## REMAND DELINQUENTS, THE COURT AND THE PSYCHIATRIST

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#### I. INTRODUCTION

In both the United Kingdom and the United States of America, juvenile courts now often seek medical advice on the disposal of some of the delinquents who come before them. In a previous paper (Kolvin and Ounsted) the reasons for medical referral to the Child Psychiatric Clinic were described.

This paper considers first the agreement between medical recommendation and court disposal; and secondly the association between specific court decisions and the behaviour and social and family background of the 234 boys surveyed. These boys were remanded in the Oxford Regional Remand Home, which served a large number of courts in at least nine counties. All reports were requested by the court and no cases were included in which the request emanated from the counsel for the defence. In general, the boys were resident for three weeks, during which time the fol-

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lowing data were collected: (a) a report from the Warden and staff of the Remand Home in standardised form (all cases); (b) a psychometric examination on the Wechsler Intelligence Scale (91 per cent. of cases); (c) an electro-encephalographic examination cases); (d) a medical and standardised psychiatric examination (all cases); (e) social reports from probation officers or child care officers; (f) school reports from headmasters or head teachers; and (g) other medical reports when applicable.

A large number of different courts used the remand home, and any trends noted in this paper are not, therefore, to be attributed to the actions of any particular court. In a high proportion of cases the final medical recommendation was only arrived at after a comprehensive review and discussion of the case by two psychiatrists. This invariably occurred with the more complex cases, but less frequently with the less complex ones.

## II. OXFORD REMAND HOME DISPOSALS

Approximately one-third of the cases in the remand home are referred for psychiatric re-

TABLE IA

	Total remand figures—1 year	Total remand home prorated for 2 years	Psychiatric remand home cases—2 years	Not psychiatrically referred—prorated for 2 years
Approved school Borstal and Detention Centre and associated measures	153	306 (45%)	45 (20%)	261 (58%)
Supervision Order, Probation Order, F.P.O. and associated measures	183	366 (55%)	176 (79%)	190 (42%)
Total	336	672	221	451

ports. It would, therefore, be interesting to compare the disposals of those cases referred for psychiatric report and those not. Our hospital survey cases covered two full years, but, unfortunately, no remand home figures were available for the same period. We were, however, able to obtain remand home figures for one year which overlapped the two years delineated above. An attempt was made to compare the disposals but the figures proved not to be directly comparable because different criteria were used for inclusion in the discrete groups. However, broad group comparisons were possible. In the following table the first column contains the total remand figures for one year; the second column, the total remand home figures prorated for two years; the third column, psychiatric remand cases for two years; and the last column contains estimated figures for cases not referred for psychiatric report over the two-year period.

Analysis of Table IA revealed only a small percentage of remand home boys referred for psychiatric reports are eventually directed towards punitive-training measures and the reverse operates for those cases not referred for psychiatric reports. This would indicate a swing towards the humane management of potentially psychiatrically disturbed adolescents.

# III. IMPLEMENTATION OF MEDICAL RECOMMENDATION

In two instances the medical reports were not presented to the courts, and this reduces the total number analysed in this paper to 232. The courts implemented 79 per cent. of the recommendations made.

## A. General

No significant differences between the two groups, i.e., "implemented" and "non-implemented," were discovered with reference to family size, ordinal position, delinquent siblings in the family, overcrowding, intelligence or school progress.

## B. Age and implementation

The following table suggests that age did not play a part in the implementation of medical recommendations.

TABLE IB

Age a	ınd Implementa	tion	
	Implemented	No implem	
Age 13 and under	64	19	83
14	50	15	65
15 and over	69	15	84
		To	tal 232

## C. Estimated social class

TABLE II

	Estimated	Socia	l Class	
Registrar General's Social Class	Follows	Not	Expected value	Per cent. rejection
Class I, II, III	82	28	21.8	25%
Rest	97	22	26	18%
Total	179	50		

In an attempt to obtain more comprehensive coverage estimates of social class have been made in the problematic cases and adoptive children and those temporarily living away from their parents have been included.

There is a slight but not significant trend for a higher rejection rate by the court of medical recommendations in the higher social classes.

## D. Family and parental background

TABLE III

Family and I	Parental Backgr	ound
	Illegitimate	
	Yes	No
Implemented	26	156
Non-implemented	11 (29%)	39 (20%)
		Chi = N.S.

Table IV shows that there is a highly significant tendency for courts to reject medical advice on those delinquent boys whose homes were not intact.

TABLE IV

Family	Background	
	Living with	own parents
	Yes	No
Implemented	130	50
Non-implemented	25	27

TABLE V

Foster Home	
Yes	No
41	121
19 (31.7%)	29 (19%)
	Yes 41

TABLE VI

Clear-Cut School Truancy		
Truancy		
Yes	No	
123	40	
41 (25%)	6 (13%)	
	Trua Yes 123	

In the case of illegitimate children medical advice was more often rejected than it was in the case of legitimate children, but this trend is not statistically significant. In this connection it is of some interest to note that only thirty-seven boys out of the whole group were known to be illegitimate.

A trend was noted of not implementing medical recommendations in the case of truants.

E. Type of offence

TABLE VII

Gro	oup Offence	es	ı
	Always alone	Mostly alone	Group
Implemented	75	24	82
Non-implemented	24	12	12

In Table VII the conflicts and agreements between the medical recommendations and the judgments of the court are considered in two groups: one, those in which the offence was committed in solitude, and the other where the offence was committed in a group. It will be seen that there is a significant difference between the two groups. In the case of solitary offenders conflict between medical advice and court decision was substantially greater.

TABLE VIII
Rich's Classification

	Marauding	Proving	Comforting	Secondary
Implemented	50	33	26	32
Non-implemented	7 (13%)	7 (17%)	10 (27.8%)	11 (25.8%)

TABLE IX

Non-larceny Of	fences
Implemented	40
Non-implemented	15 (27%)

176 boys were brought before the court for stealing. In Table VIII Rich's classification is applied to these patients. It will be seen that

there are four groups of roughly equal size.

In the case of marauding and proving there was relatively good agreement between the medical recommendation and the court decision; in marauding 13 per cent. disagreement, and in proving 17 per cent. disagreement. On the other hand, in respect of comforting and secondary stealing, there was substantial disagreement. In the comforting group the disagreement was 27.8 per cent. and in the

Table X
Family Rearing Patterns

	Rejection	Repression	Exposure and neglect	Not classified
Implemented	47	40	85	10
Non-implemented	23	8	19	0
Total	70	48	104	10

secondary group the disagreement was 25.8 per cent. In the non-larceny cases (Table IX) there is substantial disagreement of roughly the same order, i.e., 27 per cent. In the relatively small sub-group of fifteen who had committed sexual offences, disagreement was even higher, being six out of the fifteen (40 per cent.). Thus it would seem that increasing complexity of psychopathology is associated with increasing disagreement between the court and medical advice.

### F. Family rearing patterns

In Table X the main family rearing patterns, according to the Lewis modification of the Hewitt and Jenkins Classification System, are set out. In respect of the "repression" and the "exposure and neglect" groups there is very close agreement. In both groups approximately 18 per cent. of the recommendations are rejected. In the group where the delinquents had themselves suffered rejection there is a very highly significant increase in the rejection of medical advice by the courts (33 per cent. of cases medical advice was rejected). Possible explanations of this will be considered in the discussion. (Rejection: repression Chi<sup>2</sup>=3.063. Rejection: neglect Chi<sup>2</sup>=4.098.)

G. Emotional disturbance

TABLE XI

Emotional Stability				
	Essex-Cater 1954–1958	Oxford 1963-63		
Emotionally stable	50% approx.	36% approx.		
Unstable	50% approx.	64% approx.		

In Table XI the clinical impression of emotional stability in our series is compared with that of Essex-Cater. In Essex-Cater's study approximately 50 per cent. showed emotional disturbance as compared with 64 per cent. in our own. This finding is not surprising in view of the fact that the present series had been substantially filtered before it reached the physician whereas Essex-Cater's delinquents were an unselected Swansea series.

### H. Rejection rate and psychiatric state

Table XII is the most fascinating table of the study. The two main groups consist of stable boys (84) and reactive emotionally disturbed boys (80). An analysis of these reveals that when the boys were deemed emotionally stable there was little discrepancy between the

TABLE XII

Rejection Rate and Psychiatric State

	Stable	Organic subnormal E.S.N.	Endogenous depression	Neurotic	Reactive emotional disturbance	"Affectionless" and prepsychopathic
Implemented	71	18	1	19	55	18
Non-implemented	12 (14%)	5 (28%)		2 (9%)	25 (31%)	6 (24%)
Not stated	1					1
Total	84	23	1	21	80	25

psychiatric recommendations and the court disposal; however, this discrepancy more than doubles when the psychiatrist assesses there to be clear evidence of emotional disurbance. The other high rejection rate was for the subnormal-cum-E.S.N. group—this was probably due to lack of facilities for borderline subnormal or E.S.N. delinquent boys. The same cannot be claimed for the emotionally disturbed group. Two explanations come to mind. First, that the ascertainment of emo-tional disturbance will turn the psychiatrist towards a therapeutically orientated recommendation. This could be seen as an attempt to supply an unwarranted excuse for the antisocial conduct of this type of boy. In marginal cases the magistrate may consider that punishment and deterrence must override marginal psychiatric considerations. Whatever the explanation it is again seen that the increasing complexity of psychopathology is associated with an increasing disagreement between the court and medical advice which it has requested.

TABLE XIII

Combine	d Psychia	tric State	
	Stable	Significant disorder	Total
Implemented	71	111	182
Non-implemented	12	38	50
Total	83	149	232

# IV. SPECIFIC COURT DECISIONS AND THEIR ASSOCIATIONS

In this section an attempt is made to discover if any specific types of disposal were related to any particular features of the boys' reactions or behaviour, or to their family and

social backgrounds. Again, the type of disposal cannot be totally ascribed to the juvenile courts, as they must, in view of the high agreement rate between the psychiatrist and the court, to some extent reflect the influence of the psychiatrist on the courts. For the sake of comparison, the disposals have been grouped together in four main categories—Probation, Fit Person Order, Approved School and Miscellaneous. The Miscellaneous is a rather heterogeneous category and includes discharge, fine or psychiatric treatment only—detention or attendance centre and associated measures.

No trends or significant associations were found between the type of court disposal and the following features—family size, foster home placement, illegitimacy, sibling ordinal position, other delinquent siblings in the family, other unstable siblings in the family, poor school progress, stealing in groups or stealing alone, types of stealing, psychosomatic symptomatology, and the motivation underlying the delinquent behaviour.

## A. Social class

Social class was related to disposal in the sense that removal from home either by placement in an approved school or the making of a Fit Person Order was significantly more common in delinquent boys from the lower social classes.

This is not a surprising finding. It could reflect either social attitudes or a real deficiency in the quality of home care in children from lower social classes.

# B. Final disposal and the agreement between the court and the psychiatrist

From Table XV it will be seen that the greatest measure of agreement between the

TABLE XIV
Estimated Social Class and final Court Disposal

				Miscellan	eous	
Social Ciaco	Probation	Fit Person Order	Approved school	Detention centre	Other	Total
		11	9	8	7	110
II + II + III	75	11			5	119
Doot	ost 65	23	21	3		
Kest			30	13	12	229
Total	140	34	30	<u> </u>	<u> </u>	<u> </u>

TABLE XV
Agreement Between the Court and the Psychiatrist

	Probation	Fit Person	Approved	Miscellaneous		
	riodunon	Order	Approved school	Detention centre	Other	
Follows	111	33	21	11	6	
Does not	30 (21%)	2 (6%)	10 (32%)	3	5	
Total	141	35	31	14	11	

court and the psychiatrist is related to the Fit Person Order, and the least measure of agreement to the Approved School Order. The Miscellaneous subcategories are too small for comment. The use of the Fit Person Order, when not recommended by the psychiatrist, tends to be infrequent, but the Approved School Order tends to be frequent (Fit Person Order: Approved School—Chi<sup>2</sup>=5·8).

## C. Family and social background and court disposal

TABLE XVI
Family Background

	Family Distribution		Overcrowding	
	Intact	Non-intact	Yes	No
Probation	100	41 (28%)	30	110 (77%)
Fit Person Order	20	15 (42%)	14	21 (59%)
Approved school	17	14 (45%)	12	19 (61%)
Miscellaneous Detention centre Other	9 10	<sup>5</sup> <sub>2</sub> }(27%)	2	12 11 } (88%)

From Tables XVI and XVII it will be seen that a high percentage of children committed to residential placements come from non-intact families (100:41 and 20:15—Chi<sup>2</sup>=1·86. 100:41 and 17:14—Chi<sup>2</sup>=2·33). Similarly, it was found that a higher proportion of those children committed to residential placement had lived in overcrowded homes than those who were otherwise disposed of (30:110 and 14:21—Chi<sup>2</sup>=4·2. 30:110 and 12:19—Chi<sup>2</sup>=3·2. 14:21 and 3:23—Chi<sup>2</sup>=5·1. 12:19 and 3:23—Chi<sup>2</sup>=4·1). When the main rearing patterns are noted, according to a modified

TABLE XVII
Family Rearing Patterns

	Neglect	Rejection	Repression
Probation	63 (48%)	35 (27%)	36 (27%)
Fit Person Order	13 (38%)	18 (50%)	4 (12%)
Approved school	17 (53%)	11 (34%)	3 (9%)
Miscellaneous Detention centre Other	8 3}(45%)	<sup>4</sup> <sub>4</sub> }(33%)	<sup>2</sup> <sub>3</sub> }(20%)
Total	104	72	48

Hewitt and Jenkins Classification, it is found that only a very small percentage of those who have experienced a "repressive" upbringing were committed either to an approved school or were the subjects of a Fit Person Orderthey were mainly given probation; those who experienced a "rejective" upbringing significantly found their way into a residential placement (36:7 and 35:29-Chi<sup>2</sup>=8·4) while those who experienced a "neglectful" upbringing were halfway between the other two (36:7 and 63:30—Chi<sup>2</sup>= $3\cdot01$ . 63:30 and 35:29—Chi<sup>2</sup>= 2.2). Expressed in another way, the majority of boys on probation and committed to approved schools experienced a "neglectful" upbringing-the inference being that in the incorrigible delinquents who are exposed to a family rearing pattern of "neglect" the progression is from probation to an approved school; and those in children's homes on a Fit Person Order have a 50 per cent. chance of having experienced a "rejective" upbringing.

#### D. Behaviour of the delinquent

Those boys who had not significantly truanted were more likely to go on probation

TABLE XVIII
Truancy

	Yes	Not significant
Probation	90	37 (29%)
Fit Person Order	30	2 (6%)
Approved School	24	2 (8%)
Miscellaneous Detention centre Other	11 7	$\binom{1}{2}$ (14%)
Total	165	44

TABLE XIX Hostility

****	No	Yes
Probation	97	44 (31%)
Fit Person Order	29	6 (17%)
Approved school	20	11 (35%)
Miscellaneous Detention centre Other	7 5	7 7}(48%)
Total	135	66

(80 per cent.); whereas a higher proportion of those boys who did regularly truant found their way into residential placements (approximately 33 per cent.). This reaches statistical significance (Chi²=10·2). A very low percentage of those made the subject of a Fit Person Order were assessed as showing a significant degree of hostility. This is understandable. On the other hand, a high proportion of those with a miscellaneous disposal were assessed as

being hostile. This is probably related to the psychiatrist's and the court's unwillingness to expose children's homes too frequently to hostile and aggressive children.

The breakdown of behaviour according to the Hewitt and Jenkins' Classification did not provide any really distinctive patterns. There is a tendency to include only a small number of neurotic children in those committed to approved schools, whereas far higher percentages of those children on probation, or made the subject of a Fit Person Order, were assessed as being inhibited and neurotic. The highest proportion of the approved school " socialised " committals fell into the delinquent group. However, a higher proportion of those committed to children's homes were "inhibited neurotic," but it also included a sizable number of "socialised" delinquents. Of those who were put on probation a major proportion (82 per cent.) were assessed as being "socialised" or "inhibited" neurotic. Interestingly, a high percentage of the miscellaneous category proved to be aggressive or socialised delinquents.

### DISCUSSION AND COMMENTS

Some comments have already been interspersed in the text. Both these and the methodology used in the study merit further discussion.

It seemed to the authors that there were at least two ways of analysing disposal discrepancies. First, a small number of discrepant cases could be examined in detail, both as to the content of the psychiatric report, the final court decision and attempts made to discover why the psychiatric advice was not implemented. Or attempts could be made to statistically identify factors associated with

TABLE XX

Hewitt and Jenkins' Delinquent Behaviour Patterns

	Aggressive	Socialised	Inhibited	Mixed
Probation	20 (18%)	46 (41%)	45 (41%)	1 (1%)
Fit Person Order	5 (20%)	9 (35%)	11 (42%)	1 (4%)
Approved School	5 (15%)	15 (47%)	7 (22%)	4 (12%)
Miscellaneous	12 (46%)	10 (39%)	4 (15%)	
Total	42	80	67	6

disposal discrepancies. This study, as part of a larger statistical survey, seemed better suited to the latter strategy than the former. A further advantage of the strategy is that it does not imply correctness of the psychiatrist or the court decision, but rather focuses on factors statistically associated with disagreement between the two decisions. implementation rate in the present study is 79 per cent. In two previous studies, one in the United Kingdom and the other in the United States, attempts were also made to ascertain implementation rates by the courts. The first is a study by Clouston and Lightfoot (1952) in their Tonbridge and Maidstone Clinics, In the Tonbridge Clinic, with its younger juvenile delinquents, the court implemented 82 per cent. of the recommendations; in the Maidstone Clinic they only implemented 70 per cent. Clouston and Lightfoot state that the higher percentage of acceptance at Tonbridge was probably due to the court being more lenient with younger offenders. Markey and Langsam (1957) in their Ohio study report that there was an 86 per cent. agreement rate between the psychiatrist and the judge. However, in the latter clinic there is a close contact between the psychiatrist and the court, and the psychiatrist has become an integral part of the court staff, being employed either on a full-time or part-time basis. The Oxford remand implementation rate closely approximates the Ohio implementation rate.

As all the Oxford examinations were requested by the court a psychiatrist could not be considered "advocate for the defence" but an impartial medical expert with a twofold brief: first, the uncovering of possible psychological origin for the youth's antisocial behaviour and/or the ascertainment of mild to serious mental disorder; and secondly, on the basis of taking into consideration the total psychosocial circumstances, to recommend what they considered a sensible, appropriate management of the case. The high implementation rates of the psychiatric recommendation suggested to the authors that the courts were giving sympathetic consideration to the psychiatric reports.

Nevertheless, it seemed anomalous to the authors that when the request for psychiatric examination emanated from the court, the rejection rate of the psychiatric advice rose

with the increasing complexity of psychopathology. This was evident both with regard to the emotional pattern which the youths displayed in the type of offence which they committed. These circumstances merit exploration rather than obscuration. Undoubtedly a magistrate must take many other factors into consideration, including punishment and deterrence, and in marginal cases there will be a tendency for the psychiatrist to err on the side of inferring psychological origin. Furthermore, the psychiatrist is not infallible, and a proportion of psychiatric recommendations will always be rejected. The court always has the freedom to follow what it considers the most appropriate course of action, but it is important to know where and why there are discrepancies, to obtain a clearer picture of the associations of the discrepant decisions and to consider possible explanations for the discrepancies. These associations and postulated explanations should be illuminating and thought-provoking both for the court and the psychiatrist. And could lead to a rational rather than a more arbitrary disposal or sentencing procedure which in turn could lead to a better understanding between the court and its "impartial" psychiatric experts. Put another way, it could help to pinpoint those variables which lead the psychiatrist to propose one course of action and the magistrate to dispose via another course of action.

Some tentative explanations which can be offered for the discrepancies are: unavailability of facilities when dealing with complex psychopathological problems; the technical jargon in which the report is framed, which may be seen as confounding the issue or attempting to provide excuses for the antisocial conduct of basically thug-like adolescents; or the court thinking the psychiatrist is too credulous; and finally in marginal cases the court may, as already suggested, feel that punishment and deterrence must override marginal psychiatric considerations.

Some of the specific findings merit discussion. There was substantial disagreement over "comforting" and "secondary" offences. The latter is understandable as these are inclined to be premeditated and serious offences. Again the high rejection rate of psychiatric recommendations in children from non-intact homes could be explained in terms of psychiatric help or other types of therapy being seen by the

court as likely to be more effective against a united than a broken home.

With regard to specific disposal, the high percentage of children from lower social classes finding their way into children's homes or approved schools could be explained in terms of the courts thinking that children coming from a stable base with adequate social circumstances, having the support and interest of their parents, are more likely to be contained on probation. A similar explanation could be offered for the lower percentage of children who had experienced Lewis's "repressive" pattern of rearing finding their way into residential situations. Similarly, it is understandable that a lower percentage of hostile children were channelled off into children's homes.

### Conclusions

A. 232 boys were surveyed. The court implemented 79 per cent. of the psychiatric clinic's recommendations. Only a small percentage of those boys in the remand home referred for psychiatric report were eventually directed towards punitive-training management; whereas a significantly high percentage of those not referred for psychiatric report find themselves directed towards punitive-cumtraining measures.

B. These boys were then broken down into two groups on the basis of the above acceptance of rejection of the clinic's recommendation. The court's negative decision correlated in the following manner with certain variables related to the boy and to his environment:

1. The rejection rate was significantly related to a number of features—non-intact homes; where the boy had experienced a "rejective" pattern of parental rearing rather than a "neglectful" or "repressive" pattern of upbringing; and when the boy had committed his offences in solitude.

2. Certain interesting trends were also noted—that a higher percentage of medical recommendations were rejected when the child was illegitimate, had resided in a foster home or was a truant; when the boy's stealing was of the "comforting" or "secondary" type (Rich); and where the boy was assessed as "emotionally disturbed." It was found that increasing complexity of psychopathology was associated with an increasing discrepancy be-

tween the court and the medical advice which it had requested.

3. The rejection rate did not seem to significantly relate to the following features—age, social class, family size, ordinal position, delinquent siblings in the family, overcrowding or school progress.

C. An attempt was also made to discover if any specific type of disposal used by the court was related to any particular features of the boys' reactions, behaviour or their family and social backgrounds. The disposals have been grouped together in four main categories—Probation, Fit Person Order, Approved School and Miscellaneous. The following are the main findings:

1. The greatest measure of agreement between the court and the psychiatrist is in relation to the Fit Person Order; the least measure of agreement between the court and the psychiatrist is related to Approved School Orders.

2. Various trends were noted, some of which reached statistical significance—a greater percentage of the delinquents placed on probation came from higher social classes and a higher percentage of delinquents who were the subject of a Fit Person Order or approved school committal came from the lower social classes (statistically significant); a higher percentage of the delinquents who found their way into residential placements came from non-intact families or had lived in overcrowded homes (statistically significant); there was, furthermore, a tendency for a higher percentage of those children who had experienced a "rejective" pattern of rearing to find their way into a residential placement, and a lower percentage of those who had experienced a "repressive" pattern of upbringing to find their way into a residential placement (statistically significant); finally, a higher percentage of the truants found their way into residential (statistically significant). placements implication of the above is that incorrigible delinquent offenders exposed to family rearing patterns of "neglect" progress from probation to approved schools; and those in children's homes on a Fit Person Order have a 50 per cent. chance of having been exposed to a family background pattern of "rejection."

3. The various types of court disposal did not seem to be in any way related to the following features—family size, foster home placement, illegitimacy, sibling ordinal position, other delinquent siblings in the family, other unstable siblings in the family, poor school progress, the various types of stealing, psychosomatic symptomatology, or the motivation underlying the delinquent behaviour.

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