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REFEREES IN CALIFORNIA'S JUVENILE COURTS:
A STUDY IN SUB-JUDICIAL ADJUDICATION

By Aiden R. Gough*

The juvenile court in America today is undergoing something of an "identity crisis." The conviction is increasingly held that, as an operative institution, it has fulfilled neither its aspirations nor its pretensions, and that this failure is as much due to the imprecise perception and consequent confusion of its adjudicatory and rehabilitative roles as it is to the paucity of its resources. In attempting to discharge the manifold responsibilities implicit in its mandate of individualized justice, the juvenile court has too often lost sight of its primary role as a legal institution, whose principal function is the adjudication of jurisdictional facts and the making of a disposition within a legal framework which defines "both the possibilities and the limits of action." As the U.S. Children's Bureau has put it, "Juvenile

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Note: Thanks must be expressed to the judges, referees, probation officers and others who gave generously of their time to respond to this survey. I am particularly indebted to Mr. I. J. Shain and Mr. Thomas Sasaki of the Administrative Office of the Courts and Professor Herma H. Kay of the University of California at Berkeley, for their assistance in planning the study, and to Miss Veronica Zecchini of the University of Santa Clara for her unstinting help in executing it. All responsibility for the results and views expressed is, of course, mine.


and family courts are courts of law and as such their primary role is judicial."

Virtually since the inception of juvenile courts in this country, considerable concern has been voiced as to the functioning and quality of their judges and their investigating and casework staffs. Despite this interest in both ends of the operational spectrum, so to speak, scant attention has been given to the use of referees for the fulfillment of judicial functions—to the problem of what one (at the risk of being a bit pretentious) may call "sub-judicial adjudication." The appointment of referees is authorized by statute in roughly one-third of the states, including California, and appointments may be made

& CONTEMP. PROB. 508 (1958).

In his report to the President's Commission, Professor Robert D. Vinter expressed the problems as follows: "The [juvenile] court is expected simultaneously to preserve the institution of law, to enhance the legitimate interests of its clients, especially those of children, and to serve the welfare of the community while protecting public order." Vinter, *The Juvenile Court as an Institution*, in TASK FORCE REPORT at 84, 85 (app. C).

3 STANDARDS 9.


6 The California law does not precisely define the position of the referee. A good working definition (though one which does not help set the limits of his proper role) is that contained in a recent study of California's Juvenile Court Law: "A referee is a hearing officer, with the powers of a juvenile court judge, who hears the cases assigned to him by the presiding judge of the juvenile court." Comment, 1961 California Juvenile Court Law: Effective Uniform Standards for Juvenile Court Procedure?, 51 CALIF. L. REV. 421, 433 (1963).

A much more succinct but equally exact definition was that offered by a perceptive young miscreant appearing before the author as a referee. Attempting to help the court explain to his uncomprehending mother the nature of the referee's hearing and the rights to judicial review, the young man, after making a slow, withering appraisal of the adiposity of the occupant of the bench, exclaimed, "Oh, Ma, you know; he's just like a shrunken judge"—and then had the bad grace to snicker.

7 Kilian, *The Juvenile Court as an Institution*, 261 ANNALS 89, 96-97 (1949). See also H. BLOCH & F. FLYNN, supra note 4, at 362. For a short
elsewhere under the court’s equity power to appoint masters in chancery. However, very little is known about the scope and limits of the functioning of referees and there has been almost no examination of the problems attendant upon their use. Since judges are overextended and calendars are burgeoning, the utilization of referees may be both tempting and wise. Unless the referee’s role is clearly defined, however, and the qualifications for the post are apposite to that role, the juvenile court’s “identity crisis” will be compounded.

As a starting point for study, it is the purpose of this article to examine the qualifications and deployment of referees in the juvenile courts of California and to assess some of the implications of their use.

Methodology

To apply the term “methodology” to the procedures used in this study is (frankly) to grace them with an unwonted dignity, but nonetheless some explanation is in order. A four-page questionnaire exploring the individual backgrounds of referees and court commissioners, types and numbers of cases heard, frequency of use, policies governing assignment of cases, compensation and various other points was sent to the presiding judge of the juvenile court in each county of the state. Follow-up letters were sent where necessary to ensure response or to clarify questionnaires received, and personal or telephone conferences were held with a number of judges, referees and probation officers. (The questionnaire explicitly distinguished the functions of referee and of traffic hearing officer; though the latter is clearly separated by law, prior to 1961 the term “traffic referee” was frequently used and there remains some confusion.)

Responses were secured from all 58 counties.

The Background and the Present Law

Referees were first authorized in California’s juvenile courts (in counties of the first class only—i.e. Los Angeles County) in 1915. By 1939, authorization for referee appointment, with some rather peculiar limitations, had been extended to all counties with three or more judges. In all but counties of the first, second and third class,
the person so appointed was required to be the probation officer or his assistant or deputy. In 1945, the juvenile court judge was empowered to appoint "judges, justices or recorders" (presumably of inferior courts) to act as referees. If the offense charged were a misdemeanor, the judge, justice or recorder so appointed could retain jurisdiction over the minor without certification to the juvenile court, and could make dispositional orders in his case for a period not exceeding 6 months.

At no point did the law establish clearly the bounds of the referee's function (nor, in fact, does it now). The 1937 enactment specified that the referee should have "the usual powers of referees in chancery cases in all cases referred to him by the court," and by 1959 the law provided that he should have "such additional powers as may be given him upon . . . reference." It is abundantly clear, however, that the referee's role was from the outset conceived as a judicial one; he was to serve as a surrogate for the judge, not an extension of the probation officer.

Despite this, no mention was made of qualifications for holding refereeships (apart from the 1939 specification earlier adverted to, that the referee in certain counties had to be a member of the probation staff—a singular example of confusion of function) until 1959, when the statute was amended to provide that:

[The referee] shall have a broad background in and ability for appraisal of juvenile law offenders and delinquency, the circumstances and third class had authorized appointment of referees in all such counties, permitting the appointment of female referees in counties of the second class and requiring it for the trial of females in counties of the first and third class, "where possible." Cal. Stats. 1937, ch. 369, at 1022 (formerly Cal. Welf. & Inst'ns Code § 574).

12 Cal. Stats. 1939, ch. 380, § 1, at 1715 (formerly Cal. Welf. & Inst'ns Code § 578.1).
13 Cal. Stats. 1945, ch. 414, § 1, at 878 (formerly Cal. Welf. & Inst'ns Code § 826.5).
14 Id.
17 Cf. Cal. Stats. 1937, ch. 369, at 1022 (formerly Cal. Welf. & Inst'ns Code § 576) (in part): "The referee shall hear the testimony of witnesses and shall certify to the judge his findings . . . together with his recommendation as to the judgment or order to be made . . . ." The only apparent limitation the statute put upon the referee's powers was to require the approval of his findings and orders by the juvenile court judge. As the Governor's Special Commission noted, this was hardly a significant stricture, since overburdened judges were likely to give perfunctory approval. Cal. Juv. Justice Comm'n—Prt II, at 36. More than half of the judges reported that they had never reversed a referee's decision. Id. at 28.
of delinquency and evaluation of the individual's progress towards reformation. Insofar as practicable the referee shall have experience and interest in youth correctional work as well as experience and background in one of the following fields of corrections: sociology, law, education or probation.\(^{19}\)

As the Governor's Special Study Commission on Juvenile Justice observed, "Obviously this language does not furnish much guidance in the selection of qualified referees."\(^{20}\)

Thus matters stood at the time of the revision of the Juvenile Court Law in 1961.\(^ {21}\) Following upon the recommendations of the Special Study Commission, important changes were made in the law concerning the qualifications of and procedures to be followed by referees, whom the Commission said could serve a "valuable and useful function,"\(^ {22}\) if competent and qualified.

First, all newly appointed referees are required under the new enactment to have been admitted to the practice of law for 5 years, or to have had at least 5 years experience in probation work at the supervising level, or to have a combination of the two aggregating 5 years.\(^ {23}\) The law reflects the pervasive incertitude as to whether the juvenile court's role should be principally that of a juridical institution or that of a rehabilitative agency. It reflects as well a curious abdication by the Commission, which notes that "[t]he referee, of course, primarily performs a judicial function."\(^ {24}\) The Commission goes on to remark that:

It is the view of leading professional organizations such as the National Council of Juvenile Court Judges, the N.P.P.A. [now the National Council on Crime and Delinquency], the United States Children's Bureau and many others that the referees should have some legal training.\(^ {25}\) It notes also that familiarity with the field of corrections is highly desirable. It rather lamely concludes, however, that "[p]ersons having such diversified qualifications are unusual, however, and therefore not readily available in any significant numbers."\(^ {26}\)

Second, following the Commission's observation that the requirement of judicial approval of referees' orders imposed an excessive


\(^{20}\) **CAL. JUV. JUSTICE COMM'N—PART II, at 29.**

\(^{21}\) For a good general discussion of the new law, see Comment, *supra* note 6.

\(^{22}\) **CAL. JUV. JUSTICE COMM'N—PART I, at 36.**

\(^{23}\) Cal. Welf. & Inst'ns Code § 553.

\(^{24}\) **CAL. JUV. JUSTICE COMM'N—PART II, at 29.**

\(^{25}\) Id.

\(^{26}\) Id. This view is discussed further at notes 64-66 *infra* and accompanying text. The Commission apparently did not secure precisely the qualifications it sought: The draft recommendation called for five years experience in "professional juvenile social work or probation work," rather than the less restrictive statutory terminology of "probation work."
burden on harried judges and rendered such approval largely meaningless, the new law provides that the orders of the referee become effective immediately without approval, save only where an order removes a child from his home. In the latter case, the order does not take effect until it is expressly approved by the judge. All orders of a referee, however, are subject to a right of rehearing before the judge at the behest of the minor or his parent, or upon the judge's own motion. If all proceedings before the referee have been transcribed by an official court reporter, the judge of the juvenile court may grant or deny the application for rehearing upon the transcript; otherwise, the rehearing is to be granted as of right. All rehearings before the judge are to be conducted de novo.

Attempts since the 1961 revision of the law to impose more rigid qualifications for referees have been unsuccessful and were apparently opposed by most juvenile court judges. Legislation was introduced in 1963 which sought to require 5 years' admission to the practice of law for referees. A competing bill in the same session sought to liberalize the requirements, permitting the appointment (in counties of less than 600,000 population) of probation officers with 5 years' experience, whether at a supervisory level or not. Both bills died in interim study. At the Institute for Juvenile Court Judges and Referees conducted by the Judicial Council, an informal poll was taken of the judges in attendance. Forty preferred the lesser qualification requirement; approximately eight preferred the present standards; only one voted to impose a requirement of legal qualification.

Qualifications and Deployment of Referees: The Present Practice

Of the 58 juvenile courts responding to the survey, 29 reported the standing appointment of referees and their use on either a regular

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27 CAL. JUV. JUSTICE COMM'N—PART I, at 36.
28 CAL. WELF. & INST'NS CODE § 556.
29 CAL. WELF. & INST'NS CODE § 555. However, the judge of the juvenile court may establish requirements that any or all orders of his referees must be expressly approved before becoming effective. CAL. WELF. & INST'NS CODE § 557.
30 CAL. WELF. & INST'NS CODE § 558. The application for rehearing must be made within 10 days after service of a written copy of the referee's order and findings pursuant to CAL. WELF. & INST'NS CODE § 554. This section also requires that there be served upon the parent (and minor if over 14) a written explanation of the right to seek review by the judge.
31 CAL. WELF. & INST'NS CODE § 559.
32 CAL. WELF. & INST'NS CODE § 558.
33 CAL. WELF. & INST'NS CODE § 560.
or exceptional basis (though two judges said that they had never found it necessary to utilize the referee's services.) Two other courts reported that they had no standing appointments of referees, but that they would appoint a referee ad hoc if the judge were temporarily absent, or some other emergent situation arose. 12 counties reported the use of full-time referees (with 5 of these also designating part-time or alternate referees); 17 counties use only part-time referees, 16 of them on a regular or routine basis.

The survey showed 83 referees under standing appointment in California, 32 serving full-time and 51 serving part-time or as alternates. Of the full-time referees, 17 were admitted to the practice of law, with 12 of these being in Los Angeles County. 16 part-time or alternate referees were admitted to practice; 11 of these were in Los Angeles County.

No county had all of its full-time referees admitted to the practice of law, and indeed only 7 counties had any referee serving regularly—part-time or full-time—who was legally qualified. No full-time and four part-time referees were reported as holding graduate degrees in corrections or an allied field in the behavioral or social sciences. 6 full-time and 13 part-time referees had completed an undergraduate degree in corrections or the behavioral or social sciences. 5 full-time and 11 part-time referees reported no baccalaureate degree, but in most cases indicated long experience in probation work.

In 3 counties, the referee listed as full-time was shown as also having another position in the probation department. 18 counties with part-time referees reported that their referees (a total of 39) fulfilled probation department functions. 14 chief probation officers and 8 assistant chief probation officers were reported serving as part-time referees; other probation positions reported held by part-time referees included superintendent and assistant superintendent of juvenile hall, supervising deputy probation officer, division director, and traffic hearing officer.

Reported compensation for full-time referees ranged from a low of $821 per month to a high of $1650 per month, with an approximate average scale of $1004 per month to $1151 per month. Two counties have the position of senior referee, one having a scale of $1000-1215 per month and the other $1419-1767 per month. Because of incom-

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37 Because of the great variations in pattern encountered, and to avoid completely unmanageable and repeated citations, the results of the survey are presented here in summary form rather than a county-by-county breakdown on each point. An exiguous tabular compilation listing each county is attempted in Appendix A.

38 Probation department rank, title and function vary widely from county to county, and this terminology represents the author's attempt to make cognate the various positions reported...
plete reporting and great variation in practice, no sensible summary of compensation for part-time referees could be made. It appears that in the great majority of counties where probation department personnel also serve as part-time referees, no extra recompense is given. In two such counties, however, where the chief probation officer served as a part-time referee, he was reported as receiving additional compensation for his services (in one case $100 per month, in the other $150 per month).

No county reported the use of superior court commissioners in juvenile court matters, although the questionnaire specifically raised the point.39

Every county using referees but one reported the assignment of the referee to detention hearings.40 The single exception was San Francisco County, where the judge hears all detention hearings and the referees are assigned all other types of matters. 23 counties reported that referees regularly heard the detention calendars; 7 limited the use of referees to detention hearings (though in 2 of these, the

39 Court Commissioners are authorized by statute for a number of counties. See generally Cal. Gov't Code §§ 70140-70141.9. The powers and duties of a commissioner are set forth in Cal. Code Civ. Proc. §§ 259, 259a, and his qualifications are prescribed by Cal. Gov't Code § 70142: "Every court commissioner shall be a citizen of the United States, a resident of this state, and if required by the court for which he is to be a commissioner, shall have been admitted to practice before the Supreme Court of the State for a period of at least five years immediately preceding his appointment."

From the responses to the survey, it appears that the use of commissioners is largely confined to domestic relations and probate matters. The precise distinction between the powers of a referee and the powers of a commissioner is not wholly clear, and at times they appear to overlap. See, e.g., Ellsworth v. Ellsworth, 42 Cal. 2d 719, 269 P.2d 3 (1954); compare Cal. Code Civ. Proc. §§ 638-45 with statutes above. These sections deal with reference in general; the referee of the juvenile court is a creature sui generis.

40 See Cal. Welf. & Inst'ns Code §§ 632, 635. The detention hearing addresses itself only to the question of whether the minor must be detained until the jurisdictional hearing upon the petition filed in his case. Under Cal. Welf. & Inst'ns Code § 630, a petition must be filed within 48 hours after the minor is taken into custody and detained. The detention hearing must be held within one judicial day after the filing of the petition. Cal. Welf. & Inst'ns Code § 632. The jurisdictional hearing must be held within 15 days of the filing of the petition if the minor is detained. Cal. Welf. & Inst'ns Code § 657. See generally Comment, supra note 6, at 441-42.

Until 1963, there was some confusion as to whether detention hearings could be heard by a referee, since the statute prescribed that a minor to be detained should be brought before a judge. Cal. Stats. 1949, ch. 1230 § 1 (formerly Cal. Welf. & Inst'ns Code § 729.5, which was carried over as Cal. Welf. & Inst'ns Code § 632 in the 1961 revision). However, the practice of using referees for the holding of detention hearings was apparently fairly common. See, e.g., Proceedings of the First Annual Inst. for Juv. Ct. Judges and Referees 9-10, 116, 118 (1962). The problem was clarified in 1963 by an amendment to § 632 of the Welfare and Institutions Code, which permitted detention hearings to be heard by either a judge or a referee. Cal. Stats. 1963, ch. 917, § 5, at 2166. See Comment, supra note 6, at 433, n.71.
referee would also hear some traffic matters). Although a distinction was frequently made between "contested" and "uncontested" cases in assigning referees to jurisdictional and dispositional hearings, no county made such a distinction in its assignment of detention hearings.

14 counties reported that referees were regularly assigned to uncontested adjudicatory hearings\(^{41}\) in dependency and child neglect cases,\(^{42}\) while 4 indicated that such cases were occasionally heard by referees. Adjudicatory hearings in uncontested "predelinquent" cases\(^{43}\) and criminal law violations\(^{44}\) were regularly assigned to referees in 16 counties, and occasionally assigned to referees in 2 others.

9 counties reported the regular use of referees in the adjudication of contested matters of all kinds; 8 counties used them occasionally for contested section 601 and section 602 cases, and 7 used them occasionally for contested child neglect cases. (While reliable data are not readily available, it was the consensus of those interviewed—and this is borne out by the author's experience—that child neglect cases are more likely to require the removal of the child from the parental home.)

Most of the counties surveyed also reported the assignment of referees to matters other than detentions or adjudicational hearings, such as the approval of payment orders, the appointment of attorneys to represent the minor, changes of placement, termination of probation or wardship, and the annual review of section 600 cases.\(^{45}\)

As far as could be determined, few courts utilizing referees for adjudicatory hearings have set down precise limits of policy restricting their assignment according to the seriousness of the matter alleged.\(^{46}\) Of the 17 counties indicating regular assignment of referees (either part-time or full-time) to adjudicatory hearings, only 4 expressed pol-

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\(^{41}\) The term "adjudicatory hearing" includes both jurisdictional (fact-finding) and dispositional functions. Only one county reported a division of fact-finding and disposition-ordering functions between judges and referees, and then only in certain cases (see App. A, note (d)). A bifurcation of these phases of a given case is required, but under present law can be accomplished at a single hearing. In re Mikkelsen, 226 Cal. App. 2d 467, 38 Cal. Rptr. 106 (1964). It appears that all counties take advantage of this where possible to reduce the burden of double hearings.

\(^{42}\) The jurisdiction of the juvenile court over dependent and neglected minors is defined in CAL. WELF. & INST'NS CODE § 600.

\(^{43}\) The jurisdiction of the juvenile court over minors habitually truant, immoral or beyond the control of parents is defined in CAL. WELF. & INST'NS CODE § 601.

\(^{44}\) The jurisdiction of the juvenile court over minors who have committed acts which would be crimes if committed by adults is defined in CAL. WELF. & INST'NS CODE § 602.

\(^{45}\) See CAL. WELF. & INST'NS CODE § 729.

\(^{46}\) This was probably the intent of the Special Study Commission. See CAL. JUV. JUSTICE COMM'N—PART II, at 28 (1960): "A well-trained referee enables the judge to devote time to the more difficult cases . . . ."
cies limiting such assignment to less serious matters. 3 more expressed a restriction based upon the recommended disposition (2 assigned to the judge's calendar all cases where the probation officer's recommendation was for extra-parental placement; 1 assigned to the judge only those cases where the recommendation was for commitment to the California Youth Authority or a state hospital). Thus, most counties appear to use the criterion of the contested case rather than the gradation of the offense alleged as the determinant factor in whether the matter is heard by the judge or by the referee. Where no set policy obtains, the decision is likely to be made ad hoc (usually by the probation officer handling the case or his supervisor, since he places the case "on calendar"). Whether a case is deemed "contested" or not appears to turn either upon the presence or absence of counsel for the child (or parents), or upon the fact of the child's admission or denial of guilt or parental acquiescence in the probation worker's recommendation, with no uniform standard prevailing.

Of the 9 counties which reported the assignment of referees to virtually all classes of cases, 3 indicated that "highly contested," "long drawn-out" and "legally complex" cases were assigned to the judge. Precisely how these determinations are made, and by whom, in advance of the hearing is not at all clear. (One respondent to whom the question was put replied that the determination was based largely upon the frequency and decibel-level of counsel's "noises in behalf of his client.") 3 counties indicated that the calendars were simply split between judge and referee; 3 others indicated that referees heard the vast preponderance of cases.

None of the courts surveyed reported requiring transcripts of referees' hearings as a matter of general practice. (It will be recalled that upon an application for rehearing before the judge, the court may act upon a full transcript in granting or denying the request.) In 3 counties, transcripts would be made in serious matters or where there was felt to be likelihood of application for rehearing. Several counties indicated that a transcript would be made only when the

47 E.g., all homicides to judge; referee to hear cases involving first offenders whose acts would be misdemeanors if committed by adults; and the like. The most clearly set policies were those of Alameda and Santa Clara counties. In Alameda, referees hear all classes of cases save for narcotic offenses and "offenses that would be felonies if committed by adults and are contested." Santa Clara County is much more definite and restrictive, limiting referee assignments to detention hearings; the cases of first offenders where the petition alleges truancy, incorrigibility, the commission of an offense which would be a misdemeanor if committed by an adult, or auto theft, if such cases are uncontested and probation is recommended by the probation officer; uncontested annual reviews; uncontested traffic matters found serious enough for a petition to be filed; and certain ex parte matters involving payment orders and orders changing supervision from one agency to another.

48 See text at notes 32, 33 supra.
judge's court reporter was not otherwise occupied. Most indicated that a transcript would be made if the parties or counsel requested it. The court is, of course, free to order that a transcript be made in any case, but it does not appear that courts do so with any frequency.\(^4^9\)

An attempt was made to ascertain the number of cases heard by referees in the State's juvenile courts in the fiscal year 1965-66, with something less than marked success. Some respondent counties reported no figures at all; some reported only estimates; some had no figures on a fiscal basis. Thus, the figures here are given with the caveat that they may be some indication of the extent of referee deployment, but cannot be taken as anything remotely like a precise assessment of the courts' workload.\(^5^0\)

The reports from 17 counties furnishing usable statistics (some of which were in round numbers and hence may be suspect as estimates) indicated that in fiscal 1965-66, the following total cases were heard by referees in California's juvenile courts:

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detention hearings</td>
<td>56,311</td>
</tr>
<tr>
<td>Adjudicatory (jurisdictional and dispositional) hearings</td>
<td>83,002</td>
</tr>
<tr>
<td>Other(^5^1)</td>
<td>2,194</td>
</tr>
</tbody>
</table>

A total of 346 appeals (i.e. applications for rehearing or review) to the juvenile court judge from the decision of the referee were reported for the same period of time, as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detention hearings</td>
<td>95</td>
</tr>
<tr>
<td>Adjudicatory (jurisdictional and dispositional) hearings</td>
<td>251</td>
</tr>
</tbody>
</table>

\(^4^9\) Transcripts are mandated in hearings before the juvenile court judge, but are left to his discretion in referee's hearings. Cal. Welf. & Inst'ns Code § 677.


The Bureau's figures are probably more likely to have greater accuracy for most purposes, since they are derived from individual statistical cards prepared for each minor by each county. However, the Bureau's reports cover initial filings only and do not reflect re-referrals or supplemental petitions. Since these items would be included in the figures reported in the present survey, this factor may account for the vast discrepancy in total hearings.

\(^5^1\) See text at note 45 supra.
Some Implications: An Assessment of the Practice

However imprecise this calculus may be, it seems clearly to support the conclusion that referees handle a very substantial part of the adjudication of juvenile court cases in California. They discharge the full range of judicial duties in some counties and a large segment of them in others. The referee is, in fact, a "shrunken judge." Question could be raised on a theoretical level as to whether referees should be used at all. Ideally, all judicial functions arguably should be performed by regularly-appointed judges. The fact of the matter is that they are not, and that without referees, many of the state's juvenile courts would be crippled to the point of dysfunction. Absent elevations to the bench on an unheard-of scale, the juvenile court must for the foreseeable future rely on sub-judicial personnel if it is to handle its caseload. The suitability of the referee for his post and the proper definition of his role are thus matters of vital import to the effective operation of the court, and the results of the study suggest the need for two principal changes both in law and practice.

The starting point of major concern is that most referees are not equipped to discharge the role they are fulfilling, and the law does not require them to be. The referee does not occupy the post of an administrative functionary, but of a judicial officer. It has been said that

whatever powers a referee may have had granted to him by Welfare and Institutions Code Sections 554 and 556 are so limited and modified by Sections 554 through 560 that they cannot be said to be the "same powers as a judge of the juvenile court." 52

This commentary went on to conclude that the powers exercised by a referee of the juvenile court "are not judicial powers." 53

While this line of argument could be used to support the thesis that referees need not be legally trained, it appears to me to be an exercise in semantic futility, and clearly wrong. 54 The referee's powers are obviously not coextensive with the judge's, and hence they are not the "same powers," but they surely partake of the same essence. Both the present law and the studies which led to it quite

52 PROCEEDINGS OF THE FIRST ANNUAL INST. FOR JUV. CT. JUDGES AND REFEREES 123 (1962) (remarks of Reed, referee of the juvenile court of Los Angeles County).
53 Id.
54 In fairness to Mr. Reed, it must be said that his remarks were made in the context of a discussion of the constitutionality of the delegation of judicial power to a referee.

While the constitutional propriety of such delegation has not been directly sanctioned, it has not been seriously questioned in the courts, and the longstanding presumption of the constitutionality of legislative enactments has more than usual force in this case; the very act of the court's appointment of a referee would hold the authorizing enactment to be constitutionally valid.
clearly contemplate that the referee shall serve a juridical function. He adjudicates disputed issues of fact (and, inevitably, of law) and he is empowered to make a wide range of dispositional orders which become final either upon expiration of the period for rehearing or upon approval by the judge. Conduct disruptive of orderly proceedings committed in his presence is subject to a holding of contempt. These are not the hallmarks of a nonjudicial role.

There would seem to be two reasons, both previously alluded to, for the law's allowance of correctionally-trained persons to function as referees. Neither seems defensible in the light of present needs and practices.

First, there has persisted the belief that the character of the juvenile court should be as much clinical as judicial and perhaps more so. This has led to the view that the juvenile court judge should possess an expertise encompassing more than just an extensive knowledge of the law. It is surely desirable that he should have a sound grounding in the principles of the behavioral and social sciences, and an appreciation of the resources available to him and their limitations. But this desideratum, one may suppose, has contributed to by necessary implication.

See People ex. rel. Morgan v. Hayne, 83 Cal. 111, 115, 116, 23 P. 1, 2 (1890) where the constitutionality of the statute authorizing the supreme court to appoint commissioners was upheld; their powers were held not to be judicial because the statute provided they were to "assist the court." If an effective means of judicial review of both the law and the facts were not provided, a contrary conclusion would very likely be reached. Cf. PROCEEDINGS OF THE FIRST ANNUAL INST. FOR JUV. CT. JUDGES AND REFEREES 117 (1962).

Parenthetically, it may be noted that concern over non-legally trained personnel fulfilling adjudicatory functions is nothing new to the Anglo-American legal tradition. Cf. the delightful extract from the 10th century Book of Blegywyrd, describing the practice of King Hywel the Good of Wales, taken from Lloyd, A BOOK OF WALES 272-3 and quoted in M. Mayem, THE LAWYERS at 494 (1967):

"If it is the King's wish to appoint as court judge a person uninitiated in and untrained in law, that person should remain . . . in court . . . questioning and listening to judges . . . acquainting himself with the laws and customs and procedures and the King's authorized rulings, and above all the Three Columns of Law, and the value of all domesticated animals, and of the wild beasts with which men are concerned . . . Let him spend a whole year in this manner . . . ."

It is perhaps to be regretted that the juvenile court system has no comparable internship.

See note 1 supra.

the misconception of the judicial function which sees the juvenile court as lacking the legal role of other tribunals, and which thus characterizes correctional experience as equipping one for an adjudicational task. Precisely the opposite is true; the lack of procedural guidelines and of restraints to discretion make the job of an adjudicator in the juvenile court subtle and vastly demanding. While correctional experience may be distinctly germane to the proper disposition of a child in whose case jurisdiction has been established, it is not relevant to the fact-finding function which must be conducted within the framework of legal rules. The thrust of recent law and practice—retrograde and lethargic though it may at times have been—has been toward restoring to the juvenile court a "judicialized" adjudicatory process, and toward the requirement that the process meets the basic tests of fairness. Beginning with *Shioutakon v. District of Columbia* and culminating for the moment in *In re Gault*, the decisional law has stressed the need for a re-evaluation of the juvenile court's self-image. In the words of the President's Commission,

The juvenile court is a court of law, charged like other agencies of criminal justice with protecting the community against threatening conduct. . . . What should distinguish the juvenile from the criminal courts is their greater emphasis on rehabilitation, not their exclusive preoccupation with it.

Perhaps equally contributory to the present loose standards of the law—and of a more pragmatic concern—is the conviction that persons having qualifications in law and the behavioral sciences are

61 See, e.g., Nicholas, History, Philosophy, and Procedures of Juvenile Courts, 1 J. Fam. L. 151, 163 (1961), where it is said that "[r]eferees should be either attorneys or well-trained social workers, and should conduct the hearing in the same manner as the Judge." If he is not legally trained, how can he?

For the contrary position, see Standards 104, where the Children's Bureau concludes that:

"It is not necessary . . . for a judge to have training or experience in social welfare or social sciences. The early insistence that the judge 'be an expert in the sciences of human behavior and in the art of adjusting human relations' arose from the misconception of the judicial function at a time when child care and treatment agencies were less well developed than they are today. While the court's decisions may relate to treatment and involve the judge's ability to understand, respect and evaluate expert opinion presented, the judge himself does not directly undertake or control treatment functions."

Although I believe it may overstate the case, this view puts squarely the point that in the hierarchy of desirable qualifications, legal training comes first. See McCune & Skoler, Juvenile Court Judges in the United States, 11 Crime & Del. 121, 129 (1965).


63 236 F.2d 666 (1956).

64 387 U.S. 1 (1967).

"not readily available in any significant numbers." This observation is very likely true, but on several counts it is an insufficient basis for failing to require legally-trained personnel. First, it wrongly assumes that correctional expertise is necessary to the proper discharge of the adjudicatory role. Second, it overlooks the fact that the availability of legally-trained persons with some grounding in the behavioral sciences and the fields of correction may be expected to increase steadily as attorneys become more involved in juvenile court matters and as the nation's law schools and programs of continuing legal education offer expanded training, particularly under the spur of Gault. Third, it must be remarked that the surest way to increase the supply of such qualified persons is to create the demand for them.

If analysis of the essential nature of his function is somehow felt not to compel the conclusion that legal training is required for a referee, an examination of what he actually has to do surely does. The evidentiary standards enjoined by law upon the court are intricate: In both jurisdictional and dispositional hearings (and presumably in detention hearings, though the statute makes no specific mention of them), relevant and material evidence is admissible. Jurisdiction, however, can be sustained in cases of delinquency (section 602) only upon the basis of "a preponderance of evidence legally admissible in the trial of criminal cases," and in cases of incorrigibility (section 601) and neglect (section 600) only upon "a preponderance of evidence legally admissible in the trial of civil cases." Thus, all relevant and material evidence may be admitted, but only "quality" evidence meeting the strictures of civil or criminal admissibility, as the case may be, may be relied upon to assert jurisdiction. This "revolving door" theory of evidence is hard enough to apply with a thorough legal background.

66 CAL. JUV. JUSTICE COMM'N—PART II, at 29.
67 See note 61 supra.
68 See, e.g., Skoler, Law School Curriculum Coverage of Juvenile and Family Court Subjects, 5 J. Fam. L. 74 (1965). Perhaps the most ambitious project for the training of subjudicial personnel is that undertaken by the Michigan Institute of Continuing Legal Education; see its three-volume JUVENILE COURT HEARING OFFICERS TRAINING MANUAL (1965). Volume II is entitled Behavioral Dispositional Aids and Procedural Problems.
70 CAL. WELF. & INST'NS CODE §§ 701, 706.
Moreover, the burden is not eased by restricting the referee to detention hearings. The law in effect requires that the court ascertain by relevant evidence the need for detention—on the basis of whether the minor has violated an order of the court, escaped from a juvenile court commitment, is likely to flee the court's jurisdiction, or constitutes an immediate and severe threat to himself or the person or property of another—without reaching the jurisdictional question of whether the minor committed the act alleged in the petition. The facts relevant to each are usually separable. The process may be likened to that of finding "probable cause" without making any final factual adjudication, and it demands legal skill of a high order lest the child's participation in the alleged delinquency be adjudicated for all practical purposes in summary fashion at the detention hearing.

As essential fairness and due process require that the juvenile be afforded his day in court, the effective voice of counsel and the ability to invoke basic procedural protections, they as well demand a tribunal properly trained to the task of ensuring them. This could not be assured by judicial supervision of a referee lacking legal training—even if the judges were not too busy to give it. (It is worth noting that the Governor's Special Study Commission found that in 56 percent of the courts, the judge exercised no active supervision whatever over the referee.)

The resolution of questions of voluntariness of

73 Cal. Welf. & Inst'ns Code § 636.
74 See Comment, supra note 71, at 441-42.
One judge describes this feat of evidentiary gymnastics as follows: "And while it may seem no different between tweedle-dee and tweedle-dum [sic] we don't say 'Do you admit this or do you deny it?' We merely read it [the petition], ask them whether it's true or not. Of course the net result is the same. At least we use informal language to reach that result." Proceedings of the First Annual Inst. for Juv. Ct. Judges and Referees 23 (1962) (remarks of Breitenbach, J.).


76 See Standards 105-06; McClure & Skoler, supra note 53, at 129; Tappan, Juridical and Administrative Approaches To Children With Problems, in Justice for the Child 144, 158-59 (M. Rosenheim ed. 1962); Molloy, Juvenile Court—A Labyrinth of Confusion for the Lawyer, 4 Ariz. L. Rev. 1, 21 (1962) ("The use of lay referees by the court would be entirely impracticable under the complicated procedure such as adopted in California . . . ."); Nat'l Council on Crime and Delinquency, Standard Juvenile Court Act § 7 (6th ed. 1959); H. Bloch & F. Flynn, Delinquency: The Juvenile Offender in America Today 382 (1956).

There is opinion to the contrary: see "Opinion Center" (unsigned editorial), 16 Juv. Ct. Judges J. 131 (1965): "Formal legal education probably is a sound beginning for juvenile court work, although it may not be as crucial as some lawyers—and law teachers—like to think."

admissions, of knowledgeable waiver, of illegal search and seizure, of hearsay and opinion evidence—and indeed, of the basic determinants or relevancy and materiality—demands something more than correctional training.\textsuperscript{78}

As a recent evaluation stated, “[N]on-attorney probation officers—even with supervisory experience—may be inadequately prepared to cope with the extensive procedural innovations of the revised law, such as the new evidentiary procedures and the provisions for increased participation by counsel.”\textsuperscript{79} Professor Fuller’s comment (in another context) has much significance here:

The essence of the judicial function lies not in the substance of the conclusion reached, but in the procedures by which that substance is guaranteed. One does not become [an adjudicator] by acting intelligently and fairly, but by accepting procedural restraints designed to insure—so far as human nature permits—an impartial and informed outcome of the process of decision.\textsuperscript{80}

One cannot properly accept them unless one has the training to know and understand them.

Of equal concern with the matter of the referee’s qualifications is the problem of what we may term the alignment of his role. For a prosecutor or a probation officer to occupy the bench at an adult proceeding would be unthinkable, and yet this situation occurs with some frequency in juvenile courts.\textsuperscript{81} It will be recalled that in 18 counties the referees held a position in the probation department. While the office was usually a supervisory or administrative one, unlikely to entail direct involvement with the minor on a casework level, this does not vitiate the vice.

No matter how well-intentioned the referee may be, he can hardly

\textsuperscript{78} In fact, their proper resolution in children’s cases may be especially taxing upon the adjudicator and demand especial care. See, e.g., In re W., 19 N.Y.2d 55, 277 N.Y.S.2d 675, 224 N.E.2d 102 (1966); Haley v. Ohio, 332 U.S. 596, 599-600 (1948).

\textsuperscript{79} It is true that in some countries, notably Great Britain and the Scandinavian nations, lay magistrates are used, apparently with some success, and their adoption in certain limited matters has been urged here. Elson & Rosenheim, Justice for the Child at the Grassroots, 51 A.B.A.J. 341 (1965). What may be fitting for one legal system however, is by no means apt for another.

\textsuperscript{80} One British writer, describing favorably the use of lay magistrates, defends the practice with the remarkable comment, “The juvenile court is essentially for the less well-to-do; presumably the better-off members of society can be relied upon to discipline their own offspring effectively and keep them on the rails.” James, CHILDREN AND THE LAW 74 (1965).

\textsuperscript{81} Although the probation officer is charged by CAL. WELF. & INST’NS CODE § 582 with the duty of representing the interest of the child, he must as well present the case and thus serve a prosecutorial function.

One county reported that the district attorney was appointed as its referee, though as far as anyone could recall he had never acted in that capacity.
sit with the objectivity requisite to the integrity of the adjudicational process if he has to wear two hats. Almost inevitably, he will be called upon to weigh the recommendations of co-workers and subordinates, over whom he must exercise administrative and policy control.\(^8\) He may even have approved as a probation supervisor the recommendations made in the very case he is to hear.

This conflict of interest has been of widespread concern not only to outside observers\(^8\) but to those working within the juvenile court system itself.\(^8\) Of eight referee-cum-probation officers informally interviewed, only one stated that he felt no disquiet at having to discharge both functions. The remaining seven indicated with varying degrees of vehemence that the two roles were essentially antagonistic, in an institutional sense, and hence immiscible. The practice of having the referee, full-time or part-time, under the control of or filling a position in the probation services impairs the efficacy and integrity of the adjudicative process (no matter how able and conscientious the man who holds it). Moreover, it blurs the essential distinction between the adjudicatory and casework roles, and the resulting confusion of judicial and executive functions contributes to what one critic has termed the “mystification” that surrounds the juvenile court process.\(^8\)

\(^8\) The statements of one chief probation officer who also sits as a referee for detention hearings are illustrative:

[Mr. Davis] “If intake officers understand the judge’s or the referee’s detention policy, the hearing normally should be to confirm the intake officer’s decision to detain rather than to decide not to detain or release.” PROCEEDINGS OF THE SECOND ANNUAL INST. FOR JUV. CT. JUDGES AND REFEREES 68 (1963).

[Question from the Floor Later in the Discussion] “Do you not, on occasion, send cases to the referee that can be released?”

[Mr. Davis] “That’s a tough one. You’re almost saying that I’m sending them to myself. Well, our intake officers understand my philosophy and I tell them to make all the releases they can. If they feel uncomfortable about a release they may bring it in. If they feel certain a boy should be detained, they bring the case to me, and most of them that I hear as referee I do detain but certainly not a hundred percent.” Id. at 94.

\(^8\) “[I]t is questionable whether the probation officer-referee can act impartially in a case in which he or one of his subordinates prepared the social study.” Comment, supra note 71, at 435. The Children’s Bureau flatly states: “The referee should have no connection with any welfare agency in which the court may rest legal custody of children. A member of the probation department should not serve as referee. The function of referee should be clearly distinct from that of the probation staff.” STANDARDS 106.

\(^8\) See, e.g., PROCEEDINGS OF THE FIRST ANNUAL INST. FOR JUV. CT. JUDGES AND REFEREES, 118, 128-29 (1962); PROCEEDINGS OF THE SECOND ANNUAL INST. FOR JUV. CT. JUDGES AND REFEREES 94 (1963). Cf. Isaacs, The Role of the Lawyer in Representing Minors in the New Family Court, 12 BUFF. L. REV. 501, 512 (1963). It seems unlikely that the statute was intended to sanction the simultaneous duality of function in authorizing the appointment of referees with correctional background.

\(^8\) D. Matza, DELINQUENCY & DRIFT 128-130 (1964). See also Sheridan,
Much of a child's perception of justice and fairness is dependent upon consistency, and much of the rehabilitative efficacy of the juvenile court and its resources is dependent upon the child's perception that he has been justly treated. Thus, to the extent that there is a failure clearly to separate inconsistent roles, it may be hypothesized that the system is working against itself, for this inconsistency may sustain a neutralization of "the moral bind of the law." In a very real sense, the message of adjudication is its medium.

To preserve the integrity of the decisional process, it is submitted that the referee should be appointed by and serve wholly under the control of the superior court as a judicial officer, and should hold no position on the probation staff.

Neither the insufficiency of a referee's qualifications nor the misalignment of his position will be overborne or cured by the right of appeal or review. This is by no means to say that judicial review is not essential; it clearly is. It simply should not be cited as a reason for maintaining structural defects or inadequacies in the juvenile court system. Parties may be reticent to avail themselves of the right of review, because the process may be time consuming and likely to involve additional expense if counsel is involved. And, there is a further possible deterrent to the invocation of review in the juvenile court which is unlikely to be present in the usual appellate process. It is not unreasonable to suggest that the "hearing by the judge" may be regarded as a threat of greater punitive severity; after all, the applicant for review is running counter to the decision of the judge's own appointed official, and the judge may become displeased. That


66 Cf. Matza, supra note 85, at 105, 110.
67 Id. at 102.
68 Cf. Note, Juvenile Delinquents: The Police, State Courts and Individualized Justice, 79 Harv. L. Rev. 775, 803-4 (1966); Fradkin, Disposition Dilemmas of American Juvenile Courts, in Justice for the Child 118, 125 (M. Rosenheim ed. 1962). It is by no means uncommon for probation officers as a part of their casework technique to depict court appearance as an increased sort of sanction, above and beyond what is contemplated for the child at present. Candor compels the admission that as a probation officer I did so, and I venture to say that I had much company. In a sense it was not inaccurate and may have had some beneficial results, but the practice indicates a pervasive and largely thoughtless confusion of mind: Courts are not sanctions (as juvenile halls and jails are), they impose sanctions. The distinction may be especially important for the minor to understand.

As another facet of the same problem, since many counties determine referee assignments on the basis of whether a case is contested or not, and contest appears often to be defined by the presence or absence of counsel, can this view of the court lead to a subtle pressure against the retention of an attorney? Or, if contest is defined in terms of a denial of guilt, could it lead
few if any courts would operate in this way is not controlling in the point. What is decisive is that that is how the child (and his parents) may perceive the matter, and hence they may be dissuaded from seeking review or rehearing by a fear of appearing uncooperative. Finally, it is to be noted that the right of rehearing or review is invoked only in an infinitesimal fraction (0.3%) of the cases.

A Summary and a Look to the Future

It has been the purpose of this study to survey the use of referees in California's juvenile courts, and to attempt some cursory analysis of the implications of that use with an eye to suggesting some needed changes.

This article is not intended as an exhaustive catalogue of recommendations, nor does it pretend to explore all facets of the problem. It seeks, rather, to focus attention upon the role of the referee in the judicial system, and to provide some point of reference for further work. In any such undertaking, there is a danger that the discussion will become more polemical than analytical, yielding the inference that the present scheme of things is all bad. That is not the intent of this work.

There is much value to be derived from the proper use of qualified referees. They can significantly aid judges spread too thin; they can contribute to the involvement and education of the bar in the juvenile court system; and they can help bridge the gap between the court and its ancillary staff while helping to preserve the vital distinction between the adjudicative and rehabilitative functions.

For these ends to be accomplished, however, the pattern of referee use and the legal framework which establishes it must be tailored to the realities of the juvenile court process. This means that we must squarely confront the realization that the referee is a judicial surrogate, with a judicial role to play, who should be qualified to act as such. To say that juvenile court referees should be legally qualified is not to denigrate the work of many highly able and dedicated referees who are not, who presently do a competent job. Similarly, to urge that referees should not be members of the probation staff and should be wholly under the control of the judicial branch is not to impugn the honest and well-intentioned efforts of persons


Cf. Matza, supra note 85, at 102-03, 105.

There were 251 applications for rehearing or review out of 83,002 adjudicatory hearings reported for fiscal 1965-1966.

serving in both capacities. But in terms of the system itself, both from the standpoint of its present efficacy and the standpoint of its need to adapt itself to change, the existing conditions of referee qualification and use impede the court in doing the job that it has to do. We need the juvenile court as an institution, and we cannot afford to tolerate defects that would undermine it.  

At the present time, half of the juvenile courts in California use referees, roughly two-fifths of them on a full-time basis. Slightly more than one-third of all referees are legally trained, and of this group over two-thirds are lodged in one county. In nine counties—among them most of the largest—referees adjudicate and make dispositional orders in virtually all classes of cases, including institutional commitment or other extra-family placement. Well over 100,000 cases each year are handled by referees without direct judicial intervention or review.

This is awesome responsibility, and the fact that so large a portion of the juvenile court’s essential function is carried out by persons lacking basic qualification and position for their role reveals a vital mala-droitness in the system—one which may very well help call into jeopardy the institution of the juvenile court as it contributes to the system’s inability to meet the demands placed on it.

It has been said that change is the new reality (would it not be more accurate to say that it is the enduring reality?), and institutions as well as men must develop the resources for adaptation to the needs imposed by change. *In re Gault* clearly presages a greater degree of legal complexity in juvenile court proceedings. This will entail greater demands upon judicial time, and very likely an expanded use of referees. Recent legislation in California goes even further, requiring the appointment of counsel for the minor, without regard for his ability to pay, in all cases where jurisdiction is sought to be obtained on the basis of incorrigibility (section 601) or law violation (section 602), unless the minor is already represented by an attorney or makes a voluntary and intelligent waiver. (As examples of the kind of problems the court must face, *quaere*: If the parents have retained counsel, when and under what circumstances is the minor to be regarded as already represented? Below what age, if at all, is the child to be presumed incapable of making a free and knowing waiver?)

If the substantive benefits of the juvenile court process are not to be displaced, it is essential that its adjudicatory procedures preserve

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93 387 U.S. 1 (1967).

94 *Cal. Welf. & Inst'ns Code* § 634.
their integrity. A component part of a fair hearing is the provision of an adjudicator functionally equipped for his role.

Developments in the juvenile court will not be limited, however, to the increased legalitization of its procedures and (in Mr. Justice Fortas's words) the "constitutional domestication" of the system. Bills presently before both Houses of the California legislature provide for the creation of a Family Court in each county as a part of the superior court, having jurisdiction over all matters relating to the family, and encompassing as one of its divisions the present jurisdiction of the juvenile court. Considerations of expedient practice and economy suggest that assignment of referees to portions of the domestic relations calendars as well as the juvenile dockets may result, and that for the more sparsely-populated counties, referees serving on a regional basis and employed by more than one court may be advantageous.

The results of this study and these glances at the near future argue strongly, I submit, that serious attention needs to be given to reforming the law governing the qualifications of future referees, and to restructuring the referees' present operation. This reformation will ameliorate the juvenile court's "identity crisis" by helping to preserve the probity of the adjudicative process, and hence, will confer some immunity against a recurrent ailment of the juvenile court; namely, the "attempt to solve too many simultaneous equations at once."

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95 In re Gault, 387 U.S. 1, 22.
96 S.B. 826 (1967) and A.B. 1420 (1967), embodying the recommendations of the Governor's Commission on the Family.
97 Cf. STATE OF CALIFORNIA GOVERNOR'S COMMISSION ON THE FAMILY, REPORT 14 (1966), recommending the regional use of Family Court professional staffs.
### Appendix A

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<tr>
<th>County</th>
<th>Full-Time Ref's.</th>
<th>Part-Time Ref's.</th>
<th>Admitted to Practice of Law</th>
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<th>Ref's Hours Uncontested Hrgs., Disp.</th>
<th>Ref's Hours Contested Hrgs., Disp.</th>
<th>Detention Hearings Handled by Referee in Fiscal Year</th>
<th>Jurisdictional and Administrative Hrgs. Heared by Referee in Fiscal Year</th>
<th>Appeals from Referee, Fiscal Year 1965-66</th>
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* The questionnaire defined the term "correctional field" as including penology, corrections, social work, sociology, psychology or similar disciplines in the behavioral or social sciences.

** The category of "Other Training" includes those who lack degrees in a correctional field but qualify for referees' positions on the basis of probation experience.

Small letters in table explained at end of appendix.
### Appendix A (Continued)

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** The category of "Other Training" includes those who lack degrees in a correctional field but qualify for referees' positions on the basis of probation experience.

Small letters in table explained at end of appendix.
SYMBOLS USED IN TABLE

a Calendar year 1966; figures not reflected in the totals reported above at page 13.

b Justice court judge functions as judge pro tem in absence of juvenile court judge.

c Referee used only in last half of fiscal year 1965-66.

d § 600 cases exceptionally; §§ 601-602 cases regularly. Judge normally hears all § 600 matters; assigns §§ 601-602 cases to referees for jurisdictional hearing but retains most dispositions.

e Judge hears between 5-10% of cases, including representative cases under § 600, § 601, and § 602.

f October 1965-December 1966; figures not reflected in the totals reported above at page 13.

g September 1966-December 1966; figures not reflected in the totals reported above at page 13.

h Two alternate referees with probation department positions act only in emergencies; neither referee nor regular alternate have probation department function.

i Regularly assigned to §§ 601-602 cases; judge usually hears § 600 cases.