrates the consequences of decisions we are often compelled to make, are these youths just "dead kids walking" or are they children who have the capacity and potential to become contributing members of society? How do you persuade a child like Loretta to believe that she has the power to change the circumstances of her life through the development of her talent? – that it is

still possible for her to realize her dream of becoming a professional dancer, despite her problems? The relationship between the belief in the possibility of attaining one's dreams and crime is inescapable. There is an inverse relationship between belief and hope, on the one hand, and crime and violence on the other. As belief and hope diminish, crime and violence increase. Despair in the lack of a future falls most heavily on the juvenile population. It is expressed in such forms as "gangsta rap" – if you won't let me share in your riches, I will take them. The frustration and bitterness so poignantly expressed by Loretta cannot be answered simply by resorting to the rhetoric of those who cry that today's youth have an equal opportunity to succeed just as we did. It is not that simple. The challenge posed by children like Loretta requires a rejuvenation of spirit, a concrete display of opportunity, and an absolute right to the best education available, so that these children will be prepared to embrace opportunity when it is presented.

We tried to meet this challenge in the Youth Part. We asked children – no, we tried to persuade them – to believe that they can accomplish their goals. We tried to link them with services that prepared them for the opportunity to succeed. We were not always successful, but the community expected us to make the effort and we attempted to do our part. Communication of these beliefs takes many forms in the Youth Part and is an integral part of our method. In the end, the Court's adjudication of a child as a "Youthful Offender" – literally granting the child a second chance, can be said to symbolically represent the elimination of barriers to a child's reentry into society.

The challenge is to appraise these children as they really are; to recognize that the decisions judges make, pursuant to laws requiring punitive responses, are life-altering for many of these children; to foster an understanding that how we treat these children will have an enduring impact on our own children and grandchildren. In the end, my philosophy is anchored to the belief that each child has value which we are obligated to recognize.

In the Youth Part, we tried to convey to the young offenders that we cared about their future and that society and I, as the judge, had certain expectations; if they could not live up to those expectations there would be serious consequences. In many instances this may have been the first time that a defendant experienced structure. Some responded very well. This approach is certainly not appropriate for every defendant; identifying those defendants for whom it has merit requires a thorough and careful analysis.

What is not traditional about this process is that it requires judges to supervise the coordination of the agencies providing services to the juvenile so that an integrated, supervised and carefully monitored program is available to the offender. The theory upon which this approach is based is that corrective treatment of a young person, with temporary incarceration when necessary, prevents recidivism more effectively than long-term imprisonment.

We tried to create a process, to craft a sentence that impacted on the youth's response to challenges he faced in his environment. We recognized that our efforts to affect the child's environment were extremely limited, so we concentrated on his response to the conditions with which he was presented, to provide him with the means to constructively react to the adversities of his surroundings.

Alternative-to-incarceration programs are important interventions in that process. I consider them extensions of the court. They help juveniles gain insight and learn skills that will enable them to better manage their behavior. ATI programs, which are predominantly privately run community-based programs, have as their mission to provide the court with an alternative to a sentence of imprisonment. These programs provide educational and social training which encourage and guide positive behavior. They offer safeguards that can lend confidence to a judge's decision to release a youth who will then be afforded supervision and counseling. They offer a youth an opportunity to prove himself and build a history of responsible behavior that would justify a judge's decision to grant a second chance. It is essential, however, that such programs accede to the monitoring process, that is, that they be responsive to the court.

The Youth Part's approach to sentencing does not ignore the necessity for the incarceration of dangerous juveniles, but it is designed to strengthen a suitable offender's resistance to negative behavior, to provide incentives for a youth to build skills and make productive choices. It emphasizes a positive approach in dealing with young offenders and sets up the objective of rehabilitation, development of character and giving the youth the tools to react constructively to negative pressure. In sum, we view contact with a child as an opportunity to positively influence behavior by guiding and rewarding the child who makes productive choices.

The challenge we face in the juvenile and criminal justice system is that of socializing children who commit criminal acts and integrating them back into our society. I believe the answer lies with education and in the development of a process of accountability. A judge is in a unique position to address the ills affecting many of the children who appear before him by using his authority to coordinate and enforce sanctions. Ignoring these issues by simply imprisoning youth merely delays their inevitable reentry into society, rarely cured of these ills, rehabilitated or prepared to meet their obligations as citizens.

The Youth Part's orientation is to look forward, to prepare the juvenile for the future. Once guilt has been established, the challenge is to craft and supervise an intervention that would change that child's future behavior. The main mechanism upon which we rely is rigorous judicial monitoring of a defendant's participation in court-ordered programs. The role of the judge in the evaluation of a youth's progress is shaped by this mission. Implementation of the monitoring process requires interaction with a youth, dialogue, and the ability to listen. Through the monitoring process we believe we can favorably influence a child's behavior.

In order to implement these concerns, we structured the Youth Part process as a system of reward and punishment in the sense of providing encouragement and support when appropriate, as well as timely instilling discipline and exacting a cost for misbehavior when necessary. We did this chiefly through the device of deferring a youth's sentence for a sufficient period to enable the court to monitor a youth's performance in a treatment program. This permits a proportionate response by the court to any misbehavior during the monitoring process rather than presenting a youth with an all-or-nothing opportunity for a second chance.

I believe we have had some measure of success in the Youth Part because we chartered a middle course between the adult court and the juvenile court by combining the potential for the more severe sanctions of the adult court with the potential for rehabilitative dispositions usually

available through the juvenile court. We integrate the principle of accountability with that of the recognition of the developmental differences of children.

We do this in stages: First, we gather as much information as is available about the youth. The Probation Department conducts a pre-pleading investigation (PPI) with the consent of the youth's attorney to document the youth's social history. A psychiatric report is also ordered with the consent of defense counsel for each youth (referred to as a 390 report since it is authorized pursuant to section 390 of the Criminal Procedure Law). The Court has become a focal point for youth counseling and alternative-to-incarceration programs who assist in determining whether or not youths meet criteria for admission into those programs. Since all juvenile offenders appear in one part, many programs send court representatives to the part daily and especially on "calendar" day to help identify potentially suitable youths.

Second, after gathering this information we assess the youth's background and involvement in the offense to determine his level of culpability. We make an effort to assess the offender's level of maturity. This assessment requires a comprehensive portrait of the offender; a portrait that is often supplemented by defense pre-pleading and sentence memoranda. It is important that the court be able to assemble as much information about the offender as is available. How has the child reacted in terms of demonstrating mature behavior in his home, neighborhood, school, and if there was prior contact with the legal system how has he performed under supervision? This information helps us to assess prospects for rehabilitation, illuminates the offender's risk potential and informs the court of the persistency and intensity of the offender's violation of social norms. This information can also reveal an offender's capacity for and willingness to evaluate behavior choices. It may disclose patterns of criminal behavior and the offender's aptitude and willingness to change that pattern. In addition to concrete information from objective sources, we try to get to know the defendants and develop a rapport with them through periodic court appearances in court. We then make a determination as to whether we can give the defendant an opportunity to prove himself. If so, we identify an appropriate community-based program for the defendant.

Third, where a guilty plea is to be entered and the offender's background and involvement in the crime permit the court to consider an alternative-to-incarceration, a plea is structured to allow the court to test the child's willingness and ability to cooperate.

Essential tools in this process are: one, the postponement of sentence after a plea; two, the conditional nature of the sentence (conditioned on compliance with terms of a plea agreement usually requiring cooperation with an alternative-to-incarceration program), and, three, validation of the child's performance after plea. In order to validate the child's progress, the Court closely monitors performance in the program weekly by calls from court staff to the child's counselor, and approximately every three weeks when the child appears in the Youth Part for formal report. These contacts provide the Court with timely information and convey the Court's concern and interest in the child to the child. If the Court learns a defendant has violated the terms of the deferred sentence, the case is immediately advanced and the problem is addressed.

The question often asked is how did I arrive at a specific sentence? Factors which must be considered in deciding upon a sentence for juvenile offenders include respect for the suffering of

the victim and the victim's family, maintenance of public confidence in the rule of law, recognition of the state's responsibility to protect children and insure their development. Determining an appropriate sentence also requires reflection upon the facts of a case, the individualized circumstances of an offender, recommendations of prosecution and defense counsel. Upon such reflection, the outlines of a sentence usually crystallize from accumulated experience in dealing with cases of this nature. I found it useful in this process to convene an in-chambers conference for most cases. The atmosphere of these conferences was informal but the objective was clear: what was the fairest disposition available for this offender, the victim and the community?

A Model Juvenile Justice System

A model juvenile justice system recognizes children as children, tries them as children and sentences them as such. The model I offer serves to identify more precisely dangerous, violent and chronic juvenile offenders but it is also one that permits appropriate judicial responsiveness to the developmental needs of young offenders, providing suitable offenders with the opportunity to earn a second chance within the framework of a procedural and substantive partnership between the juvenile and adult courts. My vision of an effective juvenile justice system is premised on an accurate portrayal of the characteristics of youth. Appreciating the true nature of adolescence will help us develop appropriate laws, policies and practices so that we can judge children more fairly.

This can be accomplished in a framework that recognizes the vulnerability and malleability of adolescents, without compromising public safety.

The model has four objectives:

First, the development and implementation of a statutory strategy of prosecution that serves to identify more precisely dangerous, violent and chronic juvenile offenders;

Second, the development of "punishments" that are primarily intended to educate an offender;

Third, a system of prosecution and punishment of juveniles that is flexible enough to recognize and accommodate juveniles who have the capacity to change their behavior by participating in alternative-to-incarceration programs;

Fourth, the development of mechanisms to remove the stigma of a felony conviction from those juveniles who have demonstrated that they have conformed their behavior to society's standards after having been convicted and imprisoned.

The model I have suggested is judicially centered and requires a re-investment in the juvenile courts in both conceptual and fiscal terms but I submit it will lead to a more just system of adjudicating the offenses of juveniles. There are those who may be uncomfortable with a system that vests authority in the judiciary to determine who is rehabilitatable. However, the real issue that should be addressed is that judges selected to serve on the juvenile court should be wisely chosen, properly instructed and above all prepared to approach their task in the right spirit.

In the 1930s, a United States congressman, Vito Marcantonio, described his responsibility to his constituency, the poor immigrant working class of East Harlem, New York as an interpreter of the “unrealized possibilities” of democracy. In my role as judge, I too tried to instill in young offenders a belief in their unrealized possibilities. I encouraged young people to use their minds, develop their talents whether it is in the wizardry of words, the magic of music or the exhilaration of hard work. I told them if they do this, we adults would make room for them in our society. The challenge of instilling that hope in these young offenders has proven to be considerable in a system that all too often indiscriminately prosecutes children as adults. The model I have proposed respects the individuality of each child accused of a crime. I believe a juvenile justice system should be a restorative process, a process of reconciliation of the child with society, a process of “soul awakening instead of soul debasing”, a system that permits an assessment of a child’s moral character, demonstrating by the fairness of its operation the value of truth, integrity and respect for the rights of others. Labeling children as some kind of “malevolent breed” who forfeit their right to childhood and in many instances a productive adulthood because of mistakes made at the beginning of their lives undermines the very foundation of society. A democratic citizenry must demand much more of its juvenile justice system than “expedient” answers to highly complex problems. It must demand a juvenile justice system reflective and worthy of democratic ideals.

(Text primarily excerpted from author’s book: Judging Children as Children: A Proposal for a Juvenile Justice System.)