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The Most Famous Juvenile Court Judge

Juvenile court judges do not get much attention, but there is a significant exception to that rule. One juvenile court judge did receive a great deal of attention. In a poll conducted by Hearst's American Magazine in 1914, he was tied with Andrew Carnegie and Billy Sunday for eighth place as the "greatest living American."¹ Perhaps that is because he got off the bench and advocated strongly for children.

I am speaking of Judge Benjamin B. Lindsey, a juvenile court judge who first served in Colorado in 1901. As a young man Lindsey clerked in a law office and while studying for the bar he became interested in the plight of children sentenced to prison for minor offenses.² He was appointed county judge in 1901 in Denver, Colorado, where he established a special court, a court devoted to children who were in trouble with the law. The court was designed to hear cases involving youthful offenders, keep them out of the adult criminal courts, place them on probation in the community, and give them a chance for rehabilitation. His work on that court was a significant contribution to the promotion of the juvenile court movement which subsequently spread to every state and around the world.

After his appointment as judge in 1901, a case involving a youth caught stealing coal to heat his home came before the court.

There was no defense, but Lindsey understood the unfairness of the boy's predicament and vowed to save similarly situated children in Denver. His legal research uncovered the School Law of 1899 in the Colorado statutes.³ It declared that children under fourteen or those between fourteen and sixteen who could not read or write English or were not holding a full-time job "[s]hall be deemed a juvenile disorderly person and be subject to the provisions of this act, if they got into any trouble."⁴ The law was evidently designed for the disciplining of school children. Lindsey concluded a juvenile who broke the law to be a "disorderly person" and persuaded the District Attorney to transfer all similar cases to his county court. That was no problem as most of the judges did not like hearing these cases, and the assignment was approved. Thus began the informal Denver juvenile court.

Of course there were no services, no probation office, and no help. Judge Lindsey had to create his own support system. He told the children that he needed their help.

Kids, we are all in the same boat, and if anybody swipes anything again, I am going to get fits, and the first thing you know, you will be getting a new judge up here that will hike you all up...

He organized a Little Citizens League and the members agreed to clean up the streets. He told the boys that if anyone broke the law, they were to come to him for assistance. Over the next three years, more than two hundred boys volunteered to talk with him and became members of his League. If a boy was tempted by an adult to violate the law such as smoking, drinking, gambling, stealing, or playing hooky, the boy was to tell the judge immediately.

Lindsey's off the bench activities were remarkable and soon won over many community leaders. He was supported by members of humanitarian and charity organizations. School officials admired the reduction in truancy, police authorities were able to reduce their attention to youth crime, and businessmen were delighted to have to hire fewer detectives to patrol the railroad tracks and department stores. Lindsey's approach to juvenile crime actually saved the state money (\$88,000 over a three-year period) inspiring the governor to inform the legislature of the success of the new juvenile court. The media began referring to him as "The Kid's Judge," "The Just Judge," or "The Denver Boys' Best Friend."⁵

Lindsey appreciated the value of the media and told reporters

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about individual cases and how he removed children from prison where they shared cells with hardened criminals and worked with them to give them a chance for a productive life. All of his efforts took place in Denver, then called Queen City of the Rockies, where it gained a national reputation for its gambling halls, saloons, and brothels. Many townspeople admired Lindsey's efforts and took steps to clean up the town, instituting the secret ballot and ending fraudulent elections.

He also frequently wrote guest editorials in the local paper describing the problems facing delinquent youth using the press to inform the public about youth caught in the criminal justice system. When the Police and Fire Board commissioners dismissed his allegations as exaggerations, he invited them to his court to see for themselves. In court Judge Lindsey had brought together several youths who had been impacted by the local wine rooms and gambling halls. The youths testified about how these local establishments had influenced their lives. The commissioners were impressed, and the media published headlines such as the story "The Wine Room is the Gateway to Hades."⁶

He helped create an organization called the Juvenile Improvement Association, which gathered statistics, held meetings, and publicized the needs of underprivileged children. Lindsey also organized a Juvenile Athletic Association in which boys ages 10-16 played sports under the guidance of a court officer. The Judge delighted in taking the boys to shows, going on weekend outings, and talking sports with them.

He experienced opposition to his efforts throughout his time on the Colorado bench. When local opposition attempted to remove him from office by putting up a

rival candidate for Judge Lindsey's position at the next election, many of the same community groups supported him and he won reelection by 5,000 votes, far ahead of any other nominee. This election victory fueled his desire to continue his work on behalf of children.

One of his early tasks was to formalize the work of his court and to create a true juvenile court. To this end he started travelling around the country, visiting Chicago and the juvenile court judicial leader, Judge Timothy Hurley, and discussing the juvenile court movement with judges in other states. He also started relationships with such national figures as Theodore Roosevelt and Lincoln Stephens.

Joining with judicial colleagues, he worked to create a formal juvenile court. He started by stating that "No juvenile court system can be complete unless there is back of it a compulsory school law, an equitable child labor law, provisions for a detention home for children, and an adult delinquency or negligence law."⁷ His plan included provisions that the new Denver Juvenile Court System would include original jurisdiction in all cases involving children, probation officers and medical personnel for the court, and a prohibition of children under the age of eleven being placed in a county or city jail.⁸ His proposed juvenile court drew much material from the Chicago juvenile court, but added that there would be no courtroom trials, no attorneys, no rules of evidence, and no criminal record for the youth who appeared in juvenile court. Instead, Lindsey's juvenile court was the first to emphasize the personal relationship between the judge and the youth.

Lindsey wrote the proposed legislation to create the Denver juvenile court. He envisioned

the best juvenile court as an independent court with a full-time specialist judge and probation staff, and with medical and vocational experts.

*It would have sweeping and exclusive jurisdiction over every matter pertaining to children's behavior, care and support, including all criminal offenses against children.*⁹

In many ways the Denver Juvenile Court was the first of its kind in the country. The Chicago court was created as a division of the general trial court while the Denver juvenile court was a stand-alone court.¹⁰ The Colorado legislation creating a juvenile court passed in 1907.¹¹

The probation experiment worked well under Judge Lindsey's leadership. During the first two years of operation the juvenile court heard the cases of 554 children charged with mostly serious crimes. Of those on probation just 31 (5%) returned to court for additional violations.¹² This is in stark contrast to the Chicago juvenile court where in 1904, children were placed in institutions in 44% of the cases and many were transferred to adult criminal court.

Lindsey appreciated the importance of the new juvenile court. His words echo our beliefs even today.

*I regard the work of the juvenile division of the court as the most important work it can be called on to administer. Surely every case involving a boy or a girl is more important than any case involving dollars and cents, no matter what the amount may be.*¹³

Lindsey was not finished. He persuaded the Colorado legislature to pass the first contributory delinquency laws against adults which held negligent parent

and employers accountable.¹⁴ He worked in the community to make certain that school board members supported his new juvenile court. Using the media, he was successful in getting elected members who publicly pledged to support the juvenile court.

His leadership in forming policy for the juvenile court movement was evident at the 1909 White House Conference on the Care of Dependent Children. Called by President Teddy Roosevelt, this conference brought together policy leaders from around the country to develop national policy on children in the court system. Judge Lindsey participated and agreed and helped write the recommendations including one which emphasized the children should be living in their homes if possible. His speech at the conference emphasized the causes of children's problems: "we must go down deep into the causes of poverty and ignorance which is responsible for most of our dependency and crime."¹⁵

His advocacy for "companionate marriage" (suggesting that young men and women should be able to live together in a 'trial' marriage for a year before making the marriage decision) brought great criticism and he was removed from office after 28 years of service.¹⁶ In 1928, he relocated to Los Angeles where he was elected Judge of the Superior Court. He established the California Children's Court of Conciliation, a new department in the Superior Court dedicated to reconciling divorcing parents and, if that was not possible, working with them to ensure that the needs of their children would be met.¹⁷ He served in this court as founding judge until his death in 1943 at the age of 73.

Judge Lindsey is certainly the forerunner of the notion that the juvenile court judge is the voice of

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at-risk children in the community. Who else knows the lives and challenges facing children caught in the juvenile court system? He demonstrated that juvenile court judges can improve the outcomes for these children, not just by being a good judge in court, but by speaking out in the community about their needs.

California juvenile court judges have Standard of Judicial Administration 5.40(e) for guidance in their work on the juvenile court bench and their role in the community. That standard directs judges to get off the bench and be active in the community on behalf of young persons who appear in juvenile court.¹⁸ Judge Lindsey certainly is the inspiration for this role. 🍷

Endnotes:

1 Larsen, Charles, *The Good Fight: The Life and Times of Ben B. Lindsey*, Quadrangle Books, Chicago, 1972, at p. 7.

2 Campbell, D., Judge Ben Lindsey and the Juvenile Court Movement, 1901-1904, "Arizona and the West," 1976, Vol. 18, Issue 1, pp 5-20.

3 Larsen, *op.cit.* footnote 1, at p. 28.

4 Twelfth Session of the General Assembly of the State of Colorado (Denver, Smith-Brooks Printing Company, 1899), chapter 136, section 4, 342.

5 "Lindsey, Ben, "The Problem With Children and How the State of Colorado Cares for Them – A Report of the Juvenile Court of Denver (Denver: Merchants Publishing Company, 1904)," at pp. 183-94, 203-204; "The Juvenile Court Laws of the State of Colorado (Denver: Juvenile Improvements Association, 1905), 14-15; Haskell, "The Kid Judge of Denver," *Outlook*, June 24, 1905.

6 Campbell, *op.cit.*, footnote 2 at p. 13.

7 Lindsey, B., *The Juvenile Court Laws of the State of Colorado*, Denver, Juvenile Improvement Association, 1905, at pp. 47-51; "Inventory, Benjamin Barr Lindsey, 1869-1943, Collection No. 389, The Colorado Historical Society,

Denver Colorado, April 1986, processed by M Susan Yetter.

8 *Id.*

9 Rubin, H. Ted, "Celebrating The Juvenile Court's Centennial Year: A Look at the Pioneering Vision of Judge Ben. B. Lindsey, Denver's Juvenile Court Judge, 1901-27," *Juvenile Justice Update*, February/ March, 1999, at p. 9.

10 Rubin, H. Ted, *Juvenile Justice: Policies, Practices, and Programs*, Civic Research Institute, Kingston, New Jersey, 2003, Chapter 1, at p. 1-1.

11 *Fourteenth Session...General Assembly...of Colorado*, Chs. 85, 86, 94, 164. The Detention Home bill was approved in February; the other bills became laws on March 7, 1903.

12 Lindsey, Judge Ben, *Children's Courts in the United States: Their Origin, Development, and Results*, Report prepared by The International Prison Commission, Washington, Government Printing Office, 1904, at p. 33.

13 Barrows, Samuel, *Children's Courts in the United States: Their Origin, Development, and Results*, Washington, Government Printing Office, 1904 at p. 120.

14 "Inventory" *op.cit.* footnote 7 at p. 1.

15 Address of Benjamin B. Lindsey at the 1909 White House Conference on the Care of Dependent Children. *Proceeding of the Conference on the Care of Dependent Children: Held at Washington D.C., January 25-26, 1909*. Pp. 215-221, at 217. Senate Documents, 60th Congress, 2nd Session. Volume 13. 1909.

16 In 1935 he was reinstated to the Colorado Bar, but refused to return to that state. "Inventory," *op.cit.*, footnote 7 at p. 5.

17 Campbell, *op.cit.*, footnote 2 at pp 239-240.

18 Judges are encouraged to "Provide active leadership within the community in determining the needs of and obtaining and developing resources and services for at-risk children and families. At-risk children include delinquents, dependents, and status offenders." SJA, 5.40(E).