Chapter 1

The Nature, Purpose, and Structure of the Manual

§ 1.01 THE NATURE AND PURPOSE OF THE MANUAL

This *Manual* is a how-to-do-it guidebook for handling juvenile court cases from beginning to end. It differs from most books about juvenile court, which typically begin with an examination of the history and philosophy of juvenile court and thereafter focus (exclusively or predominantly) upon the aspects of juvenile practice that differ from adult criminal procedure. The *Manual* pretermits any discussion of purely academic, historical, or philosophical matters and deals exclusively with the tasks, skills, rules of law, and issues of strategic judgment involved in representing clients in juvenile court. Rather than ignoring those aspects of juvenile proceedings that mirror adult criminal practice, the *Manual* examines them at every stage.

This *Manual* is, quite consciously, a manual for defense attorneys. While the *Manual* contains some material that may also be useful to other players in the system, it does not purport to describe or analyze subjects falling outside the purview of a defense attorney's obligations to his or her client.

§ 1.02 THE STRUCTURE OF THE MANUAL

The *Manual* proceeds more or less chronologically, moving step-by-step through the process of handling an individual delinquency case. It begins with the earliest stages at which defense counsel may enter a case, then advances through the pretrial stages, trial, disposition, and post-dispositional proceedings.

To make this *Manual* easy to use during court proceedings, we have abandoned various conventions of manual-writing. We take up topics in the order in which they become relevant at each particular stage of a typical delinquency case, even when this format requires dispersing substantively related material among different chapters. For example, the topic of suppression motions is covered in five different chapters: a section on drafting these motions is found in the chapter on motions that need to be filed shortly after Initial Hearing; a later chapter spells out techniques for handling suppression hearings; then come three substantive chapters covering, respectively, motions to suppress tangible evidence, incriminating statements, and identification testimony. The latter chapters summarize the voluminous federal and state law on their respective subjects.

Where judicial opinions are cited to illustrate basic propositions accepted in a majority of state and federal jurisdictions, we have not multiplied citations but have chosen a case or two reported with headnotes that target the proposition in point. By using these headnotes to access the national data bases, attorneys in all jurisdictions can zero in efficiently on the relevant local caselaw. We cite some unpublished opinions, for one or another reason. (Unpublished opinions

are commonly issued in cases that judges regard as controlled by indisputably settled law. Thus they illustrate propositions that counsel can expect to be particularly well established, and these opinions often collect the leading precedents in compact form. Conversely, some courts use unpublished opinions to resolve cases in which unusual factual records cause the judges to stretch legal rules to the breaking point and sometimes beyond it. We cite these cases to illustrate the extent to which, in regard to some issues, judges are susceptible to factual persuasion in the teeth of the law.) Counsel considering including in briefs and motions references to opinions cited in the *Manual* should be careful to heed the restrictions that some courts place upon citation of unpublished opinions.

Citation form in the *Manual* has also been adapted to the realities of trial practice. Thus, for example, a short-form citation to a case will only refer back to cases cited within the previous page or two, so that attorneys consulting the text when arguing a point in a trial or hearing will not need to search far afield for the full citation.

§ 1.03 CAVEAT – THE UNIQUENESS OF CASES

Although this *Manual* attempts to summarize the practices and procedures that should be followed in an ordinary juvenile court case, no case is "ordinary" in any but a highly artificial sense. Every case is intensely personal to the accused. Every accused is a complex and unique individual. Every prosecution of an accused is unique in facts and in law and makes unique demands on the defense attorney. Every defense attorney has his or her own style. There is no such thing as conducting a defense generally. What is right in one case is wrong in another. The most important attribute of the good defense lawyer is perceptive selectivity – the ability to determine the precise requirements of each case and to respond to them in a highly specific manner.

No book can capture or instill that quality. All that is attempted here is a listing of available options for the lawyer, an identification of the major strategic considerations that may affect choice among the options, an introductory description of the prevailing legal principles and potential legal arguments, procedures, and practical techniques that counsel may encounter or may wish to employ, some warnings about common problems, and some suggestions of ways to avoid them or to cope with them. Counsel will have to cull all of these things according to his or her own lights and the needs of his or her particular case in order to make the ultimate, lonely decision what to actually do.

§ 1.04 A SECOND CAVEAT – THE NEED FOR A PRO

The goal of this *Manual* is to dispel somewhat the edge of uneasiness that the lawyer with little or no juvenile court experience naturally feels when s/he is retained or appointed to represent a juvenile client. Having even a very general notion of what is coming and what can be done about it rightly inspires some confidence, and confidence can be very important in dealing with the client. However, as in all matters of grave professional responsibility, the lawyer must

be careful not to let confidence get out of hand. Juvenile court practice *is* a specialty, and there is a lot at stake. It remains vital for the lawyer with relatively little juvenile court experience to recognize when s/he is getting into waters deeper than s/he can swim. In matters of complexity or difficulty, counsel should consider the practicability of consulting (formally or informally and on a limited or extended basis), associating with, or withdrawing in favor of, a more experienced juvenile court practitioner.