SERIOUS YOUTH CRIME

HEARINGS

BEFORE THE

SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY

OF THE

COMMITTEE ON THE JUDICIARY

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SERIOUS YOUTH CRIME

MONDAY, APRIL 10, 1978

U.S. SENATE,
SUBCOMMITTEE TO INVESTIGATE
JUVENILE DELINQUENCY OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 424, Russell Office Building, Hon. John C. Culver (chairman of the subcommittee) presiding.

Present: Senators Culver and Mathias.

Staff present: Josephine Gittler, chief counsel; and Steve Rapp, staff director.

STATEMENT OF HON. JOHN C. CULVER, A U.S. SENATOR FROM IOWA

Senator CULVER. The hearing will come to order.

The Senate Subcommittee to Investigate Juvenile Delinquency will hear testimony today concerning the problem of serious juvenile criminality.

Last fall the subcommittee held a series of hearings on so-called status offenders, those children who engage in problem but noncriminal behavior such as defiance of parental authority, running away, or truancy. Today, we began an examination of the juvenile justice system's response to another category of young people—the violent juvenile offender.

Serious youth crime has become a matter of grave public concern. Headlines describing criminal acts by a new breed of juvenile delinquent seemingly devoid of any moral compunctions have become an almost daily occurrence.

Some of these accounts may be sensationalized. Nevertheless, the commission of violent crime by young people has nearly doubled in the last 10 years and now represents one-fourth of all violent crime in this country. Moreover, youths between the ages of 13 and 20 account for more than one-half of all property crime arrests.

The toll in injury and fear has become devastating. It is no small wonder that so many parks and streets are empty after dark; and that many people, especially the elderly, are often afraid to venture out even in the daytime.

Our existing system of juvenile justice has clearly failed to stem the tide of serious juvenile criminality. As a result, there is an in-

creasing dissatisfaction with the way in which the juvenile justice system handles its dangerous juvenile offenders.

The traditional purpose of the juvenile justice system since its inception a century ago has been to identify and treat actual or potential offenders, and the primary concern of the system has been the welfare of the child.

However, a widespread feeling now exists that the system does not provide treatment resulting in the effective rehabilitation of juveniles who are violent or chronic offenders and does not adequately protect the community from such offenders.

There has been a great deal of publicity about cases involving young people who have committed horrible crimes, were placed on probation or institutionalized for only short periods of time, and then returned to the streets to commit still more serious offenses. Such cases have generated charges that the juvenile system is a revolving door; that juvenile courts coddle young people who are, in fact, in many cases, hardened criminals.

There has been pressure to enact harsher and more restrictive measures to meet the challenge of serious youth crime. Some States have reacted with legislation to increase the sanctions for violent juvenile crimes and to shift the responsibility for certain classes of dangerous juvenile offenders to the adult criminal court. In other States such legislation is being considered and debated.

In such an emotionally charged atmosphere, it is, I believe, imperative that we undertake a dispassionate and objective assessment of the extent and nature of the problem, alternative methods of dealing with the dangerous juvenile offender, and the role the Federal Government can play in stimulating more effective approaches to the problem of serious juvenile crime. It is my hope that this hearing will serve as a forum at least for an objective discussion of the facts, all too often obscured by misinformation and emotional rhetoric.

Today we will hear from several witnesses about the scope of serious juvenile criminality and the contribution of youth gang activity to violent crime. We also have with us individuals who will testify concerning the impact of such crime on a particularly vulnerable group—the elderly. And, finally, we have with us representatives of the police, the bar, and the judiciary who will share with us their perceptions and ideas regarding efforts to deal with dangerous youth in the courts.

I would like to welcome all of our witnesses who have agreed to participate today. We are going to have quite a number of them, some of whom will appear on panels.

Under the Senate rules, we are limited as to the length of time we are able to meet today. Therefore I am going to request that the witnesses, if they will, submit their statements for the record. We will, of course, make the entire text of their statements part of that record. This procedure, hopefully, will provide us with some time for questions. We may also wish to submit some additional questions to the witnesses. They perhaps would be good enough to respond in writing to those questions.

Senator Mathias?

STATEMENT OF HON. CHARLES McC. MATHIAS, JR., A U.S. SENATOR FROM MARYLAND

Today the Senate Judiciary Subcommittee to Investigate Juvenile Delinquency begins its investigation of a topic of grave concern to all Americans: The steady increase in the crime rate among youngsters, especially for violent offenses.

Available statistics speak of the failure of our criminal justice system in discouraging the initial criminal act, in preventing the recurrence of antisocial behavior and in treating youthful offenders. And our juvenile justice system bears the brunt of public criticism for treating the troubled, nonviolent offender too harshly and the serious delinquent too leniently.

At the center of our juvenile justice system is the juvenile court, operating under the doctrine of parens patriae, with unbridled discretion in the hands of the juvenile court judge to shape proceedings from intake to disposition in order to meet the unique rehabilitative needs of each child.

Today, three-quarters of a century after the inception of the juvenile court and the system which grew around it, the basic features of the juvenile court system remain essentially unchanged. Fears about the increase in violent crime among juveniles and our seeming inability to reverse this trend, have triggered demands for a reexamination of that court system. Many now question the validity of the original precepts underlying the court—unbridled discretion, individualized rehabilitation, parens patriae and informal proceedings. Above all, grave doubts are expressed over whether the juvenile court serves the best interests of either the child or society as a whole. In fact, many believe that the system not only processes youth without any real expectation of rehabilitation, but that it also fails to protect the public from the recurring violence of dangerous youths.

In reforming the juvenile justice system, we can no longer ignore these demands for a more effective system to deal with youthful, violent offenders. We must devise a system that promises swift and certain punishment for lawbreakers. And we must reduce the juvenile's contempt for the juvenile court—a contempt predicated upon the juvenile's belief that the judges are handcuffed by a system that renders them virtually powerless to punish serious misconduct.

At the same time, however, we must not allow public frustration and outrage over juvenile crime rates to undermine the Federal Government's commitment to a national policy of juvenile delinquency prevention: A commitment expressed in the Juvenile Justice and Delinquency Act of 1974, and reaffirmed last year by the Congress. It would be a tragic mistake if we now were to adopt a program for reform which deemphasized the plight of the nonviolent youngster and led to a cutback in successful federally funded prevention programs.

Admittedly there are no easy solutions to reform of our juvenile justice system. Hearings such as these by the Subcommittee to Investigate Juvenile Delinquency, however, provide the Congress with valuable assistance and insight in structuring a system that will create a balance between protecting the public and providing our troubled youth with a chance to live productive, noncriminal lives.

The comments we will receive today from our expert witnesses will, I hope, enable concerned citizens to examine the consequences of the numerous proposals offered to cure our criminal justice system and also to minimize the chances of future failures.

Senator CULVER. Our first panel consists of two individuals. Prof. Albert Reiss, Jr., and Prof. Walter Miller are both scholars who are well recognized experts on the scope and nature of serious youth crime. Professor Reiss is chairman of the Department of Sociology at Yale University. He served for several years as a member of the National Juvenile Justice Advisory Council, establishing the Juvenile Justice and Delinquency Act of 1974.

The second member of the panel is Prof. Walter Miller of the Center for Criminal Justice at Harvard Law School. He is the author of a recent study which assesses the contribution of youth gangs and youth groups to violent juvenile crime.

Would you both be good enough to come forward at this time. We welcome you here. Professor Reiss, perhaps you might start.

STATEMENT OF ALBERT REISS, JR., YALE UNIVERSITY, NEW HAVEN, CONN.

Mr. REISS. Thank you very much, Senator. It is a pleasure to be here.

I have submitted my statement for the record.[1] If you will permit me, I will make this very brief summary by way of introduction.

As you noted, youth crime has been a major matter of public concern in the past 20 years. More recently, attention has focused on the serious youth crime problem. Before turning our attention to serious youth crime in this country, it may be helpful to recall a few basic facts about crime in our country.

Most young people at some time or another during their adolescence violate the laws against persons or property. For most, however, their offenses are not serious, and most are not involved in serious violent offenses that harm persons.

The majority of young people who commit crime during the early adolescent years pass out of committing crime in late adolescence; most young people do not become career criminals.

To a substantial degree, however, America's crime problem is a youth crime problem. This is so not only because a substantial proportion of all crime is committed by youth under the age of 18, but also because the adult offenders of tomorrow are the youthful offenders of today. Though we cannot measure the proportion of persons at each age who come into a population of offenders for the first time, it is doubtful that even 1 percent of the offenders who commit FBI index crimes after age 18 are newcomers to offending.

How much does youth contribute to the crime rate, particularly to serious crime?

There seems little doubt that a substantial proportion of all crime known to the police is committed by youthful offenders. But what we know about the contribution of youth to the crime rate comes,

[1] See page 83 for Mr. Reiss' prepared statement.

unfortunately, primarily from statistics on their arrests. These statistics are highly deficient in many respects. My prepared testimony covers that to some extent.

Despite the technical problems these create, the amount of crime contributed by young people is very disproportionate to their numbers. While youth 15 to 18 years of age make up about 7 percent of the U.S. population, they accounted in 1976 for 16 percent of all arrests for violent crimes against persons—criminal homicide, forcible rape, robbery, and aggravated assault—and for 46 percent of all major crimes against property—burglary, larceny-theft, and motor vehicle theft.

Middle and late adolescents are disproportionally involved in almost all criminal activity. But the extent of their involvement varies by the type of crime. Basically, the more serious the crime in terms of harm and threat of harm to persons and their property, the older the age of onset and of arrest for the crime. The peak age of arrest is at somewhat older ages for crimes of violence against persons than for crimes against property. Except for homicide, where the peak age of arrest is age 20, the peak age of arrest for crimes of rape, robbery, and aggravated assault is age 18. It falls to age 16 for the crimes of burglary, larceny, and motor vehicle theft; and to 15 for vandalism.

The "National Crime Victimization Survey" conducted by LEAA and the Bureau of the Census gives us additional information on the age of offenders.

If we assume that rapes with theft, robbery with a weapon, and serious assaults with theft and/or a weapon are serious crimes—and I think they are—then a fairly substantial number of youths under the age of 18 are involved in these serious crimes. About 7 percent of all rapes with theft reported on the "National Crime Survey" are committed by youths either alone or in groups, where the oldest was under age 18. For an additional 4 percent of all rapes with theft, at least one of the members was under the age of 18. In other words, 1 in 10 rapes with theft are committed by youths under the age of 18.

For robbery with a weapon, all offenders were under the age of 18 in 15 percent of all such robberies. In an additional 9 percent—or 1 in 4 robberies—at least one member was under the age of 18. For serious assault with a weapon and theft—crimes involving both a robbery and an aggravated assault—all members were under the age of 18 in 18 percent of such offenses, and an additional 13 percent—in other words, in 1 of 3 of all such offenses, at least one member was under the age of 18.

The proportions are similar for aggravated assault without theft—in other words, for aggravated assault without robbery.

All in all then, even though most youths are not involved in serious youth crime, their numbers and relative proportions in serious offenses is considerable.

Senator CULVER. Thank you very much.

Without objection, your prepared statement will be inserted into the record.

Senator CULVER. Our next witness is Professor Miller. Please go ahead with your statement.

STATEMENT OF WALTER B. MILLER, CENTER FOR CRIMINAL JUSTICE, HARVARD LAW SCHOOL

Mr. MILLER. Thank you, Mr. Chairman, for inviting me here. My name is Walter Miller.

For the past 2 years, I have been conducting a national-level survey of violent and predatory crime by members of gangs and other types of youth groups in major American cities. The survey was sponsored by the Office of Juvenile Justice and Delinquency Prevention of the LEAA.

In the course of this survey I talked to about 450 people in 24 major cities in all parts of the country. They included a broad spectrum of youth-serving and law enforcement people, criminal justice people, criminal justice planners, probation officers, prosecutors, defenders, and so on. Approximately one half of the people I talked to were members of three major minority groups in the United States; blacks, Hispanic, and Asian.

I think I can sum up the thrust of my testimony by saying that the bulk of serious violent and predatory crime in the United States today is committeed by youths—that is, persons 21 and under; that the bulk of youth crime is collective—that is, committed by members of groups; that no systematic information is currently being gathered anywhere in the United States as to the forms, extent, and impact of serious collective youth crime, and that as a consequence of this there is absolutely no systematic effort being made at either State, local, or Federal level to develop policy geared specifically to coping with the devastating consequences of collective youth crime.

The rest of my prepared statement goes on to document these statements. Some of the material I have will overlap with material given both by the Senator and by Professor Reiss. I will try not to inundate you with a lot of statistics.

The fact that forms of crime commonly known as "street crime" constitute a domestic problem of first magnitude has been stated so often—and was stated eloquently this morning by Mr. Culver—that it seems to have lost its impact on a lot of citizens and legislators. But it has not lost its impact on American citizens who are now suffering through—either through the first time or as a repeated event—the experience of being victimized by a strongarm robbery, a pocketbook snatch, a theft of or damage to an automobile, burglarizing of their homes, extortion of their businesses, damage and destruction of their homes, their automobiles, their school, their playgrounds, their churches.

And it has not lost its impact on hundreds and thousands of American youths whose present lives are being seriously impaired and future lives seriously jeopardized by their involvement in repeated acts of crime and the often devastating consequences of being swept up in a criminal justice system which in many cases has proved to be woefully inadequate in providing them either justice, or security, or effective rehabilitation.

Damage both to offenders and victims is incalculable, as Senator Culver has already pointed out. I would like to cite one small part of the enormous mass of evidence that points to this damage. A recent

Gallup survey queried people throughout the United States who lived in cities as to whether they wanted to leave the city or not. Over one-third said yes, they did want to leave the cities. Of the reasons they gave, in larger cities, fear of crime was clearly the dominant reason. Over 40 percent of those in the core area of the big cities said they wanted to leave the city, giving fear of crime as their reason.

There have been profound consequences of this fear, and even though some sociologists have claimed that it is based on unrealistic perceptions, it makes little real difference what it is based on. The fact is that it is there. The fear is a reality.

More and more central cities are populated with people who are least able to leave. This has enormous costs with respect to housing conditions, welfare, unemployment rates, schools, and the whole panoply of urban ills that we hear about so often.

In another poll, 53 percent of the residents of major cities said they were afraid to walk alone in areas a mile from their house; 58 percent of females nationally expressed such fear.

In order to get some notion of what proportion of street crime is the work of youth groups rather than the work of individuals, we have to get answers to two questions. First, how much serious crime is committed by youths? Second, what proportion of this is group crime?

Professor Reiss has already given us some good answers to the first question; let's add just a little bit to this.

If you look at four of the highest volume of offenses, called "Part I crimes" in the FBI's Uniform Crime Reports, in 1976 persons under 21 accounted for 72 percent of all arrests nationwide for burglary and auto theft; 60 percent of arrests for larceny-theft; and 57 percent for robbery, the most violent of these offenses.

If we raise the age to 24 and under, we get 84 percent for burglary and theft; 76 percent in robbery; 74 percent for larceny.

These crimes then, are overwhelmingly crimes by youths.

Incidentally, I should mention that for the first time in history we have an independent check on these arrest statistics which, as Professor Reiss mentioned, have been viewed with skepticism in many quarters. The new Census Bureau Victimization Studies by and large tend to show very similar kinds of results on the basis of data gathered in a very different way, completely bypassing police sources. I think this is significant.

Of this enormous volume of youth crime, what proportion is collective rather than individual? I have noted that there is very little systematically collected information on this. But what information we do have points in a very consistent direction.

A study of burglary in 1977 by the Criminal Justice Research Center of Albany showed that for burglaries where offenders were under 17, 80 percent involved multiple offenders. The St. Louis Police Department, one of the few to collect statistics on this basis, reports that 65 percent of juvenile felonies are committeed by members of groups.

A recent study, also by the Albany research center, gives data on participation in the four high-volume offense just mentioned. For

urban male offenders, the proportion of youths reported as committing crimes "usually or always with others" was 89 percent for robbery, 84 percent for burglary, 91 percent for larceny over $50, and 77 percent for auto theft.

Clearly, an enormous amount of this crime is collective.

In the past, the major handle we have had on this problem has been the concept of the "gang." This notion has never been very satisfactory. It is becoming increasingly unsuitable.

What we have done is to try to replace the concept of "gang," which arouses a lot of controversy and discussion, with a different concept called "law-violating youth group," of which gangs are simply one type. We have defined a law-violating youth group as an association of three or more youths whose members engage recurrently in illegal activities with the cooperation and/or support of their companions.

CHART I.—*Types and subtypes of law-violating youth group*

Type/subtype No.	*Type/subtype designation*
1	Turf gangs.
2	Regularly-associating disruptive local groups/crowds.
3	Solidary disruptive local cliques.
4	Casual disruptive local cliques.
5	Gain-oriented gangs/extended networks.
6	Looting groups/crowds.
7	Established gain-oriented cliques/limited networks.
7.1	Burglary rings.
7.2	Robbery bands.
7.3	Larceny cliques and networks.
7.4	Extortion cliques.
7.5	Drug-dealing cliques and networks.
7.6	Fraudulent gain cliques.
8	Casual gain-oriented cliques.
9	Fighting gangs.
10	Assaultive cliques and crowds.
10.1	Assaultive affiliation cliques.
10.2	Assaultive public-gathering crowds.
11	Recurrently-active assaultive cliques.
12	Casual assaultive cliques.

Adapted from Chart II, Chapter III, Walter B. Miller: *Crime by Youth Gangs and Groups in the United States.*

In the chart you see before you, even though the numbers seem to add up to 12, there are in fact 18 specific types of law-violating youth groups. Note here that only three of the types are designated as gangs. Type 1 is turf gangs; type 5 is gain-oriented gangs/extended networks, and nine is fighting gangs.

All the others are designated as cliques, crowds, rings, groups, and so on.

I think the important thing here is make a distinction between gangs on the one hand and the other kinds of law-violating youth groups on the other.

We did a detailed analysis of responses by 300 respondents in all parts of the country to the question of what is a gang. There was high consensus that a "gang" is distinguished by five major characteristics. These are: Being formally organized, having identifiable

chain-of-command leadership, claiming a turf, associating continuously, and being organized for the specific purpose of engaging in illegal activity. Most of these groups are also rather large—30 members or more—and many of them have names.

In fact, only a small proportion of the total volume of collective youth crime in the United States is committed by groups that fit these criteria. The vast bulk is committed by other kinds of groups. The fact that they usually are not considered gangs doesn't mean that they don't pose crime problems.

To get some notion of the amount of crime accounted for by gangs as distinguished from other types of youth groups, I will consider the two separately.

First, where are the gangs and how many are there. Chart II gives you some notion of the appraisals of informed youth workers and criminal justice people in major American cities as to the seriousness of problems with gangs, on the one hand, and youth groups on the other.

CHART II.—LAW VIOLATING YOUTH GROUPS AS A CRIME PROBLEM IN MAJOR U.S. CITIES

RESPONDENT REPORTS

No. Cities=23; Population=27.8 million.

PERCENT RESPONDENTS REPORTING PROBLEMS WITH GANGS

No. Respondents=298; percent reporting problems, 23 Cities=75.2.
90–100 percent [9 City Av'ge=96.1]:
New York, Chicago, Los Angeles, Philadelphia, Detroit, San Francisco, San Antonio, Boston, Miami.
50–90 percent [8 City Av'ge=61.5]:
Baltimore, Washington, Cleveland, Pittsburgh, Denver, Minneapolis, St. Paul, Ft. Worth.
Under 50 percent [6 City Av'ge=35.3]:
Houston, Dallas, Milwaukee, St. Louis, New Orleans, Newark.

PERCENT RESPONDENTS REPORTING PROBLEMS WITH GROUPS

No. Respondents=228; percent reporting problems, 23 Cities=99.1.
90–100 percent [22 City Av'ge=99.5]:
New York, Chicago, Los Angeles, Philadelphia, Detroit, Baltimore, Dallas, Washington, Cleveland, Milwaukee, San Francisco, San Antonio, Boston, St. Louis, New Orleans, Pittsburgh, Denver, Minneapolis, Newark, St. Paul, Miami, Ft. Worth.
50–50 percent [1 City, 75 percent]: Houston.

You will notice that respondents in nine cities reported either unanimously or almost unanimously that they have problems with youth groups which conform to their definition of "gangs." These include, along with some others, all of the largest cities of the United States with the exception of Houston: New York, Chicago, Los Angeles, Philadelphia, Detroit, San Francisco, San Antonio, Boston, and Miami.

In the second set of cities a majority said there were problems with gangs. These include Washington, Baltimore, and the other cities in the second column.

In the third group, fewer than half said there were problems with gangs. These include Dallas, Houston, Milwaukee, St. Louis, and so on.

So you can see that while gangs are present in the largest cities, there is certainly no general consensus that they pose problems in cities other than the largest ones. On the other hand, if you look at the column which says "percent reporting problems with groups," we have virtually every one of these cities, almost 100 percent of the respondents said, "Yes, we do have serious problems with law-violating youth groups." Only in Houston was there less than 99 percent.

In addition to the nine cities in column 1, there are an additional four to six which we did not survey which probably have problems with gangs: Buffalo, El Paso, Seattle, Hartford, and a few others.

In these 15 "gang" cities, there are an estimated 1,200 youth gangs with about 52,000 members. The size of the average gang ranges from about 60 for New York and Los Angeles to about 10 to 15 for Boston and San Francisco. About 80 percent of the 52,000 gang members are in the three largest cities.

What proportion of serious youth crime do gang members account for? We have arrest figures only for the three largest cities. In 1974, the latest year for which figures are available, arrests of gang members for the four part I violent crimes which I mentioned earlier—murder, aggravated assault, forcible rape, and robbery—were equivalent to about one-third of all juvenile arrests for these offenses. Los Angeles showed the highest proportion, with about 45 percent of juvenile arrests for the most violent crimes.

I think I should add at this point one particularly noteworthy statistic. In the 5 years between 1972 and 1977, 1,003 homicides were attributed to members of recognized gangs in 6 of the major gang cities. This means over 1,000 dead bodies; it is not simply an abstract statistic. In all but the very largest cities, having 30 or 40 juvenile homicides per year, of all types, is seen as a serious problem.

We have very little data on the numbers and distribution of the types of youth groups that appear in chart I because such information is not being collected. We can get a very rough idea of the nature of group problems by focusing on three of the major types in the chart: Disruptive local groups, burglary rings, and robbery bands.

Disruptive local groups, which are regarded by some simply as a harmless bunch of kids out on the corner, nevertheless pose serious crime problems for residents of many local communities. Our estimates indicate a figure of about 20,000 such groups in the 15 cities with gang problems, with a total estimated membership of approximately 400,000. This represents about 25 percent of the male youth population, compared to about 3 to 5 percent for gang members. So you can see that the number of distruptive local groups is much greater than the number of gangs.

The kinds of offenses they engage in are not, by and large, as serious as those of gangs or predatory groups, but one characteristic offense of such groups, vandalism, is extremely common, and has become increasingly costly to schools and many other types of public facilities.

The second type of group is youthful burglary rings. There seems to have been a great burgeoning of burglaries by groups of four or

five kids in the last 10 to 15 years. We really do not understand why. But literally thousands and thousands of housebreaks—very often in the daytime, which is different from the adult pattern—are being committed by these burglary rings. They are responsible for an enormous volume of burglary.

One very limited study of 250 reported arrests of burglary ring members showed that the average ring had committed 40 breaks before being arrested, and that the average value of stolen goods was about $40,000 per group.

Youthful robbery bands, bunches of kids that roam the subways, streets, and public places of the major cities, engaging in strong-arm robbery, mugging, purse snatching, and so on, are less prevalent, but they are far more terrifying. These are the groups that hold up liquor stores, snatch purses, steal from and beat up the elderly.

Again, reliable information on the numbers of these bands is very limited. But it is clear that they are ubiquitous in cities such as New York, Chicago, Detroit, Washington, and Pittsburgh. They are a major reason for the pervasive fear among city dwellers that I mentioned earlier.

Senator CULVER. Professor Miller, we will insert your prepared statement into the record.[1]

Mr. MILLER. The last part of my statement really goes to the issue of what we can do about this particular problem. In lieu of going into any detail, I refer to the fact that some time back I wrote a memorandum called "New Federal Initiatives With Respect to Collective Crime," which I submitted to some of President Carter's advisors. I have submitted this report to the subcommittee and hope it will be entered into the record.[2]

Senator CULVER. Thank you very much.

We are most appreciative of you both.

Professor Reiss, as I understand it, a relatively small number of juveniles are apparently committing a fairly large proportion of serious crime. Is that correct?

Mr. REISS. Correct.

Senator CULVER. I realize that generalizations are difficult. But is it possible to give us some kind of a profile as to the typical dangerous juvenile offender, or is research so incomplete that it would not be possible?

Mr. REISS. I think we can say a few things about it; we would like to say a great deal more. What we can say is that serious offending rates, not surprisingly, are much greater for males than for females. For violent crimes against the person, they are much higher for minority than for white youth. Serious youthful offenders are disproportionally concentrated in central cities of our major metropolitan areas. Black youths are much more likely to be chronic recidivists than are white youths.

We should be extremely careful not to interpret these statistics as involving what they seem to say on their face. Rather, think of them in terms of larger factors on which we do not have information, such as poverty and other factors that might explain why we have serious

[1] See page 85 for Mr. Miller's prepared statement.
[2] See page 262 for text of memorandum.

offenses concentrated among these particular groups in these particular areas.

Senator CULVER. I would like to ask you about the trends in crime rates.

In the last decade, has there been a substantial increase in the kinds of crime that we are talking about by young people? And, what would be your prediction, in this regard for the next decade?

Mr. REISS. We might turn to this chart and look at the decade 1967 to 1976. What we can see there is, roughly, a doubling in the crime rate for persons under the age of 18; clearly, during this decade, as in the past two decades, youth crime grew dramatically. Double in almost 10 years, in my judgment, is a dramatic increase.

It so happens, however, that, since 1975, there appears to be a lessening in the rate of growth. That is to say that, while crime is still going up, the rate at which it is going up has been declining. So, it is possible that we may see a leveling off, if not an actual decline, in the next decade. It is partly due to changes in the birth rate; youths will contribute a smaller proportion of the total in the years ahead.

We know, primarily from the Uniform Crime Reports, that, beginning in late 1975 or early 1976, growth in the homicide rate slowed. For more than one-half of the reporting jurisdictions in the United States, it actually declined. Nonetheless, I would call your attention—you will hear it and see it in Judge White's testimony later—that in Cook County, Ill., there still were over 110 youths, that is, persons of juvenile court age —who committed homicide in Chicago last year. So, the problem is substantial in actual numbers of youths even though the rate may be slowing and actually declining in many jurisdictions.

Senator CULVER. Isn't there also a correlation between the increase in homicides in times of relative economic prosperity and, conversely, the suicide rate increases in time of recession or economic depression?

Mr. REISS. Senator, I am one of those people who do not think we know how to explain what causes those shifts in the rate. They occur too quickly and too dramatically.

If you think of the homicide rate going up very dramatically, you will need a very powerful cause or set of causes to start driving it down very sharply. We do not quite know what occurred that dramatically. It is a very complicated problem that I hope we can answer in the years ahead.

I think there is going to be some slowing in what we call the serious youth crime rate. It is not only due to the changes in the birth rate but also for some other reasons. But it is not going to fall as fast as changes in what we might call the nonserious youth crime rate.

The reason is that serious crime is disproportionately concentrated in low-income groups and particularly among minority youth, particularly for the aggravated assaults and serious robberies with assault. The birth rate is slowing much less. So, we can expect in fact that in the decades ahead the serious youth crime problem will go away less rapidly.

The second thing I would like to say is that there will be some changes in the composition of the population of offenders. We have to think very seriously about that.

Due to changes in the birth rate about which I have been talking, the black population of this country will continue to grow while the white population is already below replacement level. That means that proportionally more of the offending population in the next few decades will be black. That will mean that, from the standpoint of how that problem is perceived, we have to be extremely careful that it not be attributed to something called "blackness."

I will remind you that, if we were having these hearings in the twenties, what we would have said is that serious offenders are the sons of immigrants living in the central cities, not the sons of black people.

So, we have the same problem; it is just a change in who those people are. So, the difference in having the hearings in 1920 and 1978 makes it look as if it were different.

The other thing I would call attention to is that arrests for serious juvenile offenses are increasing at a greater rate in suburbs than they are in the central city, even though the violent offenses against persons are still disproportionally concentrated in the central cities. So, we sort of are beginning to see a suburbanization of that problem.

Senator CULVER. Are the victims of these crimes like those of adult crimes?

Mr. REISS. Well, yes and no.

I have suggested that serious crimes are those that pose substantial threats to persons and property. I think that most of us here might agree that how substantial a loss is depends not only upon what I lose but how much I have to lose; that is to say, relatively.

I think there are two types of forgotten victims in our country who objectively have less to lose on the average but who relatively have more to lose; the young and the old. I want to say a little bit about the young.

The very young in this country are particularly forgotten as victims. They rarely appear in our police statistics of persons reporting crime. It is interesting; no one allows them to report. The school officials do not allow them to report. Their parents rarely report for them. Yet, the victimization survey tells us that the most highly victimized are the very young.

One of the reasons why young people must be regarded as——

Senator CULVER. More specifically what kind of crimes are committed against youngsters? Is it penny ante extortion?

Mr. REISS. It includes small extortion.

Let me give you some statistics for Philadelphia as well as from the national crime victim survey.

What we find are that about 1 in 3 youths were actually robbed. Incidentally, more of those robberies for youth involve knives or some kind of weapon or strongarming than they do for adults. About one in five experience an assault. I am not talking about simple fights. I am talking about an assault with injury.

About 1 in 10 paid some form of protection.

That may be penny ante in our terms. But it is such that, for those children and their parents in Philadelphia, more than half of them were afraid to walk to school. About 40 percent of them were afraid even on the school ground. Over a third were afraid inside the school.

I recognize that the hearings on school violence had talked primarily about violence against teachers. I want to assure you that the really serious problems in schools is the problem of violence against the forgotten victims, the kids who go to school.

From the national crime victimization survey, we know that these rates for youth can be extremely high as compared with adults. Indeed, up to the age of 18, the rates are higher than they are for any other age group.

The other forgotten group, of course, are the elderly. Their rates are much lower, but they are particularly vulnerable to youthful offenders for certain kinds of crime, particularly robbery and purse snatching. One of the things that happens with the elderly as contrasted with youth is that the elderly become prisoners of their fear. They become locked within their dwelling units because they are afraid to go out.

Our society makes kids go out. We force them to go to school, where they are victimized.

So, these two groups, which are particularly vulnerable and have relatively a lot to lose, show these differences because of their options.

Senator CULVER. Professors Reiss, and Miller, what specific recommendations or suggestions do you have for us as to what the Federal Government can more properly be doing to combat serious juvenile criminality?

Mr. REISS. May I speak to that first; and then Professor Miller.

I would say that the primary role in this area belongs to the States and local government. But there is an important role for the Federal Government. That role lies in collection and dissemination of information about crime and about serious youth crime and research and demonstration and continued financial support for States.

I would like to say a few words about each of those.

I serve as a member of the Connecticut Crime Commission. I serve as chairman of the Advisory Committee on Juvenile Justice and Delinquency Prevention of the State of Connecticut. I serve as a member of the South Central Crime Council of the State of Connecticut. I have served in the past as a national member. So, I think I know it all the way from the very local to the Federal.

I am convinced that the financial support that is provided to the States and local government is extremely important. It not only ought to continue, but it ought to be increased. It is the main way that we can make changes at the local level. It is Federal dollars that help.

I want to assure you that, in the State of Connecticut, we have been increasingly absorbing those dollars into the State budget. They are not dollars that come and then the programs go away.

The second thing is that we need improvements in the collection of information about juvenile crime, particularly about how that relates to adult careers. We do not have that at the present time. That is critical information.

That means improving the uniform crime reporting system and continuing the national crime survey of victimization, among other things.

Finally, I think we need to have some research on serious youth crimes. That may sound rather self-serving, coming, as I do, from

the academy. But I do think we need to know more about how we can enlighten decisionmaking about serious youthful offenders.

Senator CULVER. What percentage of this tragic problem do you think could be reduced if we had a massive minority employment program and youth employment program in this country?

But what really concerns me is that we are analyzing the symptoms of the problem instead of dealing more aggressively and responsibly with the agony of the fundamental causes of the problem. As you pointed out, in the twenties, it was a problem of discrimination and lack of access—Irish-need-not-apply signs—plus the difficulty of cultural and social assimilation.

Today we have the same problem, but it is perhaps more aggravated because the cities themselves have undergone even more substantial decay.

What about the unemployment aspect of the problem?

Mr. REISS. I think it is an extremely critical thing. I think it is hard for any one of us to prove how much of an effect that is going to have.

Senator CULVER. What do you have, 50 percent unemployment among——

Mr. REISS. Among black youths, in some cities it can rise as high as 50 percent.

Let me say that I am tired of what some people call the "fire insurance" for youth, the summer youth employment programs. I think those are an absolute disaster. To give summer money for a period of time and then take it away the next 9 months of the year is the surest way to help raise the crime rate.

I hope the Congress of the United States does not perceive of youth employment programs as crime insurance against the hot cities in the summer.

I hope it perceives the problem of hiring youth and also permitting youth to work much more as an alternative to education. That I think is very important in the long run.

Senator CULVER. All the recommendations that Professor Reiss mentioned are ones that the subcommittee is particularly interested in pursuing.

We acknowledge the insufficiency of our research data, and we don't have high confidence in our grasp of the true nature of the problem. However, both of you have helped to point the way on the basis of your independent work. We appreciate your work. Professor Miller do you have any thoughts or recommendations?

Mr. MILLER. I have some thoughts.

First, as to your initial question, would a massive program of guaranteed employment for ghetto and slum and barrio youth have a real impact on the problem of serious youth crime? I don't know. The evidence is very conflicting.

In our own study we ran correlations between the intensity of gang and group violence in our major cities and something like 400 different possible causative variables. Unemployment simply did not do very well. It did not distinguish between cities that had high levels and low levels of collective youth crime.

The evidence in this case, as in many others, is conflicting. I do not think it is in any way clearcut that serious youth crime would

be significantly reduced by a massive jobs policy, a full employment policy that some people push very hard as the solution. I certainly think such a policy is important. It is desirable in its own right. But to hook it directly to any kind of assured crime reduction, I think, is taking us down the garden path. The evidence is not established in this area.

Senator CULVER. Is that particularly true with regard to the specific kind of youthful violent crime activity you have studied in?

Mr. MILLER. Yes, I think it probably is more so than in the case of nonviolent individual offenders. I do not think that there is any doubt that that is the case.

Senator CULVER. To what extent are the sociological circumstances that give rise to the phenomenon of youth gangs and groups influenced substantially by the employment picture?

Mr. MILLER. I recall a story by one of the gang workers in a project I was with. He said to the kids—they seemed to be loafing around all the time—"What's the matter with you guys? Why don't you go out and get jobs? Why aren't you working?"

They said, "We are working. We're working as thieves."

From their viewpoint, they were perfectly adequately employed at work that was probably more satisfactory to them than a legitimate job.

What this shows is that it is very hard to provide incentives in the legitimate world that will compete with the appeal of gangs and groups of this type. So, simply making the jobs available to them by no means means they are going to take them or stay with them.

You said, I think very sagely, that we have gotten much more sophisticated in our analysis of the symptoms and we neglect the whole area of fundamental causes. One of my colleagues says that the area of "cause" is the sick man of criminology. This is not so much because we don't have lots of ideas about causes but because there are so many controversies about what the causes are.

I think it is very important for the purposes of these hearings to bring out one point about causes. What causes one chooses to use to explain juvenile crime in general or group crime in particular, really has more to do with one's political philosophy than with the amount of substantiated information we have.

To grossly oversimplify the situation, there are two broad causal philosophies in the United States today.

The first might be called the "root cause" philosophy. This attributes youth crime primarily to a group of basic social defects such as inequalities in wealth and privilege, denial of opportunity, racial, and ethnic discrimination, unequal application of justice, and so on. These are basically the root causes that presumably are producing crime—poverty, discrimination, and so on. The policy prescriptions which follow from this position center on comprehensive measures to alleviate poverty, provide equal employment opportunities, insure the just and equitable operation of the criminal justice system, and to deal with offenders in the community context to the maximum possible degree.

This is one school.

The other school might be called the "permissiveness" school. This takes a very different position. It focusses on basic defects in the indi-

vidual rather than on basic defects in the social order. It talks about an increasing deterioration of moral standards in the country as a whole and a failure by virtually all the major institutions of this society to instill a sense of personal responsibility. These include the institutions of the family, the school, and the criminal justice system.

They feel discipline is gone from the family. The school is not enforcing discipline. It is mechanically passing students through. As Professor Reiss points out, the schools certainly are not preventing their students from being victimized by their peers. As far as criminal justice is concerned, you already this morning went through the litany of the whole revolving door argument. It says that the kids are back on the street before the arresting officer has had a chance to make his report.

Prescriptions based on the "permissiveness" position involve suggestions for revitalization of basic moral teachings in the home, school, and church; a return to basics and discipline in education; a hard-line approach to habitual offenders; expanded arrest; judicial decisions focusing on the rights of victims rather than the rights of the offenders; and insured incarceration in secure facilities.

These two positions point in very different directions. I am bringing this up not simply to remind you that there is a set of controversies here but rather to point out that these differences are there. They exert a powerful impact on what people are going to propose. I think they must be recognized by those responsible for policy formulation.

In order to be politically viable, proposals have to take into account the existence and vitality of both of these positions. If you take an inflexibly partisan position on one side and ignore the other, you greatly reduce the chances of developing a realistic and effective crime-control policy.

My own policy proposals, which I will not go into detail about, try to take something from both of these prescriptions and both of these diagnoses.

I think we need an appropriate mix of techniques utilizing both service-oriented and criminal justice or law enforcement-oriented kinds of approaches, very sensitively adapted to the particular circumstances of local communities and particular offenders.

I do not think we are making sufficiently refined discriminations. I don't think you can set across-the-board policies as to when a hard-line approach is called for—whether the kids should be removed from society—and when they should be given the maximum amount of service and rehabilitative measures.

We are painting with a huge broom instead of a fine brush. The determination of the appropriate mix of these two types of approach, it seems to me, is the art of effective crime and delinquency control.

Senator CULVER. These two philosophical schools of thought and approaches have really existed pretty much since anyone focused on the question—there is nothing new about them. I think oftentimes what is done in the way of research and study is simply to reinforce some preconceived idea. If you are in one school, you go out and try to find data to reinforce your own beliefs.

Mr. MILLER. There is abundant evidence to support both philosophies.

Senator CULVER. Are you at all sanguine about the possibility that, if we did do a more responsible or solid job of systematic research, that we could get any resolution of some of these issues so that we can have a judgment that is informal and based on fact rather than emotion?

Mr. MILLER. I think there are two parts to the answer to that question.

First, I have to be sanguine, or I would not be in the job that I'm in. I do have confidence in the fact that increasingly sophisticated and more informed and less ideologically oriented research will in fact give us a better fix on basic causes.

On the other hand, I have the feeling that a large-scale search for explanations on an overall basis will never achieve a completely satisfactory answer. We are not going to get a good synthesis because we are dealing with a very complicated problem, one that has been with us for many, many centuries. The Old Testament starts out with two felonies: a theft and a homicide. Clearly, we are not dealing with a new kind of phenomenon.

I do think that we could have middle-level research which focuses on the efficacy of particular types of approaches. For given types of offenses in given types of contexts, we can get a much better fix on some of the circumstances that seem to be related to them.

I think the second aspect is this. If what I say is true—that people's prescriptions are primarily influenced by their political philosophies, no amount of research data is going to sway those people whose minds are relatively impervious to new information. It seems to me that, because of this, it is incumbent on the Federal Government—this is the one place where I think it might be possible to set up an operation which would be as free as possible from particular sets of biases and try to do as objective and nonpartisan a job as possible in working in this field, not subscribing narrowly to either of these major schools.

Senator CULVER. Do you look to this place as the font of hope?

Mr. REISS. St. Augustine said in the fourth century, "Oh, to distinguish the reality of things from the tyranny of words."

Senator CULVER. Exactly.

We have a vote now on the Senate floor. We have a few more questions that I would like to get your responses to for the record. I will turn this hearing over to Ms. Gittler, our counsel. She can ask questions while I am gone. Perhaps we could also submit some others to you for the record. I would appreciate your answering two or three more questions while you are here. Then, perhaps, when you are finished with these, Ms. Gittler will call the other panel.

I know that there are some other Senators in other hearings that want to come also. I will return.

Ms. GITTLER. Professors Reiss and Miller, specifically turning to the vehicle that the Juvenile Justice and Delinquency Prevention Act of 1974 established for research and demonstration projects, technical assistance, and some degree of subsidization of State systems of juvenile justice, what do you see as the priority that the office has and is giving to efforts with respect to serious youth crime? We would like to know whether you think the office should be doing anything different than it is now doing.

Mr. REISS. As you know, the original legislation listed serious youth crime as one of the topics for research on the part of the National

Institute of Juvenile Justice and Delinquency Prevention. However, it is also my understanding that this subcommittee set certain priorities with respect to the legislation in the reauthorization; and that did not list serious youth crime as one of the high priority areas in the reauthorization. So, relatively less has been done in that area, in my judgment, than might be done. But that may be a matter of establishing some priorities with respect to research programs of the national institute.

Ms. GITTLER. Professor Miller?

Mr. MILLER. My answer is essentially the same as that of Professor Reiss.

I have a somewhat more narrow perspective which has to do more specifically with the interests of the National Institute of Juvenile Justice in collective youth crime, the area that I am interested in.

I see basically three phases here. Prior to the latter part of 1977, there was certainly a strong initiative in this area. They started up my own research on collective youth crime, supported it well, and publicized its findings extensively. However, following the 1977 amendments to the 1974 legislation, a different set of priorities were listed; namely, alternatives to incarceration, restitution, and youth advocacy as the three major priorities of the NIJJ.

Conspicuously absent were two previous initiatives which had been planned. One was an initiative with respect to collective youth crime. The other was with respect to the chronic juvenile offender.

It seems that the NIJJ at this point is responding to priorities that were rather clearly set out in the course of the legislation. If this is so, I think that there should be some alterations in these priorities. It seems to me that if the NIJJ does not take serious youth crime and programs for dealing with it as a major priority, I do not know where else in the Federal Government system it is going to be taken as a major priority.

I must say that I have received some indications from the office that they feel that their having limited their priorities so as to exclude major consideration of serious youth crime is, first of all, a consequence of the mandates of the 1977 legislation and, second, a relatively temporary situation for fiscal year 1977–78. For the future, they do seem to be entertaining some notion of granting higher priority to serious youth crime than has been the case during the past year.

Ms. GITTLER. Thank you very much, gentlemen.

Our next panel is made up Victoria Jaycox, Detective Irwin Silverman, and Mrs. G. Would they come forward now please.

I understand Detective Silverman is on his way. Why don't we start with Ms. Jaycox.

Ms. Jaycox, I understand that you are the director of the criminal justice and the elderly program conducted by the National Council of Senior Citizens. Would you care to summarize your statement?

STATEMENT OF VICTORIA H. JAYCOX, DIRECTOR, CRIMINAL JUSTICE AND THE ELDERLY PROGRAM, NATIONAL COUNCIL OF SENIOR CITIZENS

Ms. JAYCOX. Ms. Gittler, I would just as soon go directly to questions and leave my prepared statement for the record.[1]

[1] See page 90 for Ms. Jaycox's prepare statement.

Ms. GITTLER. Ms. Jaycox, the previous witness indicated that the young and the old are primary victims of youth crime. On the basis of your work with the National Council of Senior Citizens, what is your perception of the extent of victimization of senior citizens by young people?

Ms. JAYCOX. Our information confirms that reported by Professor Reiss.

Most of the reliable data in this area come from the LEAA victimization surveys. An analysis of these surveys for personal crimes against the elderly concluded that most crimes against the elderly are predatory crimes. Predatory crimes would be defined as robbery and larceny, essentially crimes which are intended to gain a person's property through whatever means are necessary.

Violent crimes against the elderly are less prevalent, although in sheer numbers, there is still an incredible amount of violent crime. But, in terms of proportions and percentages, predatory crimes are the greatest.

An analysis we just did recently shows that there are 16 times as many victims of crime who are elderly as there are victims of rape or attempted rape every year.

By looking at the data, we can see that 51 percent of the predatory crimes against the elderly are committed by youths—youth being anyone under 20 years of age. So, the great bulk of elderly crimes are predatory crimes committed by youth.

Ms. GITTLER. What special impact does juvenile crime have on senior citizens as opposed to other segments of the population?

Ms. JAYCOX. From what we know about the elderly, crime does have a special effect on them. Even such a minor crime as a purse snatching can have a very long-lasting effect on an elderly person.

A typical crime against an elderly person would take place in a bad neighborhood in a big city. There are pockets in most cities where the elderly live in great numbers side by side with large numbers of youth. They are quite vulnerable to these youth, who time their crimes quite rationally around social security and SSI payments.

Most of the elderly and the juveniles lack any mobility to get out of these neighborhoods. What happens essentially is that the youth pick out the elderly as easy victims. If someone else in the neighborhood also looks easy, they do not necessarily wait for an old person; but it is a logical choice. These are crimes of opportunity, and the opportunity is there and it is exploited.

If these elderly crimes are very often what might be considered minor, you might ask why they are so important. The reason is that even a minor crime has a very serious impact on a person who is very poor, who is feeling fragile because of his age, who feels that he may have trouble financially even getting through the month, who then is put into a crisis state by his victimization.

The kinds of crises are three. Obviously one is financial. He may not have enough money to buy food because of his loss. The second is physical: a bone does not heel quickly for an older person, and it breaks much more easily. And the third, the emotional crisis, is the most severe; even a minor crime can cause acute distress and a feeling that one is not able to cope anymore.

Let me expand on that a little. I mentioned before that the elderly, as a class, are 16 times more likely to become victims of personal crimes than are women likely to become rape victims. Obviously, not all rape victims are totally traumatized by their ordeal, and the same is true of elderly crime victims. But there is ample evidence to suggest that both kinds of victims are unusually susceptible to long-term, psychological harm—more so, say, than the class of young men who have been criminally assaulted. So when we indicate the risks of the elderly relative to the women's risks of being sexually assaulted, I don't think we're being capricious. Policymakers have got to learn that a purse snatch of an elderly woman can be a very dangerous crime in terms of the victim's emotional well-being.

To go back, I would, say that as a result of a victimization or in dread of such an eventuality there is a pervasive sense of fear which drives our elderly to abandon the streets to the predators and to isolate themselves in their homes.

Ms. GITTLER. As you know, a number of States have passed various forms of victim compensation. Do you feel these laws adequately address the needs of senior citizens who are victims of crime?

Mr. JAYCOX. Our program is providing victim assistance to the elderly in six cities. We have found that victim compensation programs in the States where we are operating are basically quite deficient. They just do not meet the needs of the elderly victim.

The reasons for this are that most of the elderly victims are poor; most of them are in a state of crisis and in need of emergency help after the crime. Most of them lose property and money. But existing State compensation programs are not aimed at this kind of victim.

We are advocating some changes both at the Federal level, where there is a bill pending in the Senate, and in the States for changes which would serve the elderly better. One of these changes is to establish a simplified mechanism for providing emergency assistance. In many States, after a claim is filed, it may take up to 6 months to get any kind of assistance.

The second change is to allow for compensation of small losses. When you are poor, a small loss has an impact which is proportionally much greater than is a larger loss for a middle-class person.

The third change is that the bill should provide for compensation of essential property which has been lost as a result of the crime. Property would include money or property. Property crimes are the most common ones committed against older persons and are something which are not compensated in any other fashion since the elderly are among the least likely to have any insurance.

Ms. GITTLER. What would you see as the role of the Federal Government in making compensation in victim compensation and victim assistance program?

Ms. JAYCOX. The Federal Government should play a role in victim compensation and assistance and in crime prevention.

There are a number of good Federal programs going on now. We believe our program is one of them. Our projects are providing crime prevention and victim assistance to the elderly. At the national level we are trying to document what works and what does not work in these projects.

But the work going on is only a token amount. What needs to be done is to put additional resources into the effort and to build on what we are learning about how to prevent crime, how to rebuild neighborhoods and how best to assist victims.

I would recommend that the Government sponsor more programs which educate the elderly about strategies to prevent crimes of opportunity against them. The education would have to be tailored specifically to the elderly so that their already high level of fear is not increased. The training should give the elderly opportunities to understand what the real risks are and also what is relatively safe so that they are not imprisoned in their home.

Another kind of program which should be encouraged is neighborhood coalitions around the problem of crime. These coalitions are very simply aimed at trying to get neighbors to talk to and take care of one another again and use crime as a vehicle to do that.

The third emphasis should be victim assistance programs. We see these as essential because of the crisis state of many victims. These programs would intervene in this crisis and act as a link between the police, who come in contact with most victims, and the social service agencies. The programs could assure the existence of a network where victims can get their needs filled.

Those are the three major kinds of programs which we endorse for greater Federal funding.

Ms. GITTLER. Thank you very much for those suggestions.

Let me turn now to the second member of the panel, Detective Irwin Silverman. He is a member of Senior Citizens Robbery Unit of the New York City Police Department.

STATEMENT OF IRWIN SILVERMAN, BRONX SENIOR CITIZENS ROBBERY UNIT, NEW YORK POLICE DEPARTMENT, NEW YORK, N.Y.

Mr. SILVERMAN. Ms. Gittler, I would like to preface my remarks by saying that they do not represent official statements or policies of the New York City Police Department.

Ms. GITTLER. The record will note that.

Could you lay out for us the conditions that existed at the time that the Senior Citizens Robbery Unit was formed?

Mr. SILVERMAN. Initially the New York City Police Department did not keep a record of the age of the victims. In 1974 some detectives in adjoining precincts noticed new trends and patterns in crimes being committed against the elderly. Not only were they being robbed, they were being viciously assaulted. They were being bound and gagged; in fact, many of them suffocated on these gags and/or they were strangled or knifed. In early 1975 there were approximately 17 homicides in the Bronx alone where we operate; our unit operates in Bronx County.

A second problem was difficulty coping with these youths due to the somewhat sophisticated means they employed compared to the average street criminal. They were operating behind the building lines in the interior of residential buildings, lobbies, hallways, elevators, and inside the victims apartment itself. Anti-crime patrols

assigned to deal specifically with street crime were at an extreme disadvantage. The predators were actually operating behind "closed doors" becoming invisible once they entered a hallway behind their prey. When anti-crime teams noted potential victims being stalked by the predator(s), the officers, in most cases, had to wait till victim and stalker disappeared from view and, additionally, for some overt act to occur before any effective police action could be taken. For the police to intervene prematurely, when in fact no violation of law had yet occurred, might prove detrimental. The police could be accused of acting illegally and presumptuously. Additionally, the criminal would become more aware and evasive of police tactics, and possibly channel his activities to other areas less prone to surveillance and discovery.

Considering these inhibitors, the police officer must, in many instances, allow a crime against a senior citizen to occur before he can take positive and effective police action. It is extremely stressful and frustrating for the police officer to enter a building and find the predator(s) inflicting pain and suffering upon a victim in a hallway or elevator. More traumatic, is seeing neither potential victim or culprit and then having to listen for a cry of the "helpless one" emanating from a remote apartment. Then, attempts to locate the victim and apprehend the perpetrator(s) before any further hurt is inflicted upon the victim is initiated.

A third problem was that it is difficult communicating with the senior and difficult in receiving his reports. He or she very rarely made the report. When you did visit them, you had a hard time relating or getting them to relate back to you.

In 1974 three detectives in an adjoining precinct, my partner and I approached our supervisor and informed him of the situation. No one seemed aware of this pattern at the time.

These youthful predators would operate within the confines of a specific precinct on a particular day and on another day choose another precinct to ply their trade. By shifting from precinct to precinct distinguishing patterns were obscured. Subsequently, detectives investigating and police officers reporting these crimes within one precinct would tend to view these types of crimes as isolated incidents.

Fortunately we saw what was happening, and we brought it to the attention of superiors. They wisely organized a pilot project which became a citywide operation within the New York City Police Department in 1976. Since the inception of the Bronx Senior Citizens Robbery Unit, it has become a model with numerous requests by domestic and foreign police departments seeking information and operating procedures concerning the unit.

Ms. GITTLER. Detective Silverman, on the basis of your experience as a member of this police unit that specializes in crimes against senior citizens, would you describe for us the type of crimes that you observe young people to be committing against senior citizens in the areas in which your unit works?

Mr. SILVERMAN. The main type of crime, which is the most vicious and horrendous to the senior citizen, is what they call in street vernacular push-in robbery, "rushing the crib," or the "crib" job. That

simply means the following: The predator follows the victim to where he resides. As the victim enters his apartment, the victim is mugged from behind, pushed into the apartment, bound and gagged, and the youths can stay there a matter of hours or even days without being discovered and methodically ransack the apartment.

There are two main ways that these kids operate. They will hang out or congregate around check cashing establishments, banks, and supermarkets. They will stay by the checkout counter where the people pay for their produce. As the person opens their purse or wallet to pay for a purchase, a youth, generally young and innocent-looking, observes a "fat" wallet or purse and tips off his team members situated outside the premises. They will follow the senior to his or her building. If it is an elevator building, when the senior gets on the elevator, the youngest child gets on. He sees what floor the senior presses. If the senior presses eight, the kid in the elevator says to his friends who are out in the lobby, "Hey, fellows, I'll see you about 8 o'clock." So, now the kids downstairs know the person is going to the eighth floor.

The kid in the elevator will press four and get off at four. Now the senior victim feels secure. The senior gets upstairs to the apartment, puts the key in the door, and from around the corner comes two or three kids. They jump the senior from behind, push him/her into the apartment and bind and gag them. Then they proceed to methodically ransack the apartment. If they do not find any money or other valuables they will further brutally assault their victim which at times has ended in death.

Another technique employed by the predators is the following. They live in these housing projects. They know that these housing projects have specific apartments assigned to the elderly. What they do is observe the senior go out in the morning to shop. They do not even follow the senior. They position themselves in the building. They wait for him to return. Then they use the same technique. They push the senior into the apartment when he opens the door, bind, gag, ransack, and assault, et cetera.

There have been a significant number of homicides as a result of this. They have tied and gagged victims, and some have suffocated. They also put their prey in closests and put heavy furniture against the door. One woman was discovered after having been locked in a closet for 3 days. When she was released she was so excited she suffered a heart attack and died.

Ms. GITTLER. Detective Silverman, what does the unit do that is designed to increase the effectiveness of police investigations and apprehension of young people that commit these kinds of crimes?

Mr. SILVERMAN. The unit attempts to coordinate and control the investigations on a countywide basis of all crimes against the elderly in the Borough of the Bronx. We receive all reports of crime against the elderly. We develop intelligence and indicate the crime prone locations. This is dispersed to the uniform force so that they can take proper action and be cognizant of what is happening.

We also assist the uniform force when they make an arrest and aid them in preparing cases for court so that proper prosecution can be made and the subject can be incarcerated or placed in an appropriate rehabilitative program.

Ms. GITTLER. What do you do in the way of assistance to the senior citizens who fall victim?

Mr. SILVERMAN. One other point referring to your previous question is that we also assist the homicide squads in any homicide investigation concerning senior citizens. I think we have made seven homicide arrests in conjunction with the homicide squad.

As far as what we do for the senior citizen, we try to bring the police department or the police to the senior citizen's residence to make things as convenient as possible for the senior.

We have a portable photo file system. These are pictures of possible suspects. We bring them to the home of the senior, so he or she does not have to visit the police station.

If and when it comes time where the senior is needed in court, we take the senior there and we take them back home.

The unit additionally puts the senior in touch with a social agency that they may need. We also lecture at many senior citizen centers throughout the borough on crime prevention and what they can do to prevent becoming a victim. We have lectured approximately a half million people throughout the Bronx in the past 3½ years.

Ms. GITTLER. Detective Silverman, based on your experience in this area, what do you feel are the causes of serious youth crime? And what do you think is the most appropriate response to dangerous juvenile offenders?

Mr. SILVERMAN. There are many cliches; they have been repeated many times.

The main causes are the unhealthy environment caused by either the breakdown of the family, the neighborhood, or the community. They must act as socializing units. If you have a breakdown in one of them, you can have a breakdown in all of them.

Also, there is a lack of our society to deal realistically with the situation. Many people behind closed doors will expound on one point; but, when they get out in public, they are afraid to really say what they feel is best because they may be accused of prejudice or barbarism, et cetera, when they bring up the fact of possible incarceration or restriction. But punishment or restriction is actually part of rehabilitation, and we have to realize that. We cannot run a rehabilitation program on the street with kids especially who are involved in violent crime. We can do that with the other children who are committing petty crimes. We can divert them before they even get into the system.

One of the most important points is to identify and locate the child who is prone to commit antisocial acts before he reaches the system. At a very young age in the schools, the school officials must take note of erratic or antisocial behavior. At that point, intensive rehabilitation services must be offered.

When a youth becomes 15 and 16, he has been conditioned to certain values and attitudes; and it is very hard to change those. The kids who are 15 and 16 who are committing these crimes against the elderly do this on a cost-benefit basis. They do it by measuring pain against pleasure.

They are obtaining a preponderance of pleasure. They can go out and commit 50 to 100 purse snatchings or robberies and when they are arrested they are released to their parents and are home within

an hour or 2. Or, if they go to court, generally are given probation or less. They can say to themselves and others, "We made $10,000; we got caught and we just got signed out; this is terrific." They continue to repeat the same behavior which has been reinforced due to lack of swift and certain punishment.

For each arrest that a youth sustains, he has generally committed between 10 and 50 crimes before he is apprehended. This means if a kid goes to court and he has been arrested 10 times, actually he may have committed between 100 and 500 crimes.

I conducted a brief survey at a housing project in the Bronx. Of three families, studies concerning eight siblings in those families indicated they had been arrested 200 times. This means they had most likely committed up to 10,000 crimes including 100 robberies and 3 homicides, which were verified.

Another factor which may inadvertently cause, perpetuate, or fail to respond properly or effectively to the dangerous offender, is our criminal justice system in total. Within it there is fragmentation with accompanying lack of coordination and lacking interrelatedness. There is discerning competition and bickering, leading to general alienation between the various departments; for example, police, courts—judges, DA's, defense counsel—corrections, probation, division for youth, and other supportive agencies.

I believe there must be more extensive and meaningful communication between all departments concerned in dealing with offenders. Members of all departments must be given the opportunity to gain insight as to the conditions, problems, and experiences encompassing the particular components of the CJS. All must get to the "grass roots" and intelligently comprehend each others situation, for example.

In dealing particularly with the violent youthful offender, we must be extremely realistic and cognizant to the fact that, unfortunately, at present there are no instant or magic rehabilitative programs. The violent one must be, sad to say, isolated from the general population for his and the public's safety. The law abiding have their rights, too.

We are performing a disservice to the violent youth when we do not dispense swift and certain justice, followed by restrictive placement whereat intensive rehabilitative treatment may be offered. Conducting numerous studies, discussing theory with many diverse views, while still permitting the violent offender to remain in the environment which led to his antisocial behavior, is debilitating and self-defeating. We need immediate, intelligent, positive and coordinated performance . . . now.

Ms. GITTLER. Detective Silverman, you brought Mrs. G., sitting to your left. I understand that you were in charge of an investigation of the crime committed by juveniles against her. Is that right?

Mr. SILVERMAN. That is correct.

Ms. GITTLER. Is her case fairly typical, in your view, of the cases you deal with?

Mr. SILVERMAN. It definitely is.

Ms. GITTLER. Our next witness is Mrs. G., who is going to tell us firsthand about the impact of juvenile crime upon our senior citizens.

She has agreed to testify before this subcommittee because of concern of people like yourselves for the victims of serious youth crime.

However, she has asked that her real name not be revealed. I will request on behalf of Senator Culver, chairman of the subcommittee, that we respect this particular request.

STATEMENT OF MRS. G., NEW YORK, N.Y.

Ms. GITTLER. Mrs. G., how old are you?

Mrs. G. Eighty-three.

Ms. GITTLER. I understand that, in the fall of 1974, one day you went out of your apartment to the market. You came back and took the elevator up to the fourth floor, where your apartment is located. You were opening your apartment door, and something happened.

Can you tell us what happened to you?

Mrs. G. Yes. I had seen such a mob down in the yard. I was glad when I got in the lobby; nobody bothered me. I made it up to the fourth floor. I was so glad that I had made it. I put the key in the door and unlocked the door.

An arm went around my neck like this—indicating. My head reached up to the chin of this person. An arm went around like this. "Get in the bedroom. Get in the bedroom." They pushed me in.

I started to struggle and fight. They got me in the bedroom and pulled the shades down. Closed the door. The one who was mugging me did not want me to see his face. He could have done more.

He was choking me until I passed out a few times. He was telling the other one what to do. "Go in the drawers. Go in the closets."

Then he started smacking me with his thick hand. "Where's the rest of the money?" They found about $45.

I did not know what rest of the money they meant. It was November 4. We get our social security checks on the 3d of every month. But the day came on Sunday. So, we had gotten them the Saturday, the 2d. But they did not know this. That is why the mob was out there waiting to catch the social security victims—catch the older people.

"Where's the money?" Smacking me and telling the other one what to do. But he did not let me go because he didn't want me to see his face. Then I scratched him and he hollered "She scratched me. Hit her." So they both were smacking me.

I kept becoming unconscious. I couldn't talk. I could not tell them where my money was even if I had wanted. They didn't realize I couldn't talk, they were choking me so. Then I passed out a few times, it seemed like.

I didn't feel the pain in the face because I was so unconscious from the choking. "Where's the good jewelry? Where's everything?" But they didn't find where's the rest of the money. I would have told them rather than get a beating like that, but I did not know what rest of the money they wanted.

Finally, I felt myself dying. I could feel it. This is the way you're ending up. This is the end. I felt so many things. This is the way it's ending up. I could feel my breath going. I felt this is the last breath.

Then I called on the Lord. It was my mistake I didn't call on Him at first. I called on the Lord then. I said, "Jesus, Jesus." A voice—I couldn't talk; I was talking from down in here. A voice answered, "I'm here."

I was unconscious. I thought I was dead. I didn't know anything. He said, "I'm right here." I was talking: "I need you. I can't fight them anymore. I need you." The voice said, "Why did you wait so long to call?"

I didn't know if my eyes were open. I had just regained consciousness. It seemed like my eyes opened. I didn't know what it—then I looked around and I thought, "Oh, what a nightmare." I was so glad it was just nightmare.

Then I realized what had happened. I looked around and I saw—I realized I was in my bedroom. On the floor. He never let me out of his arms. I don't know when they put me on the floor. I don't know anything about that.

They were gone. The shades were down. The closet door was open.

I felt hands reaching out from everywhere because they had caught me so quick. I was afraid to go out of the room. I didn't know if they were in the other part of the house. But little by little I crept out. I got all the way to the kitchen looking, trying to keep away from any hands that were going to grab me.

I got to the kitchen. All the mob—the young people were down there. I tried to scream. Then I realized I couldn't I had been choked so, I couldn't. I make some kind of a sound, but I couldn't scream or holler like I wanted. I made some kind of a sound.

I opened the window. Then many of the men knew what had happened. In a minute they were all up in my apartment. Then a man came in and called the police.

Ms. GITTLER. And eventually Detective Silverman came to investigate your case?

Mrs. G. Yes, he did.

Ms. GITTLER. Detective Silverman, you observed Mrs. G. shortly after the crime. Can you describe for us what the physical effects of what happened were?

Mr. SILVERMAN. Physically her face was all swollen and lacerated; she had many contusions. Psychologically she was very upset and traumatized.

Many seniors, even when their physical injuries go away, they are left for life with the psychological trauma of what has happened to them. They are afraid to go out on the streets; they lock themselves behind doors. They do not venture out.

Mrs. G. He doesn't know how bad it is; even though he knows it's bad, he doesn't know the effect that it leaves on you. You are terrified. You are afraid to go out. Even a little 5-year-old child—anybody to keep you from going alone.

Your life is changed. You are never the same after an attack like that. You are never the same.

Ms. GITTLER. It was just a horrible experience for you.

Mrs. G. Yes.

It worked out for good after a long time. I went through it. I am doing all right now. But I am still afraid to go out. We have to go out. We look this way. We look that way even in the daytime.

If somebody comes from behind—I wish they could pass one thing; pass a law to get rid of sneakers. They are on you before you know it. One is right behind you before you know it. It frightens you to death.

I don't know how I'm living this long. You have to be so afraid. I do know. Pardon me. Forgive me, God. If I didn't have God on my side, I wouldn't be living now.

The fear and the terror is something to go through for an old person. And in your last days you are afraid to go out even in the daytime. You are looking this way; you are looking that way. It is something terrible.

Ms. GITTLER. We appreciate your coming here today to relate your experience.

I have one last question, Detective Silverman. Was this case concluded successfully after your investigation?

Mr. SILVERMAN. I would like to state that adult criminals are a product of an inadequate juvenile justice system. In this particular case there was a finding—a conviction. The youth was supposed to be sent away for approximately 18 months. The judge did his job and sent the kid away.

The kid went to the State Division for youth; and 2 months later I was out on the street, and I saw this kid. I could not believe it; I thought it was his double or twin.

This kid continued on his way of crime. After he turned 16, he was arrested twice more for "crib" jobs and is presently serving 8-1/3 to 25 years upstate in a correctional facility. His earlier experience with the juvenile justice system had failed in deterring his continuing criminal activities and neither was he rehabilitated.

I would like to read one little note I have here.

My dear young friends: I just want to tell you both how glad I was to see you. I often thought about you and talked about you. But I did not know how happy I would be to see you.

I call you friends because you found me when I was so alone and frightened and needed someone to help me. I know God sent you to help me. I believe He has chosen you for the work you are doing. You both are so dedicated and have so much love and concern for the helpless old people who are like little lambs trying to survive in a den of wolves.

There are so many muggers, purse snatchers, and killers roaming the streets, we old people are not safe even in the day.

You are all brave men, and I love you all. I remember you in my prayers every day. I wish I knew many more like you two. We need thousands to help clean up the jungle this city has become.

God bless you both and keep you safe always.

Sincerely; Mrs. G.

This is one of the thanks and satisfactions that we get from this job. From day to day all we see are the results of these types of crimes and these elderly people being abused. And aiding and assisting these unfortunates, this is the satisfaction that we do get.

Mrs. G. You know why I wrote that letter? Because, where I lived, I had to remain for 3 weeks before I could get out. After they found me, they were around me night and day. While I was sleeping, they were patrolling around and picking up the gangs. The gangs waited until 12 o'clock or something to come around.

They picked up so many until you couldn't see a young person; or, if you saw them, they were going about their business. They were not hanging around loitering in the neighborhood.

That is why I wrote the letter to them. They gave me a little security until I could get out.

Ms. GITTLER. Thank you very much for coming here today and sharing your story with us.

Senator CULVER. Our next panel will now testify. The panel consists of a member of the judiciary, a defense attorney, a prosecutor, and a police chief.

We hope that they will share with us their views concerning the handling of dangerous juvenile offenders from the period of their initial arrest to actual sentencing. I am very pleased to welcome all of you here.

The first member of the panel is Mr. Robert Leonard, who is a prosecutor in Flint, Mich. He is president of the National District Attorneys Association. It is a pleasure to welcome you here. Please proceed as you would like.

STATEMENT OF ROBERT F. LEONARD, PRESIDENT, NATIONAL DISTRICT ATTORNEYS ASSOCIATION

Mr. LEONARD. Thank you, Mr. Chairman.

On behalf of the National District Attorneys Association and myself, I want to express our appreciation for being invited to appear before this subcommittee.

I might mention to you that we have submitted a written statement. I want to briefly summarize our thoughts on the problem of juvenile crime and youth crime.

As district attorney, I think I can echo what many of our colleagues have said over the years in regard to the problem of crime: we are very frustrated. Youth crime, as indicated by the previous witnesses, is a major cause of not only the public's frustration but certainly prosecutors' frustration.

Actually, district attorneys perceive the juvenile court as a place in the system where crime really is not properly dealt with. Some perceive it as kind of an informal and haphazard procedure having little or no impact on crime and protecting the public.

I want to emphasize that district attorneys believe in the rehabilitative effect or desire of the juvenile court. But they also recognize that there are certain individuals who come before the courts, as indicated by the previous witnesses, that really need to be institutionalized.

What we are trying to do now—and I think you will find throughout the United States that there is a problem as far as district attorneys are concerned—is become more involved in the juvenile justice system. Many States, including Michigan, for example, do not have district attorneys directly involved. Over the last couple of years, more and more States are requiring district attorneys to become involved from the very beginning of the juvenile process to the end.

I think that that is very much needed. I think that what has to be done is to recognize that, because of the secrecy provisions of most juvenile courts, it is very difficult to get a reading of what is going on in the courts. I think that causes the haphazardness that I talked about to exist.

I think, if district attorneys were involved in the process, it would be much more effective.

I would recommend certainly that prosecutors become involved from the very beginning to the end in all the State juvenile proceedings. I think you would find a much more effective utilization of the governmental resources in dealing with this particular problem.

Obviously, if district attorneys do become involved, you will find that we must begin to recognize the need to adhere to the due process procedures and to vocally support due process rights for juveniles. I do not think that that necessarily has been done in juvenile court. I think we have an obligation to do something about that.

I think that it is worth examining the Los Angeles experience, where recently district attorneys became highly involved at every level of juvenile justice procedures. I think that is what is the important factor here; the people need representation in juvenile court. Frankly, they are not getting it.

We are not interested in eliminating the confidentiality of the juvenile court. We feel that someone should represent the public and that the district attorney is in the best position to do that.

I think that the Los Angeles experience has indicated a much more effective juvenile court with the district attorney participating.

Also, I think, when you consider, for example, the type of crime we are talking about here, the violent crime, in my opinion there should be greater emphasis in the juvenile court to the treatment of such individuals. We recognize that rehabilitation is a very important aspect of juvenile court. But I think that there is a category of violent offenders—perhaps a very small one—who need to be institutionalized. To suggest that all individuals of this nature should be taken from the institutions and left in the community, I think, is a very dangerous situation.

I think we owe something to the public, something to the community to give them some kind of a guarantee that, when we observe individuals such as was described by the New York police officer, who obviously are going to be trouble, who are going to create problems, who are going to assault and rape and even murder citizens of our community, then they should not be on the streets; they should be institutionalized.

The Washington experience here regarding the emphasis on petitioning and prosecuting more vigorously violent delinquents would indicate there has been some success along those lines. It is a relatively new program and will take some time to determine how effective it is.

I think what I am suggesting to you is maybe this committee and also the LEAA people ought to be doing more in analyzing and reviewing the particular programs that are being developed to determine whether or not more institutionalization would be effective and whether more programs like the Washington one should be instituted as demonstration programs. We think that it would.

Senator CULVER. Thank you very much, Mr. Leonard.

Your statement indicates that you think that prosecutors should take a more active role in the juvenile court proceedings and with chronic offenders generally.

Would you elaborate more specifically on what you think their role should be and tell us what you think would be accomplished by expanding their role?

Mr. LEONARD. We believe that their role should be from the very beginning, where the petition is considered for filing and, after that, in the actual processing of the petition into adjudication and ultimately disposition.

At the present time, most prosecutors are not engaged in that area of responsibility.

We feel that, by their involvement, the number of petitions will decrease. I think there would be greater use of diversion and community resource usage, that the cases that would be filed would be more legally sufficient—while they are not now—they would be fewer dismissals, fewer continuances, which obviously means less inconvenience for witnesses, substantial savings in tax money with regard to witnesses fees.

We also feel that, by being available at the dispositions, the people would be represented and their interests would be considered in the disposition of individuals, especially the violent and chronic offenders. This is not to say that the district attorney should automatically feel obligated to take a hard line approach. At the disposition stage, he must look at both the needs of the community and the needs of the youth.

As I have indicated in my prepared statement, the Los Angeles experience certainly indicates this at this time. They have had a year's experience with it. They have reduced the number of petitions. I think that that's good. What they have done is weed out the legally insufficient and insignificant petitions and are dealing with the more serious offenses. Therefore they are using the juvenile court for the purpose of disposing of the more serious cases.

Senator CULVER. As you know, Mr. Leonard, traditionally juvenile offenders have received indeterminant sentences. Sentencing of juvenile offenders has traditionally been based essentially on the rehabilitative philosophy.

Do you think that this is an appropriate sentencing structure for the chronic offender or the violent crime offender?

Mr. LEONARD. I am a strong believer in the determinant sentence, frankly. I think, as a result of determinant sentence, you can be more likely to guarantee equal protection under the law and more fairness in treatment of individuals who come into the juvenile justice system.

I think the indeterminant sentence is really not an effective means in dealing with this problem.

I think, if an individual generally knows he or she is going to go to an institution for the commission of a certain type of offense, that hopefully—and, again, I think studies have to be done in this area—that may discourage the person from committing that kind of offense.

When I am talking about determinant sentence, I am talking about those sentences and institutionalization of those individuals who commit the violent type of an offense. I feel that the determinant sentence would be more effective.

I am a very strong believer in the rehabilitative effects of juvenile court. I think that most people can be rehabilitated. In fact, I think that all people can be rehabilitated.

I think we get down to the point near to the point where the individual who may be rehabilitated by not sending him to an institution versus the threat to your community, threat to your society—and I think on balance you have to look at it. If that individual is a threat

to the community, the public is entitled to the protection. If that is the case, then a person, even though you might have some success rehabilitating him outside the institution, may have to be institutionalized to protect the community.

In other words, the community is entitled to some protection also. It might be at the expense of rehabilitation of the individual. In summary, in a small minority of cases, institutionalization may be necessary.

Senator CULVER. Senator Mathias?

Senator MATHIAS. I have one question. There is a rather gloomy projection on the chart here regarding the situation in 1976.

What do you think about the number of repeaters which go to help make up the number in the violent crimes category? Do you think it is a significant element of repetition?

Mr. LEONARD. Yes; no question about it—especially in the area of violence. Usually the violent offender is a chronic offender individual who continually commits crime.

Senator MATHIAS. In the light of your rather optimistic statement a second ago about the potential rehabilitation of almost everyone, do you think we need to develop some kind of program like the career criminal program to get at the juveniles who are the repeat offenders?

Mr. LEONARD. Yes.

I mentioned the Washington program, which apparently is that kind of a program. I think that we do need a specific program——

Senator MATHIAS. Targeted on juveniles, not targeted on the repeat adults.

Mr. LEONARD. Right. In other words, a very similar program with the careers criminal that is being utilized now on adult offenders.

The Washington program seems to go along those lines. We think that that is needed.

So I make certain you understand my position on rehabilitation, I really feel that most people, if not all people, can be rehabilitated. The question is whether we have the resources and the funding and the time and the desire to do it, considering the fact that the public is exposed at all times to these individuals. I think, on balance, you have to decide whether we reach a point of no return or diminishing return when it comes to the issue of protection of the public and rehabilitation of the individual.

Senator CULVER. Thank you very much, Mr. Leonard. Your statement, without objection, will be inserted into the record.[1]

Senator CULVER. The next member of our panel is Mr. Wallace Mlyniec of the Juvenile Justice Clinic of the Georgetown University Law Center here in Washington.

He brings to our discussion of the problem of serious youth crime the perspective of an experienced juvenile defense attorney. It is a pleasure to welcome you here this morning.

STATEMENT OF WALLACE J. MLYNIEC, JUVENILE JUSTICE CLINIC, GEORGETOWN UNIVERSITY LAW CENTER

Mr. MLYNIEC. Thank you, Senator Culver.

I feel a little strange because I am going to sound a little bit heavier than the prosecutor in this hearing.

[1] See page 93 for Mr. Leonard's prepared statement.

My experience in the last 7 years in juvenile court is that very few people are actually being rehabilitated. The few successes that do occur——

Senator CULVER. On that point, I think we are distinguishing between potential for rehabilitation and whether or not in fact there is much success.

Mr. MLYNIEC. Well, I am not sure at this point whether we can say that everyone is rehabilitatable. I think the problem is that nobody knows exactly who we are talking about when we are talking about rehabilitation in the first place.

Senator MATHIAS. Attorney General Saxbe once said they are just some bad boys—period.

Is that your view?

Mr. MLYNIEC. I am not about to say that they are just some bad boys. What I am about to say is that there are some violent people in the community. We are not sure who they are. We are not sure why they became that way.

Most of the successes that I have seen in the juvenile court tend to be successes for reasons other than the juvenile court. A boy will just stop committing crime. A boy will decide that there is an incentive outside to stop committing crime.

On the other hand, we have seen people who will commit crime and will continue to commit crime. No one is sure who they are. It is interesting; I have talked to sociologists, psychologists and defense lawyers. There is a feeling among us that only 10 percent of the people in the juvenile system can be called a violent or a serious offender. We are not sure why, it is a feeling we have.

We see them as a failure of the juvenile court because most violent offenders have been there several times over. They are not supposed to be removed from the system unless they had been rehabilitated in the first place. Yet, they keep coming back time and time again. But we are not sure why he was a failure.

We are not even sure, when a violent crime occurs, whether that person is a violent offender. Even violent crimes occur for various reasons. Some violent crimes occur by happenstance. Somebody has a weapon. A fight breaks out. The weapon is passed into a juvenile's hands, and somebody is killed. The person who commits that murder might not be the violent juvenile offender we are talking about. Nonetheless, he has committed a violent crime.

The problem is that nobody knows who the violent offender is. I have not seen many studies—there is one going on right now in Washington, D.C., by a Dr. Zients trying to isolate that person so that, when he gets into the system, we will know what to do with him.

Everyone admits that the system probably has the potential to rehabilitate people if all the proper resources are placed into it. But, unfortunately, too many people are given treament they don't need by the juvenile court. On the other hand, too many people slide through the juvenile court, coming out untreatable.

Senator CULVER. How many of the violent offenders you have worked with as a defense counsel have experienced child abuse themselves?

Mr. MLYNIEC. I think it is incredible. It is an incredibly high correlation.

Dr. Zients' study, although preliminary, indicates that the person who may not be rehabilitatable has had an almost total lack of parental care between birth and the age of 2.

Almost every child that we get coming through juvenile court has a bad home life. If you send him back into the community on probation, you are sending him back into a situation where he had no support to help him through. You are sending him back into a situation where there are no jobs and there are poor schools. The home life itself is usually poor and often abusive.

Senator CULVER. What is the general attitude of the juveniles you represent toward the juvenile court? Can you generalize?

Mr. MLYNIEC. I do not think they are too threatened by it. I think the people who are threatened are the first offenders; those are the people that the juvenile court probably does not need to do anything with in the first place because they are going to be so scared from their first encounter that they are not going to come back.

On the other hand, one particular client comes to mind. He manages to pickpocket $2,000 at the Superbowl and pay his way back and forth. His probation officer wanted to get him a job as an auto mechanic. He will just keep coming back in the juvenile court and laughing because he knows he can get out, take this training program for a little while, and go back and lift another $2,000 worth of property. He has no fear whatsoever.

Senator CULVER. In your statement you indicate that the juvenile justice system—at least here in Washington—treats juvenile offenders basically the same manner rather than in an individualized manner. Could you elaborate on that statement?

Mr. MLYNIEC. Basically we have two concepts here: One is probation; one is incarceration in children's jail. Anyone who is placed on probation tends to go through the probationary period of 1 year, visiting a probation officer once a month or once a week. He will sit and talk: "Try and get a job; do better in school." No matter what his problem is, no matter what he has done, or what his potential for growth is, he will be responded to in the same manner.

Similarly, if a person is sent out to the institution, he tends to serve 9 to 11 months in the District of Columbia.

I have a girl right now who was convicted of disorderly conduct. She was sent to the institution because she was totally incorrigible at home; nobody could take care of her. She went out there and spent 7 to 9 months and was released. She is again causing trouble on her after-care status. She is apt to go out there for another 7 months. That makes no sense, especially in light of the fact that my armed robbers are getting out in 7 to 9 to 11 months. Some of those armed robbers are persons I have represented 3 or 4 times.

Senator CULVER. Do you believe that institutionalization is the proper answer for the so-called dangerous offender?

Mr. MLYNIEC. It depends what you mean. If it is the warehouse that most juvenile institutions are, the answer is clearly no. All that does is keep a person off the street for as many years as you want to make the sentence, and send him back out to do what he was doing in the first place.

If, on the other hand, you mean a small, community-based facility holding no more than 10 to 15 people with some community involvement, yet some security, I think—just on the basis of my experience and some of the people I have seen—I might not be opposed to that.

My problem is, we are not sure who should be in there. That is the biggest problem.

I am afraid that, if we—as the last witness said—start having our school teachers point out who are the more disruptive people so we can catch them early, we are going to end up with too many of the wrong people in those institutions.

Senator CULVER. What is the criteria that should be applied?

Mr. MLYNIEC. I do not know that. I don't think anyone does. We do not know with whom we are dealing.

Senator CULVER. This would go to support the earlier recommendation for far more significant research effort in terms of getting a better understanding?

Mr. MLYNIEC. Clearly more research effort and I think, also, perhaps some Federal monitoring of funds that go to juvenile justice institutions and juvenile justice systems to prevent the abuses that go on. Make sure that, when the States are spending this money, we know what they are spending it on.

Similarly, with the social security moneys which go to aid to dependent children and with foster care money, monitoring that funding to insure that children between birth and the age of 2 get the services that they need: Health care, nurturing care, things like that—short of court intervention.

Senator CULVER. Thank you very much, Mr. Mlyniec.

Without objection, your statement will be inserted into the record.[1]

Our next witness is Judge White of the Cook County juvenile court in Chicago, Ill., is also president-elect of the National Council of Juvenile and Family Court Judges. It is a pleasure to welcome you here, Judge White.

STATEMENT OF HON. WILLIAM S. WHITE, PRESIDENT-ELECT, NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

Judge WHITE. Thank you very much, Senator.

As presiding judge of the oldest juvenile court in the country, I welcome this opportunity to perhaps contribute to the historical perspective we can give today's discussion.

As president-elect of the National Council of Juvenile and Family Court Judges, I welcome this opportunity to participate with you in factfinding and perhaps decisionmaking because more and more Federal decisions are influencing the way we conduct State courts' juvenile proceedings.

There is a temptation, after all I have heard, to comment upon some of the wonderful presentations we have had. There is even a greater temptation to share with you the priceless prose that I have written for your edification this morning. But I am going to resist both of those temptations and limit myself to just talking about the

[1] See page 96 for Mr. Mylniec's prepared statement.

6 points listed on page 2 of my written material. Perhaps I will comment a sentence or two about each of the six.

First, the juvenile court was created and designed to help the child who was a petty offender or no offender at all. The early juvenile court cases had children whose situations put them somewhere near the border line between being a welfare case or a justice case. Therefore, the instrumentality that was created and the philosophy that was adopted were created and adopted with that kind of offender in mind.

Since 1899, there has been a shift in juvenile court population to more serious offenses, as you have heard from the professors who have spoken. So, the question is, can the juvenile court, with its 1899 approach to crime, be appropriate? Is it effective, is the pragmatic question, in the handling of the more serious offenders?

Third, juvenile crime is going down.

I do not blame the media for playing up juvenile crime. A ghetto boy who mugs an old lady is more newsworthy than the ghetto boy who doesn't. But it seems to me that those of us who are making serious inquiry into this situation ought not to shy away from figures which indicate that juvenile crime is going down any more than we shy away from the figures that show it's going up.

It seems to me that previous speakers have not been willing to come down hard on the fact that, yes, juvenile crime is going down.

We have the figures here from Chicago, and it is no exception, I am sure.

Maybe we in the justice system should beat our breasts and say therefore that we are doing a great job because juvenile crime is going down. But to do so would be just as phony as the accusation that we were doing a poor job when the statistics were going up.

Any of us here who remember our elementary courses in sociology know full well that juvenile crime—or any kind of crime—is really beyond the reach of the justice system. Oh sure, we can have research; and we've already had research. I can tell you that a person most likely to commit a violent crime is a young person, a black person, a male person, coming from the inner city. I can tell you all of those things. But his brother and his sister and his neighbor, who have the same demographic features, have not been involved in crime at all. So, where are we in establishing causation when we cannot say why Johnny committed a crime and Pete did not?

It was mentioned that the Federal Government should invest in research. Oh, I am in favor of research on any subject that might increase human knowledge. But, as a practitioner in the field of juvenile delinquency, what I need is more research in the area of cure than causation. And they do not necessarily go together.

As to the serious offenders, we have made some studies in our court of the very kinds of serious offenders that you are talking about. We took 800 sample cases from 1974 and traced them for 3 years. You have our recidivism rates there indicating that, for serious offenses, the recidivism rate was 7 percent. These same people had a 14-percent recidivism rate for all types of offenses. That is taking kids who were all adjudicated beyond a reasonable doubt guilty of serious offenses.

I think those of you in the Federal establishment can take some pride in the efforts of an organization called UDIS—Unified Delinquency Intervention Service—funded through LEAA. It took children that otherwise would have been committed to the department of corrections. Their findings indicate that it has been at least as effective as the department of corrections.

I would not want to relinquish the microphone before I said one other thing to you. Those of us in the juvenile justice system—yes—do accept rehabilitation as our goal. But we are not insensitive to the needs of the community to be protected. We believe, as courts, that we are charged with the same responsibility to protect the community that the criminal court is when we are faced with threatening conduct.

Now, what we do to bring about that protection may be different. How may it be different? We have probation services that are more tailored to the individual needs of the child. And, yes, we are aware that, after the period of probation, he is going to be free. Well, after a period of incarceration, he is going to be free, too.

We do the exquisite type of balancing that the previous speaker mentioned. What in an individual case should be predominant? Should it be community protection, or should it be rehabilitation?

Mr. Leonard, the prosecutor, says he believes in determinant sentences. I don't know exactly what he means. But I know what I mean when I say that. I do not think that the sentence should be fixed by the legislature saying that, in all armed robbery cases, the sentence must—regardless of the characteristics of the individual—be so and so.

But I do believe that the amount of judicial intervention or the amount of official intervention and deprivation of liberty should be fixed by the judge and not by the treater. Currently, in the juvenile justice system, we give to the custodian, the treater, the right to say when a child might be released. I think, since the predominant purpose of incarcerating a child is not rehabilitation but, rather, incapacitation, that release time should be fixed by the judge.

I would hope that, if rehabilitation is our hallmark, that the judge would also have the power to monitor the rehabilitative efforts that go on while the child is incarcerated. In doing this, the defense counsel and the procesutor can really be of much help. Indeed, the quality of judicial action depends so much on the quantity and the quality of the bar.

Senator CULVER. Thank you very much, Judge White. We are very grateful to you not only for your statement but for the other materials you provided the committee.

Without objection, your statement will be inserted into the record.[1]

Senator CULVER. How would you suggest that the coordination between the police court intake officers, the prosecutors, and the judges be improved so that decisionmaking is both informed and consistent through all stages of the juvenile court proceedings?

Judge WHITE. This is an area in which I think the Federal Government could be of some assistance. For example, in my court I have

[1] See page 98 for Judge White's prepared statement.

police officers from 100 separate municipalities feeding into one court. We have people all across the State and local government.

One way to get that coordinated, it seems to me, would be by the judicious use of the kinds of funds that LEAA has available. To forster programs to adopt uniform objective criteria for decision-making and procedures to insure that these criteria are followed throughout the system. Up until now, the use of their funds has been on an ad hoc basis without such a plan in mind.

We in Illinois are having a privately funded seminar which has as its goal and objective the installation of a coordinated system. The police officer who testified earlier is right: we have to sit down and talk together and agree upon some guidelines. Then there needs to be some monitoring to provide adherence to these guidelines.

Police should send to court the juveniles that should come. Police should have an awareness of the court's perception of (1) its capability and (2) who should or should not be referred to court. When the court sends children to another agency, for example, the department of correction, it should go through the same kind of processes. And this should be for all kinds of kids, particularly the serious offender.

Senator CULVER. Judge White, juvenile court judges, as you know, are increasingly being criticized on the ground that they are too lenient in sentencing violent or chronic juvenile offenders. These critics cite studies such as the one conducted by the Vera Institute of juvenile court on sentencing in two New York counties and, I believe, one New Jersey county. This study revealed that some 20 percent of chronic juvenile offenders were given suspended sentences and 46 percent were placed on probation.

How do you respond to this kind of criticism? I know you are familiar with it.

Judge WHITE. Oh, sure I am. When they deal with children who have come within the jurisdiction of the court, I think that the statistics are revealing. If, in fact, a high percentage of the crime is due to children who were under the wardship of the court and were let go, then I think we need to examine the court; however, the statistics I have quoted you indicate that that is not the fact.

It is a hazard of the judicial profession to select which person—adult or juvenile—will make it on probation.

One way for me to have a perfect record is to put nobody on probation; send everybody to the department of corrections. Then I would never have a failure. But then I would also be a poor judge.

What I am saying is that I would suggest that an examination of the success and failure rate of the juvenile court probationers will compare favorably with the success rate or failure rates of either the adult court or juveniles who are incarcerated.

Senator CULVER. Senator Mathias?

Senator MATHIAS. Judge, we note that you are the presider over the oldest juvenile court.

Of course, that whole concept on which the juvenile court was organized is now what you might call parens patriae—in which the court assumed the role of parent and in which the welfare of the

child was the ultimate law of the court and in which the judge might assess what the welfare of the child would be.

Therefore, normal due process, at least at the outset, was waived aside—and the whole thing was left in the hands of the judge.

Now, 75 years later, a lot of water has gone over the dam. The Warren Court, for example, has laid down a number of decisions which substantially alter that concept of handling juvenile cases. As a result, the basic premise of the parens patriae situation has undergone some serious review. There are some people who call for the abolition of the juvenile court, as was founded in your courtroom 75 years ago.

Do you think that that parens patriae doctrine ought to be abandoned? Do you think it should be reviewed and perhaps revamped?

Judge WHITE. Maybe yes and maybe no.

Here is what I am saying to you, sir. I agree completely with the findings of the Warren Court that we do not have to abandon parens patriae to inject constitutional regularity to our proceedings, particularly in the adjudicatory phase, in deciding, for example, if a boy did or did not steal a purse.

I am enough of a good old common-law judge to believe in the adversary system. I believe in the same due process requirements for a child as I do for an adult.

If you should come to our court you would find our adjudicatory hearings as much like a trial in a criminal court as you are ever going to see—and I have no objection to that. After it has been established that the youth did the act charged, then our attitude toward the juvenile offender, I think, ought to be different.

Senator MATHIAS. So, in effect, you believe that the juvenile court out to be remodeled to constitute in effect a juvenile criminal court with increased protection, increased due process?

I am thinking now, not of your particular court, but courts in general.

Judge WHITE. I am afraid, yes, that I am in that school; but I do not know that I would impose procedures from a Federal source—upon juvenile courts to determine how they find facts. If States decide that they would rather model their juvenile actions after chancery and have no jury available, I have no objection to that.

Basically I would like to see procedural regularity in the fact-finding processes in the juvenile court.

Senator MATHIAS. Just one element of due process. What about postarrest delays?

Judge WHITE. That was mentioned to me, sir. You see, I am hesitant to say there are delays, and yes, we ought to improve. Somebody will go running off and saying that that is a major problem in the juvenile justice system. If you say that: you mean as compared to what?

I would submit to you, sir, that there is less problem of delay in the juvenile justice system than there is anywhere else in the justice system. That is appropriately true. In the life of a child 3 weeks is an awful long time. If I am going to wait 3 months to impose sanctions on him, I almost might as well not do it at all.

Senator CULVER. Senator Mathias, maybe you would be good enough to introduce our last panelist.

Senator MATHIAS. I would be happy to Mr. Chairman. Chief Mathews is the Chief of Police in Howard County, Md., a relatively few miles from the city of Washington.

He is here today, Mr. Chairman, at my particular request. I thought it would be useful if he could come and testify. No. 1, I think he himself is exceptionally able. He is not a juvenile, but he is young enough to understand some of their point of view.

He runs an excellent police department. Howard County is one of our fascinating counties in Maryland. It has a mix of urban and rural areas. What is almost unique is that it is also the site of Columbia, the new town, which has posed a number of social challenges to all of urban America and which has some special challenges to those who administer the juvenile justice system.

I think he could bring us a very important, very fresh point of view on this problem.

STATEMENT OF ROBERT O. MATHEWS, CHIEF OF POLICE, HOWARD COUNTY

Chief MATHEWS. Thank you, Senator.

I am going to follow the lead, Mr. Chairman, of submitting my prepared statement for the record. I will just reflect on some comments in that statement.

As Senator Mathias has explained, we have a rather unique county, a very young county. Our population has tripled over the past 8 years. The last figures reflect that about 42 percent of our population is under 25 years of age. Our police department is effecting the arrest of approximately 42 to 45 percent of its criminal arrests against juvenile offenders.

I have been very appreciative to be able to sit on the Maryland Juvenile Justice Advisory Commission for several years. I have a picture of where we are coming from in juvenile justice. It is non-law enforcement, so to speak—we should remove the status offenders out of the system.

I totally agree with that direction. But I submit to you that we have forgotten that there is such a thing as a hardcore criminal at the age of 16.

In our county 2 years ago, our county did a citizen's study on the impact of criminal behavior within the county. The biggest single problem that came up was the juvenile offender.

The concept of the delay in getting the juvenile offender before any system is, I think, extremely paramount and very important. The young people we run into in the arrest status as well as the discretionary status, as the judge has pointed out—3 weeks is a long time in their life.

My officers have to effect an arrest against a juvenile offender at the end of a school semester, for example, and that individual does not receive any kind of contact whatsoever with anything in our system until September or October, the whole impetus is gone of what we are attempting to do.

Clearly, I think we must identify that there is such a thing as a hardcore juvenile offender. I think there are trends away from this.

I submit that we need some more serious institutions to be able to deal with these young people meaningfully. What does that mean? That is not my realm of expertise. I do think there can be programs in small security institutions. We can provide the kind of education, training, and perhaps moral concept necessary.

That is what we are being asked to do. The State is now being asked to become the father, mother, church, and community.

Senator CULVER. I gather the implication of your testimony is that there is a need for more small community-based secure institutions as opposed to more traditional large State institutions?

Chief MATHEWS. Very definitely. As soon as we do that, we are going to start warehousing again, Senator; no question. We have got to maintain a small population. We have got to maintain something that has impact upon these people.

Our neighboring jurisdiction, Anne Arundel County, is starting an experimental program of education for hardcore delinquents. I think it is going to be very successful.

There is not a chief of police in the State of Maryland that I have talked to who hasn't said that, if they would take out a percentage of juveniles from their society, crime is going to go down. I feel that, if we could remove 20 percent of the juvenile offenders from Howard County, my crime rate is going to be reduced drastically.

At this point in time within our State, we are not dealing with this aspect. We are moving in the right direction in the others, but we are not doing it as far as the hardcore is concerned.

I submit to you that they know what is going on. They are very astute. They know full well that their information is confidential. They know full well that it takes pretty much an act of the judiciary to be able to pull from their records juvenile information before they go to an adult trial.

We feel—maybe tongue-in-cheekwise—that, when they become 18 years old, they become advisors instead of active criminals. If you can believe, in a community like ours we have our own youth gang problem.

It is a badge of recognition to be able to go to into the juvenile court system.

The fact that we have gone through, in our State, the master concept—the judge himself did not even sit on many of the cases. There is no impact at all.

I can recall going into law enforcement 20 years ago. We could sit around a table very similar to this and be able to talk the situations out. However, after that, we would go through the whole due process of criminal justice with juveniles.

They are laughing up their sleeve when they see some of the gymnastics and legal technicalities that we go through. They do not understand what is happening. They come out and they think they have beaten the system, knowing full well they are guilty.

I think one thing we have within the State of Maryland—I am very pleased to say it appears to be moving nationwide—is a law-related education project we are now able to put into the school system. It is an understanding of law and its impact on young people. It is not just criminal law, but the whole concept of law.

I urge the subcommittee, to be able to impact on the States with monitoring and programs, to be able to utilize some funding to really and seriously look into the institutionalization of the hardcore offenders.

Senator CULVER. Are generally speaking for your law enforcement opinion in the State, as far as you understand it, when you say that the warehousing in large traditional institutions has been a bankrupt policy?

Chief MATHEWS. Very definitely, Senator. What happens is that they become better criminals. They become better educated in criminality by going to these warehouses.

Senator CULVER. Then what you are really suggesting to us is that there is a need for a community-based, smaller facility that also has the additional dimension of more sophisticated rehabilitation programs involving education and work?

Chief MATHEWS. Exactly. But it must be secure. I am firmly committed to the concept of the halfway houses. But we cannot allow some of these people back into society until they serve some sort of meaningful confinement. It should not be a problem if they come back to the community.

Senator CULVER. Senator Mathias?

Senator MATHIAS. Have you found any special problems that relate to the conditions in Howard County, the new town concept, which you feel are different from the average experience?

Chief MATHEWS. Yes, Senator, I think we have. Our county, like most suburban counties, has its major crime burglary. We found in the town of Columbia that the imported burglar from the major inner city area is not victimizing the city of Columbia, but is being home grown. So, we are becoming a real city; there is no question about that.

However, it is clearly indicated to us that the young people within our community do not understand the impact of the justice system. It takes too long to get them before the bench.

I hate to use specific examples in a general statement, but I think this one is important.

Just recently we arrested a 17-year-old who was involved in an armed robbery, auto theft, kidnapping and rape of a clerk from one of the department stores in our town. Within 5 years this individual had been arrested something like 18 times for some sort of offense. Due to the fact that it took so long to get through, there was no identification of the seriousness of this particular offense.

Senator MATHIAS. How about suburban crime generally? Have you noticed any pattern in suburban areas of increased juvenile crime as against the typical street crime you find in center city areas?

Chief MATHEWS. Very definitely; the nonviolent particularly, although we are starting to see more violent crime with juvenile offenders in our county.

We have seen a tremendous increase in vandalism and expensive vandalism. It is our second most serious crime. It is frequently committed. Every arrest has been juvenile, of course.

The second thing is attitudes toward society itself: shoplifting and complete disregard for the society itself.

The other thing is burglary. Most burglaries are committed by young people under the age of 18.

Senator MATHIAS. Do you see significant relationships to the use of either marijuana or other drugs or the use of alcohol in the crime rate?

Chief MATHEWS. Yes, sir. I think I can be very sure of myself when I tell this subcommittee that most of our offenders are apprehended during a period of involvement with alcohol misuse or drug misuse.

Our biggest problem is the current PCP problem. That is a killer, we are convinced. We have seen some very, very tragic situations within our own county. Last year, in Howard County, with a population of 121,000, we had 14 young people commit suicide in the period of 1 year. All of them had drug involvement. One included a double hanging within our institution when they were confined 1 night.

Senator MATHIAS. That is a pretty tragic record. Thank you Chief Mathews.

Senator CULVER. I want to thank all of you for your appearance here today.

This brings us to the conclusion of today's testimony. I think we have had a very informative and valuable record presented to the subcommittee.

Without objection, Chief Mathews' prepared statement will be inserted in the record.[1]

I think the testimony we have heard today points up the difficulty of determining the exact extent as well as the nature of serious juvenile crime due to the lack of accurate data on this subject. I think the Federal Government obviously should be doing more. It should encourage the collection of better data regarding this category of the dangerous juvenile offender.

However, I think it is encouraging to learn that the dangerous juvenile offender does not appear to be quite as pervasive a phenomenon as is commonly assumed. I am equally pleased to hear from some of our witnesses that there is some indications that the rate of violent crime—even though we do not understand the reasons—committed by young people may be leveling off.

Nevertheless, I think there is no denying the fact that a significant, although relatively small, number of youths constitute a very serious and genuine threat to community safety. We have heard some disturbing testimony today concerning the impact of juvenile crime on the lives of senior citizens as well as others. We heard testimony about the special problems of young people in the schools who are affected, and oftentimes their experiences are unreported. There is fear and intimidation in their lives.

We also have heard testimony regarding defects and deficiencies in our existing system of juvenile justice when confronted by the dangerous juvenile offender. There is no doubt that some juveniles, by the very nature and repetition of their criminal acts, test the limits of the traditionally benevolent approach of juvenile courts to youthful offenders, as it was initially conceived a century ago.

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[1] See page 104 for Chief Mathews' prepared statement.

Juveniles who constitute a serious threat to the public safety, I believe, must be expeditiously dealt with by the juvenile courts in a manner consistent with the protection of the community and the preservation of our due process system. But I think we must be cognizant of the danger of the replacing one relatively ineffectual system with an untried and a perhaps equally unsuccessful system.

It is my hope that ways can be devised, as we proceed with these hearings on this particular aspect of juvenile delinquency, for the Federal Government to enhance the capacity of law enforcement agencies at the local level, juvenile courts, as well as the allied agencies, to identify and process dangerous juvenile offenders more successfully.

When we resume these hearings on Wednesday, April 12, we will turn our attention to the juvenile correctional component of the justice system as it applies to the dangerous juvenile offender. Our focus will specifically be on what the Office of Juvenile Justice and Delinquency Prevention can and should do to develop correctional programs for this type of offender.

I want to thank everyone for their participation and their attendance here today.

The subcommittee will stand in recess until further call of the chair.

[Whereupon, at 12:45 p.m., the subcommittee was recessed, subject to the call of the Chair.]

SERIOUS YOUTH CRIME

WEDNESDAY, APRIL 12, 1978

U.S. SENATE,
SUBCOMMITTEE TO INVESTIGATE
JUVENILE DELINQUENCY OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 8:30 a.m., in room 424, Russell Senate Office Building, Senator John C. Culver (chairman of the subcommittee) presiding.

Staff present: Josephine Gittler, chief counsel.

STATEMENT OF HON. JOHN C. CULVER, A U.S. SENATOR FROM IOWA

Senator CULVER. The hearing will come to order.

The Senate Subcommittee to Investigate Juvenile Delinquency plans to continue its hearings this morning concerning violent and chronic juvenile offenders.

Today we will turn our attention to the correctional component of the juvenile system and look at the efficacy of various types of correctional programs that are specifically designed for serious juvenile offenders.

Of course, the basic purpose of this hearing is to ascertain what role the Federal Goverment can and should play in assisting States and localities in dealing more effectively with serious youth crime.

The specific focus of today's session is what the Office of Juvenile Justice and Delinquency Prevention can and should do in this regard.

Senator Bayh also has a statement that he would like to make for the record at this point.

STATEMENT OF HON. BIRCH BAYH, A U.S. SENATOR FROM INDIANA

Mr. Chairman, I want to thank you for this opportunity to discuss violent juvenile crime—the topic of the Subcommittee to Investigate Juvenile Delinquency's hearings this week.

The distinction and treatment of juvenile violent offenders and juvenile status offenders has long been a perplexing problem of the juvenile justice system.

When the average citizen hears the words "juvenile justice system" he or she believes that it means we have a system of justice for young

people who break the laws of our society. But you and I know the American system of juvenile justice often results in injustice and not equity. Status offenders are actually more likely to be detained, more likely to be institutionalized, and once incarcerated, more likely to be held in confinement for longer periods of time than those who are charged with or convicted of criminal offenses. Of the young women in the juvenile justice system, 70 percent are status offenders. This system is the cutting edge of the double standard.

Juvenile violence in this country has become a major concern of the mass media, of many professionals in the juvenile justice system, and of many ordinary citizens, who are its victims.

I chaired numerous hearings of this subcommittee over the years and many witnesses concluded that our juvenile courts were unable to serve the interest of the children they process or protect society. This was a significant factor in our stimulating whenever possible large-scale diversion of children into alternative settings as mandated through the Juvenile Justice and Delinquency Prevention Act of 1974. At the same time, however, media attention to juveniles who are charged with or who commit murder, rape, armed assaults, and other heinous crimes has created a belief, inaccurately, that today's delinquents are more ruthless and more dangerous than those of previous generations.

The available statistics do depict drastic increases in juvenile arrests—141 percent since 1960. However, the bulk of these are for property crimes. Our correctional and detention facilities are bulging with runaways, school truants, incorrigible, neglected, abused and dependent youth and most depressingly, with young girls labeled "promiscuous." But, this does not dispel the unfounded fears of our communities that violent youth are the majority of those incarcerated, or should be, nor does it dispel the inaccurate picture portrayed by the media that our youth are violent offenders en mass. Unfortunately, such attitudes are sustained by the approaches grounded on a weak base of factual knowledge which tend to dominate journals and the media coverage.

We must deal with violence everywhere we turn in our society. The daily impact of violence on television, in the newspapers, at the movies, and, more relevant, in our own homes and communities is devastating. Arrests for violent crimes committed by juveniles, including homicide, forcible rape, robbery, and aggravated assault have increased by 293 percent from 1960–75 as compared to an increase of 130 percent for the same crimes committed by adults. But those juvenile arrests represented only 10 percent of the arrests for serious juvenile crime and only 4 percent of all juvenile arrests.

Focusing on the FBI Uniform Crime Reports for 1976, it is noteworthy that persons under the age of 18 represented 25 percent of those arrested. There were 7,912,348 arrested in 1976—1,973,254 under 18 years of age, 5,939,094 over 18 years of age. In other words, three out of four people arrested in 1976 were adults. Further, of the 25 percent of the juveniles arrested, 22 percent were arrested for violent crimes and 46 percent were arrested for property crimes. Therefore, 95 percent of all juvenile arrests are for nonviolent crime and less than 1 percent of all arrests for violent crime. Lastly, a comparison of

1975–76 arrest trends reveals that adult arrests for violent crimes decreased by 9 percent while juvenile arrests for violent crimes decreased by 12 percent. I cite these statistics only to bring into context the extent of juvenile arrests for violent crimes. There are few statistics on what percentage of that 1 percent who are charged with violent crimes are found guilty of the arrested charge. But, we cannot emphasize too strongly our constitutional premise that a person is presumed innocent until proven guilty—whether an adult or a juvenile.

Unfortunately, the present juvenile justice system does not deal, with even these few violent youth in an adequate fashion. The courts indiscriminently incarcerate nonviolent status offenders with the more serious offenders in our correctional and detention facilities. Even more severe are the devastating effects upon nondelinquent juveniles and serious offenders who are, in many instances, incarcerated with adult offenders.

Yes, I agree some youthful offenders must be removed from their communities for society's sake as well as their own. But the secure incarceration of youthful offenders should be reserved for those few youths who commit serious, usually violent offenses and cannot be handled by other alternatives.

Mr. Chairman, we are all too familiar with the litany of violence reported daily by the press and the media. We have heard some witnesses testify before this subcommittee of their horrible, brutal attacks by young people, including our elderly victims. Noteworthy, however, is the fact that the victims of violent juvenile crime are more likely to be juveniles themselves. The National Advisory Commission on Criminal Justice Standards and Goals reported that:

> Victims of assaultive violence in the cities generally have the same characteristics as the offenders: victimization rates are generally highest for males, youths, poor persons and blacks.

Of course, these reports are of little comfort to the frightening numbers of Americans who have personally been victims of violent crimes. An ever-increasing percentage of our citizens—young and old—find their daily lives directly affected by the fear of violence in their communities. Recent polls reveal that half of our citizens are afraid to walk alone at night in their neighborhoods, nearly 20 percent do not feel safe in their own homes and nearly 33 percent of our young people are afraid in their own schools.

The Juvenile Justice and Delinquency Prevention Act of 1974 was developed in response to the inconsistencies of our Nation's juvenile justice system. The act was intended to stimulate the development of appropriate alternatives to fill the void between essentially ignoring improper or illegal behavior and continuing wholesale detention and incarceration of our juvenile offenders.

The Office of Juvenile Justice and Delinquency Prevention established under this act was authorized to study the causes of violent delinquency. Most important, however, is our congressional directive that such research should provide information to assist our communities in coping with and preventing violent delinquency.

As a legislator who is intensely concerned with the fate of all of our citizens, I believe the Juvenile Justice Act marks a creative begin-

ning for the Federal Government's attempts to come to grips with our juvenile justice system. This system must handle not only our small percentage of violent offenders, but also the dependent, neglected, abused, and minor delinquents who are the majority of its consumers. Our responsibility is to assure that all of our citizens are better protected.

We still lack the funds and facilities necessary to provide an atmosphere where status offenders and delinquent youngsters—including the relatively few violent ones—can be given the necessary treatment, care, and counseling that they so desperately need in order to become more productive citizens. We have begun to provide alternatives, but much remains before the Juvenile Justice Act is satisfactorily implemented.

Violent juvenile crime must be put into perspective. Yet, in no way do I wish to minimize the tragedy and horror experienced by the victims of violent offenses.

The Federal Government must play a crucial role in delinquency prevention, but it cannot develop that role in isolation. Obviously, the solutions to youth crime cannot be provided exclusively by the Federal Government. These problems will not be solved by simply passing a bill, issuing a report, holding a hearing, or signing a law in Washington. The most valuable assets the Federal Government can defer to are the family, the church, and the schools. Hearings, such as these, are beneficial in focusing on the extent and nature of violent juvenile crime, alternative methods of dealing with violent juvenile offenders, and the role the Federal Government can play in stimulating more effective approaches to the problem of violent juvenile crime. Yet, I cannot repeat too often that the Juvenile Justice Act—the Federal Government's directive to help young people involved in the juvenile justice system—must rely on the commitment of interested citizens, community groups, State and local leaders, juvenile court judges, social workers, school personnel, religious leaders, and most importantly on the family, if we are to be successful in our efforts to prevent juvenile delinquency.

Senator CULVER. We are going to have a number of witnesses this morning, and under the Senate rules we are also limited as to the length of time we can meet. I also have another meeting that I must attend shortly after 10 o'clock.

Therefore, I am going to request that the witnesses submit their written statements for the record. We will, of course, make the entire text of the statements part of the record, and hopefully this procedure will give us some time for questions.

I may also need to submit some questions to witnesses for their written response for the record.

Our first witness this morning is Mr. John Rector, the Administrator of the Office of Juvenile Justice and Delinquency Prevention in LEAA.

Before you proceed, Mr. Rector, I would like to ask if you are of the opinion that this subcommittee or its chairman have been something less than fully cooperative with you since you have assumed your responsibilities and I have assumed mine?

STATEMENT OF JOHN RECTOR, ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, LEAA, U.S. DEPARTMENT OF JUSTICE, ACCOMPANIED BY DR. JAMES C. HOWELL, DEPUTY ASSOCIATE ADMINISTRATOR, NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Mr. RECTOR. Good morning, Mr. Chairman.

I have had no indication since my confirmation that you have been less cooperative than we would have expected. However, I have no idea of the full range of the subcommittee's dealings with the rest of the Department of Justice.

The hearings on Monday and the manner in which the issues were discussed were extraordinarily helpful in diminishing the lurid publicity that so often pertains to juvenile violence.

This was particularly useful to those of us who are trying to pursue a thoughtful, nonpassionate assessment of the serious crime area as you have suggested.

It is also helpful to our implementation of action programs which address this area, to have the benefit of such a well-framed approach. This will shore us up when we are subjected to pressure to utilize our limited resources for more traditional activities.

Senator CULVER. Is there any question in your mind about the extent of interest or commitment on the part of the chairman of this subcommittee to this general area of public policy?

Mr. RECTOR. Everything that I have seen indicates support. The conversation we had last November fully demonstrated it. I would be surprised to hear of anything to the contrary.

Senator CULVER. Please begin your statement, Mr. Rector.

I had a chance to look at your prepared statement last night. So please go ahead.

Mr. RECTOR. I have one further addendum, Mr. Chairman.

I am not fully apprised of the reasons for the questions. I would note that your approach to the B-1 bomber issue was very vigorous and enthusiastic. If you could give us even a small slice of your time with that same enthusiasm and dedication which led to a major change in policy on such a major issue, we would be many steps ahead of what otherwise might be the case.

Being aware of your time limitations, I would like to submit my prepared statement for the record.

Senator CULVER. Without objection, it will appear in the record.[1]

Mr. RECTOR. We have had an opportunity to review the statements from Monday's hearings as well as a number of other things.

In the main, I believe that our approach tracks that suggested by most of the other witnesses and attempts to put juvenile violence in proper context. That context is that although it is a serious problem which has increased substantially in the past decade, 1966–1975, the recent trend is in a downward direction, especially during the period 1975 to date.

That in no way diminishes the justifiable fear that many individuals have with regard to juvenile violence, whether they are elderly people or the more typical victims of this violence—young people.

[1] See page 105 for Mr. Rector's prepared statement.

Putting it in perspective, juvenile arrests for violent crime in 1976 actually account for less than 1 percent of the total arrests in the entire country. I think it is helpful to understand that.

In preparation for my appearance here, I recently came across something that is also conceptually helpful. In 1762, a New York printer by the name of John Holt wrote, "so many robbers within the circuits of this city, day and night, it is becoming hazardous for any person to walk outdoors."

This historical view is noteworthy. We do not have as comprehensive a body of information on that period as we now do on this era. However, your hearings have demonstrated, as have other studies, that complete information is still needed.

The distinction between serious and violent offenses is important. The common distinction is predicated on the FBI Uniform Crime Reports. We should note that the UCR's serious offenses include such things as larceny, theft—any theft over $50—joyriding, and similar activities.

Historically, corrections officials have tended to identify the serious offenders as the one who causes the most problems while in correctional institutions. However, an offender's institutional behavior, espepecially when mistreated or subjected to inmate peer-culture, is often quite different from the behavior for which a person was convicted. This approach provides a convenient cover for abuses and failure associated with the notion of rehabilitation, and should be rejected as counter-productive.

The bulk of the arrests in the serious crime area are for property offenses. Some 46 percent of those are attributable to young people. However, of that 46 percent, the lion's share falls into the category of larceny—thefts over $50.

If you look in a shoe store display window, you will see that many pairs of shoes are now in the price range of $50 to $55. We are not endorsing anyone's stealing or otherwise inappropriately taking a pair of shoes, but rather indicating that serious crime statistics are misleading. These offenses are really not what most people would characterize as serious crimes of violence.

It is also impotant to note that there is confusion over the meaning of arrest data. Arrests are, of course, an indicator of involvement in the justice system. However we are lacking reliable information on convictions and the relationship between arrests and actual delinquent behavior. It is disturbing that so many people mistakenly assume that arrest is tantamount to guilt. They fail to recognize that our criminal justice system is predicated on an assumption of innocence.

There is disturbing evidence in that regard. A recent National Center for State Courts survey of public opinion indicated that 37 percent of the American's surveyed are under the mistaken impression that the burden is on the defendant or charged person to establish innocence.

A significant number of our citizens, therefore, associate arrest with guilt. Dismissals of charges predicated on the fact that there was a mistake—the wrong person was arrested—or predicated on procedures that are not consistent with our constitutional system, leave mistaken impressions.

We are particularly interested in the subject of juvenile crime as it relates to the elderly. A number of your witnesses and others have expressed concern about that.

There again, we must view the problem in proper context. As outrageous and treatening as violent crime or fear of it can be for an older person on a fixed income who is cloistered somewhere, our victimization survey statistics indicate that elderly persons are undervictimized and younger persons are overvictimized in terms of their proportional representation in the total U.S. population.

For example, in the case of robbery, a young person is more than likely to be the victim than is a person 65 or over. That is on a nationwide basis. Different communities, of course, have different victimization rates.

Stressing statistics, of course, to the victim of a violent crime is understandably neither comforting nor persuasive. They are only interested in one statistic, and they are the one. I do not want to sound anything less than sympathetic for the persons who have been victimized. In fact, I personally was assaulted by several youths and sustained serious injuries, including a broken jaw. But as policy makers, we must deal with facts.

We at LEAA are working on this with the National Council of Senior Citizens and the National Association of Retired Persons. One of your witnesses on Monday talked about that collaborative relationship among LEAA, HUD, the Community Services Administration, and the Administration on Aging. We need more Federal efforts of this nature.

Limited Juvenile Justice or Department of Justice funds cannot be relied on to solve these problems. Initiative must be taken to encourage reallocation of existing dollars in these areas throughout the Federal apparatus.

As you are aware, the Federal Coordinating Council on Juvenile Justice and Delinquency Prevention is chaired by the Attorney General. I am the vice chairman. Congress, and this committee in particular, has directed our attention to assessing the practices and policies of the respective Federal agencies as they relate to deinstitutionalization, separation of juveniles and adults, and other priorities of the Juvenile Justice Act.

We are proceeding with that assessment and have asked the National Academy of Sciences to assist us. We similarly intend to make an assessment of the entire Federal apparatus as it pertains to the issues of violent and youth crime, in both research and action program areas.

This detailed review, which has never before been made, will result in policy recommendations for the Council and the various agencies. We hope to develop a cooperative approach which will address a very serious, although limited, national problem.

Before launching immediate new initiatives, we want to make a careful, thoughtful, dispassionate assessment, and then determine the best course of action for our Office and make recommendations throughout the Federal apparatus. These recommendations will take into account many factors, including information generated by these hearings.

My statement indicates a number of areas where the Office of Juvenile Justice has been involved in first impression or original research as well as landmark research of a secondary and tertiary nature relating to serious juvenile crime. In fact, Dr. Miller, an expert on juvenile gangs, and many other witnesses have been associated with tho Office for some period of time, and have conducted studies which were funded by the Office.

We have also supported other studies, Professor Wolfgang, for instance, which focus on the transition from youth careers to adult careers. I know Senator Mathias has expressed interest in this subject.

Other studies have been conducted of career criminals, however, in the youth area there is substantial debate as to whether intervention approaches should be undertaken, based on the results to date, as the juvenile studies have shown that prediction of whether or not a particular individual will continue to engage in criminality is virtually impossible.

As I set out in my statement, we are expanding a landmark study which we have been sponsoring in Massachusetts. The juvenile justice correctional system there has been deinstitutionalized. That State is now addressing the problem of treating serious offenders—including the very difficult mental-health cases in which you have expressed a strong interest—in a community-based fashion while providing adequate community protection. We are about to undertake a study there as they develop guidelines and procedures for dealing with the secure care issue.

These experiences will serve as a basis for training and technical assistance programs for other States and local communities to help them deal with some of the problems that we are discussing.

As I indicated, this serious offender area is one of high priority for our Office. In addition to efforts already underway we want to make a thorough assessment of the results of our studies and others. There is a substantial number of reports lying around LEAA and elsewhere which seem to be doing not much more than collecting dust.

These are read by a small community of persons. There is a wealth of information and knowledge that has not been effectively used or appropriately packaged, so that citizens in communities around the country can draw on what is already available.

We are going to give a priority to that as well as to refocusing the view of the Federal apparatus with regard to juvenile and violent crime, in particular.

I know from conversations I have had in the 8 or 9 months since I have been in this Office, that many people are not informed about the basic premises of the juvenile justice system. The lack of information about these basic tenets accounts for some of the public concern about violent juvenile crime. The parens patriae doctrine is the main predication for doing something to young persons who has already come to the attention of the system.

The public has understandable difficulty in comprehending the reasons that these juveniles come to the attention of the system are not examined.

One of the policy areas in which we plan to conduct an analysis is this one, as well as the area of sentencing. I do not think the

the public will much longer tolerate the traditional intake and traditional procedures of the juvenile justice system. There has to be a more balanced approach so that the best interests of the child and the community are weighed.

There has to be some relationship between the offense and the predication for involvement of the State in the lives of young people. This needs more attention than it has received in the past.

Of course, we are stressing the importance of deinstitutionalization as it pertains to minor offenders, nonoffenders, and the status offenders. We are moving ahead in those areas in order to reduce the overloading of the juvenile justice system.

We should have a system that more appropriately addresses the few violent youthful offenders. The system is now acting in an indiscriminate fashion and failing in most respects.

With regard to young persons, we view juveniles as persons under 18. That reference is taken from the Uniform Crime Reports and from our statute, which makes moneys available to the States on the basis of the proportion of their population under 18.

There are some differences in the statistics in the various statements presented to the subcommittee. For some, juveniles are aged from 12 to 25; for others, it is up to 21. We view the age 18 as being the age of emancipation. Under age 18 is appropriately the juvenile area.

We will submit comments on some of the statements. I note particularly the statement made with regard to the elderly by an individual who used to work at LEAA and is now working on the interagency collaborative effort. She talked about a fairly significant group of the young people committing predatory violent crimes against elderly persons.

If you take a closer look at the figures, the lion's share of that high percentage consists of offenses committed by persons aged between 18 and 20. In the case of assaults, those under 18 account for only 2 percent; in the case of robberies, it is 7 percent. This latter figure is compared to the 27 percent of robberies of the elderly attributed to "youths." These "youths" include those up to age 20.

Senator CULVER. Without objection, your further comments will be included in the record.[2]

Mr. RECTOR. We feel that the Juvenile Justice Act, even though it has had a rocky road in its first several years and has been rockier in the last several months than I ever anticipated, has been a healthy catalyst in the States for discussions such as we are having today.

One cannot talk about deinstitutionalization and the other themes that we have stressed without talking about the flip side: Incarceration and detention of youth. As we develop guidelines in policy areas such as this, they will reflect our policy decisions. Such guidelines will encourage individuals to consider who should be incarcerated, and who should not, and why.

Hopefully, as we go through that process, more and more decisionmakers in the States will conclude that there is a small number of violent young people who should get attention. But there are something in the neighborhood of 90 percent of youths presently incar-

[2] See p. 135.

cerated who should not be. It's not only just and humane, but our approach is more cost-effective.

We have provided for the subcommittee a number of materials. These have been submitted to the staff for review.

One final important item is a report on a conference of experts from around the country we sponsored last September to discuss the topic of the serious juvenile offender. We were able to make the report, "The Serious Juvenile Offender," available for today's hearing.

I think it is the kind of thoughtful document that will help people recognize the range of concerns involved. I will also help put the issues we are discussing in the kind of perspective that the chairman and the subcommittee are urging.

Senator CULVER. Without objection, it will be included in the record.[3]

Mr. RECTOR. I noted that Mr. Peter Edelman will be here today. Something that he said is contained in the text of the serious offender report I just mentioned on pages 88–89. It is not reflected in my statement, but it is certainly the kind of notion that should be noted in this context.

Peter said, "I would divide the issue of system responses to serious juvenile crime into two major areas—the sentencing structure and treatment programs." Those are the areas he focused on. He says:

> Although I would stress that prevention from an early age is as important in regard to serious crime as it is in regard to any other kind. Thus while I will not dwell on issues of adequate jobs and adequate income for families and for young people entering the labor market, of decent education, and especially mainstream services for disruptive children and truant children, and of services for families and children, these matters are as important to the issue of serious juvenile crime as they are to preventing crime generally.

All of this has to be viewed—as I know the chairman does— in that context.

Senator CULVER. Thank you very much much, Mr. Rector.

I mentioned in that opening statement and our earlier hearing this week that I think we are all agreed on the fact that we are having a great deal of difficulty getting a precise fix on the true picture regarding serious youth crime. This is due to this lack of reliable data and information.

You have pointed out some statistics and variables that perhaps give rise to further additional confusion—I do not mean that in a derogatory sense—as to what the true picture might be.

However, you know that the 1976 FBI Uniform Crime Reports do show that youth between 15 and 18 make up about 7 percent of the U.S. population. They report that they account for 16 percent of all arrests for violent crime. That includes homicide, forcible rape, robbery, and aggravated assault. They also account for 40 percent of all major property crimes.

We also know that the national crime victimization survey conducted by LEAA indicates that youths and late adolescents commit a disproportionate amount of the serious crimes.

I note that during the period of 1966 to 1976 the arrest rate for violent crimes by persons under 18 nearly doubled. As you properly

[3] See p. 266 for full text of The Serious Juvenile Offender report.

point out, that arrest is not tantamount in our legal system to a finding of guilt. But I think the arrest statistic certainly suggest something by way of the general pattern with respect to this kind of conduct.

While recent statistics suggest that there may be a leveling off of arrests of juveniles for serious crimes, for unknown reasons, serious youth crime does remain a serious problem.

Against this background, I would like to inquire more specifically about the ongoing efforts of your office to combat serious youth crime.

I would like to turn first to that research demonstration and evaluation project in Juvenile Justice.

In 1976 a report was issued setting forth the first comprehensive plan for Federal juvenile delinquency programs. It was developed by your Office and the Coordinating Council on Juvenile Justice.

In this report, one of the priorities for Federal research was special studies of youth violence. Can you tell us if the Institute of Juvenile Justice has done or sponsored such studies?

Mr. RECTOR. In anticipation of your interest in that specific regard, we have prepared for submission a list of the projects that have been completed since that original concern was expressed by the Council. Also included are projects we currently have underway and the projects we are considering for funding.

There is a substantial number of research projects that we have completed or have underway in the serious juvenile crime area. These include Dr. Miller's research on gangs, the Rand study of treatment approaches for serious offenders, the Wolfgang replication of the Philadelphia cohort study, and a number of others such as the Massachusetts project I mentioned in my statement and the delinqency study in Illinois.

These are all related to the concern expressed by the Council.

On the other hand, our National Institute for Juvenile Justice and Delinquency Prevention can only handle so much. I have to express—looking back to the period before I was involved, under less than favorable circumstances—amazement that they got so many truly helpful and insightful projects funded with just a handful of persons.

It is therefore not the comprehensive, full range that would be ideal, but I think much of it is very helpful research.

If you would like to ask specific questions regarding our office's research activities, Dr. Howell, to my right, who is Deputy Associate Administrator in charge of the Institute, can respond.

I might add that one of my major concerns is that the Council did little but make recommendations on research. One of the criticisms of the Council was that it focused on——

Senator CULVER. There were some specific studies such as the Miller study which you cited, undertaken to determine the relationship between delinquent gangs and youth criminality.

I am talking about the category referred to in the 1976 report "special studies of youth violence." I read from the report:

These studies might focus on robbery, homicide, rape, aggravated assault, and involve an examination of patterns of youth violence over time. Special attention might be given to the increasing use of guns and the characteristics of particular cities that have experienced the sharpest increase in the rate of youth violence.

Has anything been done to implement that recommendation? I know there have been a lot of studies done on a lot of different subjects, but I am specifically trying to ascertain if the Institute of Juvenile Justice has yet sponsored these "special studies of youth violence."

We have to hurry up. As I mentioned, we have all of these witnesses, and I must leave shortly after 10. So try to make it very simple and quick. Is there anything really constituting that study on youth violence?

Mr. RECTOR. We will submit what our office has done in response to the concern expressed about serious juvenile offenders in a broad sense, rather than the more specific area of violence to which I understand you to be referring.

Senator CULVER. The Miller study on gangs is very specific. These special studies of youth violence, constitute a broader category.

Mr. RECTOR. You are referring to specific kinds of studies of robbery. The bulk of that work, as far as I am aware, has been done through the other LEAA Institute, the National Institute of Law Enforcement and Criminal Justice. Some other work has been done through LEAA's office of criminal justice programs.

These, and other LEAA units' activities in the juvenile area, are subject to our policy direction now, though not in the past.

Senator CULVER. So the answer is no. You have not sponsored anything under that category?

Mr. RECTOR. The short answer is that I am not certain.

Senator CULVER. What about your expert? What is your answer?

Dr. HOWELL. Mr. Chairman, we have not sponsored that particular cluster of studies, as described.

Senator CULVER. What research projects regarding serious youth crime did the National Institute of Juvenile Justice fund prior to fiscal year 1975?

Dr. HOWELL. Mr. Chairman, before I answer, I would like to express my appreciation for the opportunity to appear here and discuss these matters.

Senator CULVER. We will waive that. Let us get to the answers to the questions.

Dr. HOWELL. There are a number of studies that we have sponsored which address different aspects of the serious or violent delinquency problem. I would categorize these as follows: In the area of delinquent behavior and prevention, in the juvenile justice system area, and in the area of alternatives to juvenile justice system processing. I will enumerate those for you, if you desire.

Senator CULVER. Why not submit it for the record.

Also include there the total dollar amount of these projects and what proportion of the total research budget for the overall Institute activities that this constitutes.[4]

Senator CULVER. What about this year—fiscal year 1978? What do you contemplate doing or have you underway with regard to projects on serious youth crime? What would be the dollar amount?

Dr. HOWELL. We are continuing the gangs study that Dr. Walter Miller testified about on Monday. This study has been broadened to some 24 cities and counties throughout the country.

[4] See page 143.

We are also evaluating the Office's special emphasis program in the school crime area, through which we are examining the effectiveness of various approaches to dealing with the school crime problem.

We have completed the developmental work necessary to undertake an evaluation of the office's restitution program. This program provides alternatives to incarceration. It's target group includes serious and violent offenders.

We have underway a study in New Jersey of the effectiveness of alternative treatment approaches within correctional institutions. It involves an examination of the effects and problems involved in mixing serious with nonserious offenders.

We have underway at the University of Iowa a study of juvenile offender careers. This study is focused on the relationship of juvenile careers to adult careers including a particular focus on the violent and dangerous offender.

We also have a project in Philadelphia focused on the potential effectiveness of a youth services type of approach to dealing with serious and other youth crime problems.

Senator CULVER. Why not give me those for the record. Also include the dollar amounts and what proportion of your total research budget for fiscal year 1978 is earmarked for this category of study.

Without objection, it will appear in the record.[6]

Mr. RECTOR. Mr. Chairman, on the action program side, we announced several weeks ago a restitution program. It is a 3-year, $30 million program, which is specifically responsive to Congress' concerns.

It's focus is limited to adjudicated youngsters. It includes serious as well as some violent offenders. It has a component providing compensation for victims of crimes. It has youth unemployment components, community service components, and addresses a number of the other areas consistent with the discussion here.

There is also the New Pride project which we funded in Denver. It has been designated as one of the more successful programs in the country in regard to dealing with violent or serious young persons.

This project has realized notable success. In the coming year, we are going to expand the New Pride project to half a dozen or more communities around the country.

Senator CULVER. That is not a serious offender program.

Mr. RECTOR. It is a serious offender program.

Senator CULVER. At one point it was announced that OJJDP would do special emphasis initiatives on restitution, neighborhood prevention, youth gang, and the serious offender. So when I ask you what you are doing under the serious offender category, I am not interested in just flooding the answer with all of the studies you are doing. Everything is connected. Everything is relative and has an interrelationship. Restitution is not a serious offender program, is it?

Mr. RECTOR. The restitution program that we have announced is available solely for adjudicated offenders, a good bulk of whom are serious and violent offenders, as an alternative to incarceration.

The priorities expressed in the hearings last April are not necessarily the same priorities that we brought to the office after July. There was a serious offender initiative.

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[6] See page 146.

Senator CULVER. You know, this administration has just got me dizzy. Your priorities have changed now. What about the ones formerly testified to last spring—a year ago? Now your priorities are all different? When did you start this study that changed your priorities? Did you wait until they finished the testimony?

Mr. RECTOR. We waited until the Congress had exercised its will in the 1977 amendments and set out for us three specific priorities that did not include serious offenders. After I was confirmed, and consistent with my confirmation, I focused on your designated priorities.

Senator CULVER. Tell me this then. Are you familiar with the testimany by James Gregg on the special emphasis grant program?

Mr. RECTOR. Yes.

Senator CULVER. It is dated April 22, 1977. He was the assistant administrator of LEAA. Is he still in that job?

Mr. RECTOR. He still is. He is the acting administrator of LEAA. As you know, the four presidential appointments were vacant at the time he testified.

Senator CULVER. He had the hat when he spoke, right?

Mr. RECTOR. Yes.

Senator CULVER. He was authorized to speak.

Mr. RECTOR. I remember you characterizing his testimony as ludicrous.

Senator CULVER. I do not know, but this is what he said, and I do not think he thought these things up himself. This is what he presented as the formal administration's position. Is that correct?

Mr. RECTOR. He represented what was on the drawing board at the Office of Juvenile Justice. The Ford staff people and appointees had drafted this and it was still apparently in the program plan.

Senator CULVER. You have changed those priorities?

Mr. RECTOR. We have changed those priorities to reflect, in particular, the Senate Judiciary Committee and House report recommendations with regard to the serious offender initiative.

We will provide as a submission for the record information on precisely what that serious offender project was. It would have solely address serious juvenile offenders who had already been incarcerated, to address their needs as they exited from the institutions. It was what so-called professionals call a "re-entry" program.

It was not a serious offender project of the variety that you have been discussing with regard to facilitating prosecution, expeditious justice, certainty of punishment, or changes in assessment in the areas of robbery, and so on.

Senator CULVER. What are we going to have to do to get you to place some emphasis on serious juvenile crimes—amend the JJDP Act?

Mr. RECTOR. What I am indicating is how we are placing emphasis on serious juvenile crime. The restitution project, for example.

Senator CULVER. I know. You have said that again and again. In your judgment, it has direct application and relevance and importance to the serious offender program. Let us concede that, but I am asking what else you are doing.

Mr. RECTOR. Another major thing we are doing is to replicate the New Pride project. As one of our projects evaluated which address

the problem of serious offenders, including robbery, it has received high marks.

We are drawing on that research and that evaluation. We are going to fund additional projects in six cities around the country. Hopefully, the citizens in those communities can draw from that just as they could from the Des Moines project.

Senator CULVER. I am not interested in that Iowa business. Every time we want to get someone's attention we throw out Iowa or Des Moines and the Member is supposed to salivate.

That does not go with me.

Mr. RECTOR. We have two projects, Mr. Chairman, that have relevance as exemplary projects in this area. I am not tooting the horn about the exemplary project program. I had nothing to do with the decisionmaking about those that were selected. What I am saying is that the New Pride project and the other I mentioned seem to be efficacious.

We are planning to replicate the New Pride project. We have been dealing with inner city kids that have been mistreated throughout their whole lives. Their families are disadvantaged in a society we are all too familiar with. This project, its focus, and the sensitivity involved, has made a difference with regard to kids who have been on the streets for a number of years.

These kids have been involved in, among other things, robbery and assault.

Senator CULVER. What I would like to do is this. Give us for the record what your plans in fiscal 1978 are—under the special emphasis grant program—for any initiatives with regard to the serious offender and youth gangs. Also add what the Institute is doing in the same general area.

Mr. RECTOR. We will be happy to do that.

Senator CULVER. Without objection, it will appear in the record.[6]

Senator CULVER. That JJDP Act, as amended, does not specifically provide that the National Institute for Juvenile Justice should fund research demonstration and the evaluation projects dealing with the serious offender in gangs.

The act does not provide that special emphasis funds should be utilized for projects dealing with the serious offender in gangs.

Do you feel that the act should be amended to place more emphasis in this regard?

Mr. RECTOR. Relative to the total effort of the Institute, I would say that the gang area and the serious offender area are both significant in terms of activities to date.

The Miller study, for example, makes a significant contribution to the total body of knowledge in the research area among the projects funded through the Office's Institute.

I do not think an amendment is required.

A gang project is still under consideration. There is an argument among the persons who are very close to this. One of the points of view is that it is counterproductive to focus a major Federal grant program solely on gangs.

Senator CULVER. That is more a decision that you have to make, is it not?

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[6] See page 135.

Mr. RECTOR. There is a tug of war about these things.

Senator CULVER. Obviously, we are all agreed that there is going to have to be an enormously complex medley of responses on a lot of fronts.

I am just talking about trying to give proper attention to this subject within the context of admitted pressures in terms of budget constraints, priorities, funding, and everything else.

I just want to make sure that this agency is doing enough to properly respond to some very legitimate concerns about serious youth crime, as well as address some other problems.

This is a category of need that traditionally, in the short life of this very troubled agency, has not received enough attention. We have been fighting a lot of different fights.

I want to make sure that we are spending a proper amount of our resources, energy, and attention on this issue.

Mr. RECTOR. I agree, Mr. Chairman.

Senator CULVER. Recently there has been some speculation about the fact that various youth programs, including portions of the program administered by your office, may be shifted into the new Department of Education, the creation of which is being discussed.

Would you care to comment on that?

Mr. RECTOR. There have been a series of articles and comments within the last week or so. Those kinds of proposals have been occupying a significant amount of my attention.

The Carter administration, as you know, is committed to the full implementation of the Juvenile Justice Act, and the Office as the vehicle through which it should be implemented.

The Attorney General, in his confirmation hearings, I in mine, and the President when he signed the 1977 amendments stressed the significance of the act. The Carter administration has stressed the need for revitalizing the program and the need for providing stability.

It is in that area of stability that some of the suggestions that have been made with regard to changes have had an impact. The ink is hardly dry on the President's signature. It would be very disruptive and not consistent with this kind of stability that the Congress and the administration have in mind to change the program.

So, in a general way the suggestions are somewhat disconcerting.

There are a number of other proposals in addition to the Department of Education.

As you are aware, HEW tried to capture our entire fiscal year 1978 $30 million special emphasis appropriation, including whatever we have going for serious offenders, and convert it into an alternative to abortion program, which interestingly conflicts with the espoused HEW approach, not to program on the basis of human failings or defects.

There have been a number of instances where people do not support the kind of stability necessary to carry out even a small portion of the JJDP Act. The Department of Education recommendation seems to be an example.

As I said, the ink is hardly dry on the President's signature. Perhaps some of the lower level reorganization staff did not get the message that everyone else got.

The conferees, as I recall, made very clear in 1977 their intention, at least for the next several years, with their minds on stability, that the Office remain in the Department of Justice.

That perspective has been reiterated by myself and in the Department on this issue.

As a personal matter, I think there is a good deal of efficacy in all youth programs being under one aegis. The coalescence of all youth agencies would be ideal. But if not, you lose the efficacy of the proposal.

In the instance of the Department of Education proposal, you may be aware of the approach taken by Senator Ribicoff's bill, which does not include our program. A number of other lists would include our program in any new Department.

If there is to be a division of youth, or a youth affairs agency, or something like that, it should include all youth programs, not just a smattering or sprinkling of them. It should have the Head Start programs, the school lunch programs, the youth employment programs, and so on. It should go the full route.

The problem is this: No one has been able to pull it off in the last 40 years in which they have been trying.

Senator CULVER. Thank you very much, and thank you for appearing here today.

Our next witnesses are Mr. Edelman and Mr. Eggers.

I wonder if Ms. Goins and Mr. Murray could also come up to the witness table also?

Good morning. Thank you all for your appearance here today.

I am very sorry about the time pressure that we are under. We find that with this Panama Canal debate, we are limited in the number of hours we can meet in committees.

Most of us are on three or four committees and are subcommittee chairmen on three or four, also. And we have to reauthorize by May 15 much of the legislation, at least for purposes of some of our budget reporting requirements.

So we are all under very stringent time constrants, and we just cannot meet after a certain hour.

I want to assure you that we will very carefully review your entire statements. In the interest of time, you might all be kind enough to summarize the highlights of your full statements which will be included in the record. Then we will, perhaps, have time for some questions. I do appreciate your understanding and cooperation.

If everyone is agreeable to that we will go ahead.

Mr. Edelman, would you start first please with a quick summary of your statement?

STATEMENT OF PETER EDELMAN, NEW YORK DIVISION FOR YOUTH, ALBANY, N.Y.

Mr. EDELMAN. Good morning, Senator.

In the interest of time, I will just make a few brief comments here and would ask that my full statement be incorporated in the record.

Senator CULVER. Without objection, it will appear in the record.[1]

Mr. EDELMAN. There are just two or three important points that I want to make. These are covered more fully in my statement.

No. 1, I hope we keep the problem of violent youth crime in perspective. It constitutes less than 10 percent of all youth crime. While there is great public concern about it, nonetheless there is a public perception that there is more than is actually going on. Indeed, the violent crime rates seem to be going down.

I find people constantly astonished, for example, in New York State when I tell them that only 43 juveniles—of course, in New York, the youth reaches adulthood for purposes of criminal responsibility at 16—were arrested for murder in 1976.

Nevertheless, I think we have a serious problem because the juvenile justice system for too long has not differentiated between nonserious and serious offenders. There have not been tough sanctions within the juvenile justice system for serious offenders.

Consequently, there is a demand for reaction, in my judgment, that is becoming an overdemand. We have to remember that we are still dealing with young people, and rehabilitation is still possible.

There are two major areas in New York State to which I would draw the subcommittee's attention. One is sentencing policy, and the other is services.

On sentencing policy, we do have the new Juvenile Justice Reform Act under Governor Carey's leadership. I think this is a really interesting departure, because it does differentiate within the juvenile justice system, continuing to use the juvenile court and the agency I run—the Division for Youth—as the place to provide services. It does not fall prey to what I think is the really serious trap of beginning to use adult State prisons for very young people. This gets us nowhere.

The other major thing we have done in New York relates to what happens after youth are "sentenced." Among many efforts to enrich our services—efforts that cut across the board in terms of education, work experience, vocational training, health, and working with families—there is one project we have done jointly with the Department of Mental Hygiene at the Bronx State Hospital in New York City.

I hope I can get you to come visit us, Senator, because I think this is a real model for the country. It has been under LEAA funding, so there is a considerable oversight interest for the subcommittee.

That project is serving about 15 to 18 violent, male delinquents. Without any startlingly bizarre intervention—no "clockwork orange," no negative behavior modification—it is beginning to reach some kids with an eclectic combination of individual therapy, group therapy, individualized education, and working with the families.

Those are the major points to which I wanted to draw the subcommittee's attention, and I will certainly rest on my full statement.

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[1] See page 109 for Mr. Edelman's prepared statement.

Senator CULVER. Thank you very much, Mr. Edelman.
Mr. Eggers?

STATEMENT OF WOLFGANG EGGERS, DIRECTOR, GREEN OAK CENTER, OFFICE OF FAMILY AND YOUTH SERVICE, MICHIGAN DEPARTMENT OF SOCIAL SERVICES

Mr. EGGERS. Good morning, Senator.

I would like to make just a few brief points, and would ask that my statement appear in the record.

Senator CULVER. Without objection, it is so ordered.[1]

Mr. EGGERS. Green Oak Center is a secure facility that essentially backs up all other systems in the State, providing services for 100 "serious" offenders. I would like to comment very briefly on who these young people are that we are serving in this institution.

These kids represent multiple series of problems. They have had several previous placements; several previous court appearances; they tend to be chronic offenders; they have committed violent crimes; about 20 percent of our population have had previous mental health placements; their education is severely retarded; they cannot be worked with in any other available program; and they are generally said to be hopeless.

Formerly this institution was, perhaps, typical of what people criticized most about institutions. This has changed profoundly with the implementation of a program following the guidelines of Guided Group Interaction. This is a group-centered treatment approach, extended throughout the entire program organization.

All youths are in treatment groups in such a way that they spend most of their time together throughout the day. So the treatment process is going on all day long, around the clock, and not just in their daily roughly 1½-hour specific treatment sessions, that is, their group meetings.

In institutions of this kind, this is a model that allows us to make use of the major resource available; namely, the young people themselves, by legitimizing the formerly negative informal system, represented by the kids and their delinquent peer culture.

We were able to bring them into the formal system of the progsam through sharing program responsibilities and decisionmaking power with them.

Through this process, then, was it possible for the youth groups to adopt and maintain norms and values that would be prosocial, positive, and healthy.

Obviously, this is a very difficult task as far as the staff is concerned.

One of the things that we have done, and which seems to be of crucial importance, is this. We have dealt with the relatively large size of the program by decentralizing program operations. We have reduced the size of the programs effectively to five smaller 20-youth programs, each managed by a treatment team with two treatment groups.

The primary program responsibilities now rest with the treatment teams and their two groups. Each treatment team, under the direction

[1] See page 115 for Mr. Eggers' prepared statement.

of a program manager, is supported in its efforts by an administrative support services group, by a special education support services group, and by general custodial and maintenance support services.

Another critical aspect in making this type of program work in the case of the "serious" offender refers to the ongoing need for pressuring, facilitating, and helping efforts on the part of the staff teams.

Also important is the availability of motivating factors such as opportunities for obtaining increasing privilege levels and eventual release from the program. By design, the group has a critical part in making decisions in this area, always under the guidance, sometimes control, of the treatment team.

There are two important issues involved in decisionmaking. Groups may only be involved in decisionmaking when they are functioning responsibly, and their decisionmaking may only be positive and helping.

I would like to comment a little on the issue of program effectiveness. This presents a serious challenge.

For example, I do not know how to compare our program with community-based programs.

Kids placed at Green Oak Center have been in an average of 2.4 previous placement centers.

Senator CULVER. Is that foster homes?

Mr. EGGERS. That is anything through foster homes, group homes, half-way houses, private agencies, and so on.

So we are dealing with the failures of these programs. In that sense, I think we are clearly more effective. However, we are not proud of our outcome data, when we are talking about a good third of our kids being in difficulty in the category of being arrested and/or charged within 3 months after release from the institution.

Senator CULVER. Of course, you are also dealing with the most difficult group of delinquents, are you not?

Mr. EGGERS. That is right.

There is another serious, very much related problem that we find. Within 3 months of release from our program, a good two-thirds of these kids are totally nonproductive. They are not employed. They are not in school.

I would like to make one more point on program evaluation.

Senator CULVER. So you are talking about the critical need for more effective follow-on services?

Mr. EGGERS. That is right.

Senator CULVER. And we should be placing more emphasis on placement after offenders are releaesd from these institutions?

Mr. EGGERS. That is where we are falling down.

Senator CULVER. What specific steps and recommendations do you have for us with regard to furthering their reintegration into the community?

Mr. EGGERS. What I would suggest is this. There are usually two systems involved in serving the kids—the institutions and community-based or county-based services. I believe we need a process that would integrate these services in one accountable system. For example, kids could be placed into the community out of this secure institution into a half-way house, managed by the institutions as an extension of its program.

Then we could follow through with staff that would be accountable to the institution, or even operate out of the institution.

The institution has an immense investment in the kids.

That way we could assure that follow-through services would be delivered. It often happens that a kid fails, and so he fails, and that is that. Accountability is too weak in this area.

There are other things more general in nature that could be done. Funding resources could be made available in the areas of job development, employment subsidies, placement finders, etc.

Senator CULVER. You mentioned in your full statement the interface with the mental health system. Could you elaborate on that just a little more?

Mr. EGGERS. I think that is an issue that needs extensive debate and analysis and resolution. I do not have any specific, simple answers to that problem at this time.

The way we see it is this. Mental Health runs fairly decent programs for kids. When some of these become bigger, more muscular, and more aggressive, they eventually become discharged, often via a relabeling process.

Sooner or later, they get into court and then become our responsibility.

Mental Health has usually not been willing to further support or deal with these kids. As a result, perhaps, adequate mental health-type services are not truly available to these kids.

Senator CULVER. Mr. Edelman, what are the chief difficulties that you face as administrator of the juvenile corrections system there in New York in placing and working with serious juvenile offenders.

Mr. EDELMAN. I think there is a whole long list, Senator. First, of course, we are dealing with a highly charged public climate. For example, just 2 weeks ago, a youth who was released on a home visit was alleged to have committed a robbery while on the visit. Home visits are an integral part of our program because, after all, these youngsters are going to go back to the streets at some point, and how are you going to know how well they are going to make it unless you test it out?

What happened in this case is something that happens quite rarely; 99 percent of the home visits are successful. A few overstay without any crime being committed, and even fewer are arrested. Nevertheless, the case made headlines, and I was called to testify before legislative committees. That is one of our difficulties.

A second is inadequate resources, obviously, because if we are going to help kids, we have to have the money to deal with all their needs. The interventions which are necessary with young people who have been in deep trouble are obviously going to go beyond group therapy. Although most of our programs have group counseling, as suggested by Mr. Eggers, we have found that it is absolutely essential as well, for example, to deal with the educational needs of the kids. But where is the money going to come from? These are kids reading at third, fourth, and fifth grade level. We have title I ESEA money, and a little money from the State. But we need more.

Another example is that I am using Federal countercyclical revenue sharing money to develop a $5 million job readiness training and work experience program. This is for all of our facilities. However,

when it comes to getting permanent funds for that from the State legislature, I do not know if I can do it.

If the second category of comments related to enriching services and dealing with the three dimensions of kids' needs, the third is the attitude of the people who work with the kids.

We have some wonderful people, some very talented people. But we also have, for example, some aftercare workers who learn in social work school that the only thing that is worthwhile is counseling. They think if they see a kid, or talk with him on the phone once a week, they are doing their job.

I might say however, that we are also terribly understaffed in that area. So this is also a question of resources. But to try to get some of these workers to broker and get the kids back in school or into a job program, it is like sending them back for their MSW all over again. They do not want to do that. But we are making some progress in that area.

The fourth area of difficulty is the really complicated kid. This is the kid who is beyond the group process. This is the kid we talk about as being between the cracks between ourselves as professional agencies and mental health.

Perhaps these kids are not legally, chronically psychotic, but in many cases, as Mr. Eggers said, the Mental Health people do not want to deal with that kid if he is explosive, violent, or dangerous. They are scared.

With an effort that was like pulling teeth, in the last 3 years, we have been able to develop 58 beds of a highly specialized nature: 18 for violent kids; two 10-bed units of an enriched nature to provide very individualized services; and a 20-bed learning disabilities program which is, again, a first.

I am having a difficult time, and I am not all the way home yet, in our State legislature in getting all of those things on permanent State funding. Some of them say, "You are going to spend a total of $2 million annually on 60 kids. Who are you kidding? Throw them back into the locked institution." There, by the way, many of them will make the program impossible because they will disrupt it for everyone else.

On the one hand, I am supposed to lock the kids up, and they are not supposed to escape. I am supposed to take the responsibility. On the other hand, where is the money going to come from to provide decent services?

Those are some of the problems, Senator.

Senator CULVER. I appreciate that. It is very sad testimony, but I think it is extremely important.

Mr. EDELMAN. On the other hand, I do want to say that I also think we have made some very real progress, and I do not want to neglect that.

We use title XX training money for in-service training for our staff. That is beginning to have an effect. We have used title I money, LEAA, Federal countercyclical money, and CETA money, as well as State resources, to enrich our programs tremendously.

I think we are reaching more kids with better programs in New York State, by far, than we were 3 years ago. I want to stress that.

Senator CULVER. I respect that, and I want to commend you for the remarkable innovation, creative energy, and imagination you have demonstrated.

What is sad to me is that we have to depend on someone of your unique capacity to get minimal help measured against the magnitude of need. What is also sad is the shortfall, which I know you painfully acknowledge, between what we are able to do and what needs to be done—not just in your particular State, but nationally.

One of the frustrating things to me is, that while it is commendable that one in a very imaginative way draws on a proliferation of potential service aids and program approaches, we do not have a more rationally designed and coordinated package that everyone can just accept and support politically because it is sound public policy and in the public interest.

I do want to say how much I respect what you are doing and how very appreciative we are of your coming here and sharing some of these thoughts with us.

One of the purposes here is to try to make sure that we recognize the need for better approaches to criminal offenders as well as status offenders and to make sure that we are able to design more effective programs to meet their requirements.

Some of the things you have suggested to us here will be very useful. We can look at them further, study them, and use them as models in other parts of the country. Perhaps we can fund some of these approaches that have proven to be more successful and have tried to specifically target their effort at serious juvenile crime.

Ms. Shirley Goins is the administrator of Field Services, Juvenile Division, Illinois Department of Corrections. As such, she has had administrative responsibility for a model project known as the Unified Delinquency Intervention Services.

I believe this was funded by the Illinois Law Enforcement Commission. It is directed toward deinstitutionalizing the serious offender.

I believe you have headed this project since its inception, and I look forward to hearing from you, Ms. Goins, with respect to this program.

STATEMENT OF SHIRLEY GOINS, ADMINISTRATOR, FIELD SERVICES, JUVENILE DIVISION, ILLINOIS DEPARTMENT OF CORRECTIONS

Ms. GOINS. Mr. Chairman, may I ask that our full statement be incorporated in the record?

Senator CULVER. Without objection, it will appear in the record.[1]

Ms. GOINS. Mr. Chairman, as I sit here and listen to the problems from the other States, I can say that Illinois is experiencing the same things.

We are trying to find approaches that will work to serve the juvenile offenders. The one approach I did want to present was the Unified Delinquency Intervention Services which has been in existence since October 1974. This is a significant departure from traditional approach.

[1] See page 121 for Ms. Goins' prepared statement.

It was originally a 3-year demonstration project in Cook County only. It was funded by the Illinois Law Enforcement Commission and was designed to divert youth from commitment to the Illinois Department of Corrections.

Administratively, it started in the Department of Children and Family Services and was transferred over to the Department of Corrections.

Senator CULVER. Excuse me, Ms. Goins.

Mr. Edelman and Mr. Eggers, I would just say that you may, if you would like, be excused. We are grateful to you for coming.

If you have airplanes or anything else you have to catch—I know you are all busy.

Mr. EDELMAN. Thank you, Mr. Chairman.

I would just say that I trust that the staff is aware of the recent 20th Century Fund report on sentencing for youth crime. I was privileged to be a member of that panel, Senator, and it constituted a broad spectrum—everyone from the Civil Liberties Union to the former D.A. in Manhattan. I think it is a remarkably balanced document in this area.

Senator CULVER. We will certainly take a good look at it and appreciate your mentioning it.

Thank you.

Ms. Goins, I am sorry about the interruption. Please continue.

Ms. GOINS. As I indicated, the project was initially in one county. Since that time it has been expanded to 21 counties throughout the State.

Illinois Law Enforcement dollars are still involved in the expansion. The rest of the project, including 11 counties, is fully funded on State-appropriated dollars at this point.

It is a cooperative effort between the juvenile courts throughout the State and the Illinois Department of Corrections. Referrals are at the adjudicatory stage, and it is used as a dispositional alternative to institutionalization by the Department of Corrections.

It was projected that UDIS should reduce commitments to the larger institutional facilities of the Department of Corrections Juvenile Division, by 35 percent of the commitment rate out of Cook County and at the time of expansion 50 percent of the commitment rate throughout the rest of the State.

The project is organized around the brokerage systems model. We emphasize individualized programming. It is a total purchase of care. All of the services are purchased in the community.

The youths are usually there from 3 to 6 months. They are mostly out of the inner city. That was the impact area initially. They are mostly black, about aged 15.8. They come from one-parent families. They are males. They have had at least two previous convictions and at least two previous adjudications.

Their legal status while they are in the program is on probation, so the probation department stays involved with us.

Fifty percent of the youths are charged with major felonies, and 50 percent are involved in property crimes.

The alternatives we present are community-based, both residential and nonresidential. They run the gamut of advocacy, group homes in and out of the community, foster homes in and out of their commu-

nity, educational services, vocational services, intensive care units, and family counseling.

We view the program essentially as a multifacet program which is designed to be an intensive intervention service that impacts the child and his family utilizing community resources.

That, in a very brief statement, is how we view our program.

Senator CULVER. How successful have you been?

Ms. GOINS. Mr. Murray is here with me. He has been doing a lot of research evaluation on it.

The in-residence recidivism rate has been about 12 percent. We have not made a longitudinal study. We have a tracking system working with us from Northwestern University, but I think Mr. Murray could better respond to that question.

Senator CULVER. Fine.

Dr. Murray, perhaps you could speak at this time, and then we could direct our questions at both of you.

You represent the American Institute for Research, and you are a principal research scientist there, I understand. You are working on an evaluation of the UDIS project, and we are interested in hearing your findings and implications for correctional policies regarding serious juvenile offenders.

So please go ahead and share your thoughts with us.

STATEMENT OF CHARLES A. MURRAY, PRINCIPAL RESEARCH SCIENTIST, AMERICAN INSTITUTES FOR RESEARCH

Mr. MURRAY. Mr. Chairman, may I ask that my statement be included in the record?

Senator CULVER. Without objection, it is so ordered.[1]

Mr. MURRAY. With regard to your question on the UDIS program: It was quite successful. The exact figures for UDIS were these. If you compare the number of offenses in the 12 months after getting out of UDIS with the 12 months before going in, they were down by 63 percent. The number of violence-related offenses were down by 69 percent. The proportion of offenses classified as serious went down by 32 percent.

Senator CULVER. That means that within a year 30 percent did commit a violent crime?

Mr. MURRAY. No. That is an important distinction. Almost all studies of recidivism that we see talk about cumulative recidivism within 12 months after release—X number of the subjects committed a crime or were re-arrested or put back into court.

I am not using cumulative figures in this case. If you use those, UDIS does not look so good. Roughly 65 percent were re-arrested within a year after release.

What bothers me about those statistics is that they do not address the question: Was crime reduced? With the UDIS kids, we are talking about youngsters who had been arrested an average of 13 times before they went to UDIS. They had been arrested, as I remember, about 6 times during the year prior to going into UDIS. If you have a youngster who is being arrested 6 times in 1 year before the pro-

[1] See page 124 for Mr. Murray's prepared statement.

gram and one time or two times in the year after he comes out, I would say from the public's point of view there has been a significant change in the general behavior.

If you are asking, did UDIS reduce offenses?, the answer very clearly is yes.

Senator CULVER. Is that 1 year enough?

Mr. MURRAY. We can go further than that. We have good data for 2 years after release about other youngsters who had been sent to institutions. The trend, 2 years after getting out, is absolutely flat. The picture is one of a very high level of crimes before going in; coming out it shows a much lower level with no tendency to rise.

We also know from research by other scholars that after 4 years out, there is not only no rise in offenses during that period, but instead a continuing decline—although a very slight continuing decline.

This does not match up, I know, with the conventional impression of the effectiveness of these programs.

Senator CULVER. The final figure in your report on UDIS indicates that the more drastic the type of correctional intervention, apparently the greater the reduction in recidivism. Is that correct?

Mr. MURRAY. That is correct.

Senator CULVER. The Department of Corrections institutional placement followed closely by out-of-town UDIS placement provided the greatest reduction?

Mr. MURRAY. That is correct.

Senator CULVER. It seems to me that, as you suggest, these findings would seem to indicate that institutionalization is more effective than is commonly assumed. How, then, do you explain the prevailing opinion that institutionalization is essentially ineffective?

Mr. MURRAY. This was one of the things we had to stuggle with last summer when we first started coming up with these findings. I was convinced in my own mind that institutionalization did not work. In fact, I "knew" that things like UDIS did not work from what I had been told before.

We conducted a very intensive search of the literature on the subject. We found two kinds of statements. First, we found lots of statements that institutions only make the kids worse, and that delinquents commit more crimes after they are released than they did before they went in. But these statements are all assertions. "All" is a pretty flat statement, but we have not not been able to find any exceptions.

We have literally been unable to find one study which has examined the behavior of youth before they went in and after they came out of institutions, and that has shown anything except a sharp drop.

The other kind of statement we found dealt with cumulative recidivism—for example "70 percent are arrested within 1 year after release." Then, the authors tended to conclude that therefore we do not know how to reduce crime. But the conclusion is a non sequitur. The statistic of cumulative recidivism does not demonstrate that the program failed to reduce crime.

Senator CULVER. So you are saying really, "compared to what?"

Mr. MURRAY. Comparing the same kids "before" and "after"—right. The hardest thing to get across to readers of the report is that we are not contradicting an established body of evidence. That body of evidence does not exist.

Senator CULVER. Of course you are in the business, and I suppose it would be somewhat self-serving and predictable if I ask you this. But do you feel that we do need far more serious research efforts in this violent crime area, and recidivism, and various correctional approaches?

Mr. MURRAY. I think we need a few, very carefully specified studies.

Senator CULVER. What kind of thing would you suggest?

Mr. MURRAY. The National Institute is providing us with funds for such a study. When we concluded in the last study that the more drastic the intervention, the greater the reduction, for example, we were talking about what it looked like now from what we knew then. I would like to know a lot more about it.

Senator CULVER. So you think your sample is too small?

Mr. MURRAY. We are simply going to be able to find out a lot more about the phenomenon through that kind of work. In general, Senator, if I had to characterize the research that tends to be done in this field, a lot of it has started out with the presumption that there is a conflict between what is good for the youngster and what is good for the community. I think that, in itself, has been a major impediment to learning a lot about how youngsters are responding and the community is thus benefitted.

Senator CULVER. Although your conclusions about the effectiveness of the UDIS placement is, on the whole, quite positive, you do seem to indicate some reservations about it. Am I reading you correctly?

Mr. MURRAY. The main reservation I think, is the problem of in-program offenses. Again, I do not want to overstate. I believe there was an average of about three arrests per person year spent in the program and a lot of those were minor—disorderly conduct, very minor thefts, shoplifting, and that sort of thing.

There were a few serious offenses— armed robberies, a few homicides. A greater source of worry to me is that the apprehensions presumably reflect only a small portion of the actual offenses committed. So you are not talking about three in the first year. You are probably talking about more than that.

Senator CULVER. Ms. Goins, do you feel that Mr. Murray's study indicating that serious offenders in the UDIS program, while in the program, continue to commit a significant number of offenses would indicate that more emphasis should be placed on security in correctional programs for these offenders?

Ms. GOINS. Not essentially. When Dr. Murray did the study, and he and I have discussed this fact, you have to look at quality of programing between institutions and community-based corrections.

It is true that when youngsters are in a community-based program, there is a possibility and probability of crimes occurring. However, we have dealt with this in the UDIS program from inception up to the time that Dr. Murray did his study.

One very important element is the kind of community services that you have. UDIS was never meant to be a deinstitutionalization process. We do have varying degrees and levels of programing. There is a necessity for having some more secure types of programs for youngsters that you have to deal with in the community.

The workers do have to be sensitive to the fact that youngsters are going to commit crimes during the course of their being in a community-based program. We have to predict, if you will, the behavior as it leads towards committing more serious offenses.

One other process that Dr. Murray recommended had to do with the staff. For advocacy services in the community, you need a very young, energetic, 24-hour kind of staff to work with these youngsters. With that youthfulness and lack of experience, sometimes they get overzealous in terms of trying to keep the youngsters out of the system, not reporting any progress in behavior, i.e., involving themselves in probation and so on.

We have been able to work on that factor, I think, and as the staff gets more experience, they are more prone to confront a youngster with his behavior and make him take the responsibility for it.

That, along with the creation of different kinds of alternatives in the community, I would see as being a positive for community-based programs, and would still see the serious offender able to be worked with, in the community, are going to be the ones giving the service. They certainly would want to protect their own communities.

What we have to do is give good technical assistance to community-based programs to help them form the goals and directions for the youngsters. All of us should be attuned to the fact that letting the youngster get by with some kind of disruptive behavior is not a favor to the youngster or to the community. I think the problem can be addressed.

Senator CULVER. What are you doing with regard to the counseling of the entire family? Most of the youngsters you are dealing with, essentially, are so far embarked on a pattern of anti-social and criminal activity that there is total alienation from family. Perhaps the family is so disfunctional that there is not anything to go back and work with.

Ms. GOINS. In the main, they are one-parent families. We find that there is a desire to become involved with the youngster, but sometimes there is not the energy because that one parent may have five, or six, or seven children.

However, we have been fairly successful in terms of involving a number of the families in family counseling.

At the time that the youngster is referred to UDIS, we do an individual contract with the youngster. The persons involved sit down and set out the goals and directions for the youngster while he is in UDIS. This would be the probation officer, the case worker, and the parent. So they are well aware of what the goals and objectives are.

It is essentially a voluntary program. Although the youth is told that if he does not volunteer he will go to the Department of Corrections, so it is not entirely voluntary. But the parents have to agree to the youngster being involved in the program which means that from step one they are involved.

They do agree to participate and we do have family counseling. There are some very adequate family counseling services in Cook County specifically. Downstate we are having more problems in terms of finding the resources in the area that is close enough for the family to participate.

The other area where we have extreme difficulty is with the emotionally disturbed youngster in that we have to place him in a psychiatric hospital or use our own intensive care unit. That is a very expensive process. We only have one in Cook County.

When we relate with a youth who is 300 miles away in the southern part of the State, we find ourselves in difficulty in terms of transferring him and the family. We do that at our expense. It becomes a very expensive process both to us and to the family.

We have found it to be a most effective system, particularly in terms of working with the emotionally disturbed kids. The total family concept needs the care.

But the direct answer to your question is that we find the families fairly cooperative.

Senator CULVER. You talk about single parents. I have seen some graphs that suggest that the number of single parent families is increasing. We are all more sensitive these days about working parents. There are more working women, and higher divorce rates.

We seem to accept the suggestion that we have more one-parent families. This gives rise to a lot more aggravation in terms of bringing up the family. There are difficulties in terms of limited energy and so on.

It is interesting to look at an earlier period of American history. The percentage of one-parent families was as high as it is today because of the lack of longevity, resulting in the father's early death. Now we have a different set of circumstances giving rise to single-parent households. But this is not a unique phenomenon at all. It was very common in the early days of American history.

These trends are crossing. If we continue with the rate of divorce and the population rate, etc., it is going to be more aggravated. But at this stage, it is quite comparable to an earlier period for different reasons.

Death may have been a healthier reason from the standpoint of its impact on or implications for the development of an adolescent, painful though the trauma and adjustment obviously would be. But it may be easier to accommodate than some of these other more disruptive pressures.

This is something we do not know enough about.

What is the percentage of child abuse in the profiles of the young people you are dealing with? As far as their early adolescence and childhood are concerned, how many do you think have been victims of abuse?

Ms. GOINS. I really cannot answer that. Neither can I answer it in regard to the total population of the department of corrections. Quite often those things are not reported in the youngster's history.

Senator CULVER. Why would they not be reported when they are taken in? Why would it not be asked?

Ms. GOINS. Let me rephrase that. What we have in terms of information does not contain those specific instances. We have gone through the total records of the Illinois Department of Corrections with regard to these youngsters because we are interested in that.

There is a great emphasis on working with abused children and families. We have tried to cooperate with DCFS in trying to gather statistics throughout the State of Illinois. Our files contain that

information relating to the juvenile justice system, essentially, and apparently although the youngsters are not committed to us for child abuse, unless the child has been reported to the department of children and family services, or there is a medical police report, when the children come into the department of corrections we do not always get those files.

There is no central system of filing in the State of Illinois. I think there should be so that we can respond to those circumstances.

Senator CULVER. I want to thank you very much for your appearance here today.

Our final witness this morning is Mr. Michael Smith who is the director of the Vera Institute of Justice in New York.

The research of your organization has certainly helped improve both the criminal justice and juvenile justice systems across the country. We are pleased to welcome you here this morning, Mr. Smith.

I believe you were here earlier and heard my request about written statements, so if you could just hit the highlights of your statement we would be grateful.

STATEMENT OF MICHAEL E. SMITH, DIRECTOR, VERA INSTITUTE OF JUSTICE, NEW YORK

Mr. SMITH. Good morning, Senator.

As you suggest, I would appreciate your making my full statement a part of the record.

Senator CULVER. Without objection, it will be included in the record.[1]

Mr. SMITH. I would like to pick up a theme that seems to have developed around the last two sets of testimony. It is the theme that is shaping Vera's planning of action programs, and our research, in the area of serious juvenile delinquency.

To put it very briefly, what concerns us is this. The need for programs and for program-related research targeted at really serious delinquents presents indisputably important issues. But these are not popular issues. Apart from a few of the more adventurous private foundations, which are providing support for early planning, neither the public nor the private sector is taking up the challenge and, while funds are abundant for programs and research aimed at status offenders and minor delinquency, it is difficult to attract financing for programs in the serious juvenile crime area. Perhaps this is because it is known that the serious delinquent label applies to a relatively small number of youths. More likely, work in this field is underfinanced because of the daunting practical and political difficulties that are certain to arise when attempts are made to deal with even a small number of chronic delinquents who have committed serious crime. The testimony of Mr. Murray illustrated that even the programs that work best with this population are beset with in-program delinquency—some of it quite serious. The testimony of Mr. Edelman illustrated how such "failures" are politically difficult to bear.

Given these difficulties, it is not too surprising that programs focused on serious delinquents are rare and that serious delinquents

[1] See page 128 for Mr. Smith's prepared statement.

are so often excluded from the programs that do exist for other children who get into trouble. But this "hands-off" phenomenon, in turn, helps explain the poverty of our research base about serious juvenile delinquents, and about what kinds of programs work with them and what kinds do not.

The lack of an adequate research base on these issues, in turn, makes it very difficult to design a program with a good prospect of success.

Programmatically, therefore, the most difficult question is the one that emerges from Mr. Murray's UDIS discussion. If you are going to try to deal with seriously delinquent juveniles in a community-based treatment program, controlling their behavior to reduce in-program delinquency must be a central purpose from the start, whether the program is to be one of care in lieu of incarceration or is to be one of care after incarceration.

Senator CULVER. You mean in aftercare?

Mr. SMITH. Sure. The problems of working successfully with these delinquents are the same, whenever they are taken on.

If you are going to do that, the most serious problem is how to control and monitor the behavior of the children, while they are in the community, sufficiently well so that you can get the acquiescence of those responsible authorities who have to take the political view. You must also keep in mind that attempts to control and monitor behavior, if intense enough to be effective may interfere with the delivery of services, that are essential to helping the program participants.

Finding solutions to these problems is going to be tough, partly because of the lack of an adequate research base and partly because of the financial and political problems associated with programs that tackle such sensitive issues.

The research efforts that UDIS have made are laudable and as Mr. Murray's testimony shows, are very valuable. From that experience, I think one can generate some program hypotheses.

The program problem that interests me the most, and which might be of some interest to the subcommittee, is precisely how one can control behavior adequately without interfering with other program goals.

Senator CULVER. Can you give us a specific example of that? For example, are you talking about having an armed guard accompany a serious offender from community-based secure institution to a counselor or somewhere else?

Mr. SMITH. That would be an extreme. There are however, some programs around that incorporate elements of similarly direct 1 on 1 controlling. I am trying to pick these up in my work and put them together for a program which could be tested.

There is, for example, a program in Connecticut that takes, on early release from a juvenile detention facility, chronic delinquents with major felonies in their histories. The program has a good array of services that are likely to assist such troubled youths to readjust and make something of themselves. But it also has a very low staff-to-participant ratio, permitting very close monitoring of behavior.

In this program there are a series of classifications of security which the program delivers to the community and to which the youngsters must adhere. Upon entering the program, in the first and

most retraining classification which applies for the first 4 or 5 weeks, the participant must comply with a curfew beginning at about 8:30 in the evening. During the time outside of curfew, the participant is either with a program worker, at school, or at home, and every half hour or so the worker monitors where he is. Continued compliance with the rules permits entry into the second, less restraining classification. The process is repeated through four levels of security until, at the end of the program, a participant is responsible for controlling his own behavior. Failure along the way results in a participant being placed back into a more restraining classification where his behavior can be more directly controlled by the staff. Failure to get out of classification one on time can lead back to the training school. There is much more to it than this, but this serves to give the basic idea.

Obviously, the security provided by such a program must be more than a 9 to 5 concern. Let me give an example. The staff workers got worried about one of the kids shortly after he entered the program. The worker assigned to the case stationed himself outside the boy's house at about 10 o'clock, to check on the curfew. He saw the boy climb out a window and down a drainpipe and followed him as he went into a nearby park and started to stalk a young woman. He had had some accusations of rape earlier in his offense history, and when he closed in on the woman at a remote spot in the park, the staff worker seized him, brought him out of the park, put him in his car, and drove him back to the training school.

There are very few programs in this country that can deliver that kind of security. This is one of the very few that try. But it is easy to see how important it is to be able to deliver that kind of security. A serious crime was prevented, the kids in the program, including the one who was caught, were shown that there are consequences to their actions, and by controlling the behavior of this particular boy, the program avoided incurring the wrath of the community which would have made it difficult or impossible to continue its effort to help other chronic delinquents.

In a lot of programs, we gloss over such concerns because apprehending serious delinquents is difficult—even the police do not have a very good record on this. Perhaps this has not been touched on here, but the clearance rate—the percentage of reported crimes that are accounted for by arrests— is very low for serious crimes, and not just in the juvenile system.

Senator CULVER. Also you have the problem, as we heard in testimony on Monday, that there is rather a cavalier attitude, almost an arrogance, about the likelihood of any serious consequences, even when they are subjected to that process. This is particularly obvious among the more hardened types who have been run through the mill a couple of times. They do not have much respect for it.

Is that an additional factor?

Mr. SMITH. I take a researcher's somewhat skeptical view about that. I want to know more before I am prepared to say that that is a major problem.

When we come to apprehension, I think it is. Most serious crimes do not lead to an arrest. Getting away with felony crime can engender a cavalier attitude in offenders of any age or station. But when we talk about what the process does with kids who have serious records

and commit serious offenses, experience tells me that a lot of the evidence of revolving-door justice and of a lack of consequences from court process comes from journalistic reports on which I would be very reluctant to base policy decisions.

We have to look behind the gross statistics, and behind those anecdotes, to look at the system to see how well it distinguishes between the few serious offenders and others. I think it distinguishes better than we allow.

The people who work in this system take their jobs seriously, despite the pressures and sometimes despite their lack of training. They do not let armed robbers just walk out unless there is some kind of obstacle to their doing something about it.

The kids talk it up in a different way, the reporters pick up on that, and as a result we find ourselves with a policy problem. There is no question about that. But, really, is there a major problem of the courts systematically letting serious juvenile delinquents off lightly when there is proof of their guilt? I do not know. I think we need to find out.

Senator CULVER. Could you summarize what kind of research agenda is needed in the area of serious juvenile criminology? I see us do so much research, so many studies, and the quality of those studies shows that oftentimes they are not responsive even to the initial inquiry. Often they are not of a high quality at all, even if we know what we are looking for.

What sort of agenda would you set in terms of the areas in which we are now disturbingly deficient?

Mr. SMITH. It is a long list, I am afraid. Some of it is short term for immediate needs. Some is long term.

First of all, we need basic descriptive information about how the system processes the case that come to it. We do not have that, nor do we know what are the circumstances that underlie the felony labels attached to these cases at arrest. Did he wantonly attack a stranger, or was it a school-yard fight? Both can be felony assaults. You will see that most of my interest in research that would fill these knowledge gaps is because the research is necessary to make good policy and program decisions. That is the first item on my agenda.

Second, it seems terribly important that we do pick up on the leads that we do get out of research. Mr. Murray's research has provoked many fascinating questions from the UDIS program. Why do group homes do badly? Why do out-of-town places seem to have more promise? How can we capitalize on that? What, if any, differential effects are there from the continuity of case management that is a feature of the UDIS program? Are there some kids for whom it is better not to have that kind of continuity?

Those are questions that can and should be researched. Someone has to coordinate the process so that, as we proceed through it, there is a relationship between the research that is being done and the generation of new hypotheses and the testing of them in new programs.

In the long term, we want to know about some other things. What, for example, is the relationship between malnutrition—prenatal and in developmental stages—and learning disabilities and delinquency? A lot of the poor people whose reactions to multiple stress lead them

into our juvenile justice system may have a susceptibility to stress that has organic causes. That is a fascinating thing to look at. It should be looked at by those in the justice field as well as by those in the social and psychological disciplines.

We need more cohort studies, based on official records like the kinds that have been done in the past. We need them to be uniform across jurisdictions, in order to make comparisons.

We have to make studies into the strange phenomenon of the one kid in a multichild family who becomes a chronic delinquent while the others become doctors and lawyers and so on. If we had some idea on that, we might have some wholly different notions about programs.

I have spelled out a research agenda at somewhat greater length in my paper. I find it difficult to run quickly down the agenda in this way.

Senator CULVER. What type of demonstration projects could you suggest dealing with the violent or chronic offender?

Mr. SMITH. I think the most difficult and important question is how we can deliver some services, in the community, to kids who pose a physical security problem? I spoke earlier about the political risks and the operational difficulties of such projects. What does it mean if a kid in such a project goes out with a gun and robs a stranger? When you have a problem like that you want to find out why. You can't just move to exclude from the program kids who might escape your efforts to control their behavior and who might do something awful that puts the program in jeopardy. So, in such a demonstration project, you are not just interested in the cause of the child's delinquency, but also you want to find out why the program broke down. That is the project area where I think we need to give the most attention.

Senator CULVER. I want to thank you very much, Mr. Smith, for your appearance here today.

Mr. SMITH. May I just add one thing?

What worries me is the timelag. Chronic and violent juvenile delinquency present programatic issues that have been ignored for a long time. The communities are justly disturbed at the way program dollars are targetted. What, they ask, is being done to protect them?

If we do not devote sufficient funds and effort to apprehending, controlling, and reintegrating the chronic juvenile delinquents, we will find ourselves, in a few years, having deinstitutionalized everyone except these difficult kids and having said over and over that there are only some kids we have to lock up. At that point, if we haven't learned how to control their behavior except when they're locked up, how are we going to explain their release at the end of their terms? How are we going to explain our having nothing to release them to? The results will be very difficult politically. I do not mean politically in the large sense, but in the sense that projects created at that time, for those kids, will not survive such burdens unless the way is well prepared and the lessons are learned in advance. So now is the time we have to start work on that.

Senator CULVER. Thank you very much.

I want to thank all the witnesses for their informed and extremely valuable testimony. You have left us with some troubling questions with respect to the effectiveness of our juvenile justice system in dealing with serious youth crime.

In the past, a primary concern of the subcommittee has been the so-called status offender who engages in troublesome but noncriminal behavior such as defiance of parental authority, running away, or truancy.

The juvenile system has been legitimately criticized for treating the status offender too harshly, but the system is equally subject to criticism for treating the dangerous juvenile offender too leniently.

The testimony both Monday and today indicates that the juvenile system is not protecting the community adequately from the devastating effects of serious crime. Juveniles who constitute a serious threat to the public safety must be dealt with expeditiously in a manner consistent with the protection of the community.

There is a temptation to rely merely on increased incarceration in order to prevent serious offenders from endangering the community. Today's hearing indicates that confinement of such offenders in large secure institutions which are almost purely custodial in nature need not be the mainstay of a system which responds effectively to these offenders.

As one witness said in his statement, "The needs of the public and the youthful offender can be reconciled if we have the imagination to do so."

It appears that the public's need for protection and the offender's need for help are not mutually exclusive. It is essential that we develop a broad range of program techniques to meet the problems which these offenders bring with them into the system.

The message which these hearings have clearly transmitted is that serious youth crime should be a top Federal priority.

It is my hope and expectation that the Office of Juvenile Justice and Delinquency Prevention will supply more leadership in this area. While dangerous juvenile criminality is essentially a State and local problem, the Office of Juvenile Justice and Delinquency Prevention can fund research and demonstration projects in this area and provide the States and localities with the necessary technical and financial assistance.

The development of effective programs to control and prevent serious youth crime is enormously difficult and complex. However, we have paid and will continue to pay a tremendous price in terms of death, injury, property damage, and a pervasive sense of fear if we do not successfully meet the challenge of the violent and chronic juvenile offender.

Thank you, again. We appreciate your appearance.

The subcommittee will stand in recess until further call from the Chair.

[Whereupon, at 10:30 a.m., the hearing was recessed until call from the Chair.]

APPENDIX

APPENDIX A: PREPARED STATEMENTS SUBMITTED FOR THE RECORD

MONDAY, APRIL 10, 1978

STATEMENT OF ALBERT J. REISS, JR., WILLIAM GRAHAM SUMNER, PROFESSOR OF SOCIOLOGY AND LECTURER IN LAW, YALE UNIVERSITY

Youth crime has been a matter of major public concern in the past 20 years. More recently, attention has been focused on the serious youth crime problem. Before turning our attention to serious youth crime, it may be helpful to report a few basic facts about youth crime in our country.

Most young people at some time or another during their adolescence violate the laws against persons or property. For most, however, their offenses are not serious ones and they are not on the whole involved in serious violent offenses that harm persons.

The majority of young people who commit crime during their adolescent years pass out of committing crime in late adolescence; most young people do not become career criminals.

However, to a substantial degree America's crime problem is a youth problem. This is so not only because a substantial proportion of all crime is committed by youth under the age of 18, but also because the adult offenders of tomorrow are the youthful offenders of today. Though we cannot measure the proportion of persons coming into a population of offenders for the first time at every age, it is doubtful that even 1 percent of the offenders who commit index crimes after age 18 are newcomers to offending.

HOW MUCH DOES YOUTH CONTRIBUTE TO THE CRIME RATE, PARTICULARLY TO SERIOUS CRIME?

There seems little doubt that a substantial proportion of all crime known to the police is committed by youthful offenders, but what we know about youthful contribution to the crime rate unfortunately comes only from official statistics on their arrest. Several things complicate our estimating their contribution to the arrest rate; (1) juveniles are more likely than adults to offend as a member of a group and the chances that more than one juvenile therefore will be arrested for the *same* offense is greater than for adults; (2) juveniles are more likely to be rearrested within the same reporting period and thus the same individual may be counted more than once; (3) many crimes committed by juveniles and adults are not reported to the police, and only a relatively small proportion result in arrests.

The amount of crime contributed by young people is very disproportionate to their numbers in the U.S. population.

While youths 15 to 18 years of age made up about 7 percent of the U.S. population in 1976, they accounted for 16 percent of all arrests for violent crimes against persons (criminal homicide, forcible rape, robbery, and aggravated assault) and for 46 percent of all major crimes against property (burglary, larceny-theft, and motor vehicle theft).

Middle and late adolescents are disproportionally involved in almost all criminal activity, but their extent of involvement varies by the type of crime. Basically, the more serious the crime in terms of harm and threat of harm to persons and their property, the older the age of onset and of arrest for the crime. The peak age of arrest is at somewhat older ages for crimes of violence against persons than for crimes against property. Except for homicide, where the peak age of arrest is age 20, the peak age of arrest is 18 for crimes of rape, robbery,

and aggravated assault. It falls to age 16 for the crimes of burglary, larceny and motor vehicle theft, and to 15 for vandalism.

The National Crime Victimization Survey conducted by LEAA and the bureau of the Census gives us additional information on the age of offenders. Since victims estimate the age of offenders when it is not known, there may be considerable error in victim estimates. These are nonetheless the best estimates we have of the age of offenders for offenses that are not known as well as those that are known to the police. If we assume that rapes with theft, robbery with a weapon, and serious assaults with a theft and/or a weapon are serious crimes, then a fairly substantial number of youths under the age of 18 are involved in them. About 7 percent of all rapes with theft reported on the National Crime Survey are committed by youths either alone or in groups, where the oldest was under 18. For an additional 4 percent of all rapes with theft, at least one of the members was under the age of 18. For robbery with a weapon, all offenders were under the age of 18 in 15 percent of all such robberies and in an additional nine percent (or 1 in 4 robberies) at least one member was under age 18. For serious assault with a weapon and theft (crimes involving both a robbery and an aggravated assault) 18 percent (or 31 percent of all such offenses) at least one member was under the age of 18. Aggravated assault with a weapon and no theft was committed by offenders under the age of 18 in about 1 in 5 such offenses; about 1 in 3 such offenses had at least one member under the age of 18.

WHO ARE THE SERIOUS YOUTHFUL OFFENDERS?

Serious offending rates are far greater for males than females; serious offending rates, particularly those for violent crimes against persons, are much greater for minority than for white youths; serious youth offenders are disproportionally concentrated in the central cities of our major metropolitan areas; and black youth are far more likely to be chronic recidivists than are white youth.

WHAT ARE THE TRENDS IN SERIOUS YOUTHFUL OFFENDING?

There are two types of trends we have reason to believe are underway. First, starting in 1960, youth crime grew dramatically. For example between 1966–1976 the arrest rate (unadjusted) for violent crimes by persons under age 18 more than doubled (118 percent). However, since 1975, there appears to be a lessening of the growth in serious offending that may signal a leveling off, if not actual decline in the rate. Due to changes in the birth rate, youth will contribute a lesser proportion of the total in the years ahead.

Uniform Crime Reporting statistics are not very suited to assessing trends in the crime rate, partly owing to the changes in their reporting base over time. Thus it is difficult to determine the amount of change precisely.

Nonetheless, beginning in late 1975 and early 1976, growth in the homicide rate slowed and for more than one-half of the reporting jurisdictions in the United States, it actually declined:

There is a slowing in the annual rate of growth in major crimes against the person and property, so that we may anticipate stabilization or decline in the crime rate in the years ahead if these trends continue:

The amount of serious youth crime will actually fall due to changes in the birth rate;

But, it will fall less for violent crimes against the person than property due to the lag in the black birth rate.

Second, there appear to be changes in the composition of the offending population.

Due to changes in the birth rate where the black population will continue to grow while the white population is below replacement levels, proportionately more of the offending population will be black in the next 2 decades than in the past;

The rate of serious offending is increasing at a greater rate for females than males, though their respective rates are unlikely to approach parity in the next decades;

Arrests for serious juvenile offending are increasing at a greater rate in the suburbs than in central cities; however, violent offenses against persons, which are primarily concentrated among the poor and particularly minority males, remain largely concentrated in central cities.

WHO ARE THE VICTIMS OF SERIOUS YOUTH CRIME?

We have suggested that serious crimes are those that pose substantial threat of harm to persons and their property; they are crimes that objectively involve substantial injury, damage, or loss to persons. Yet most of us might agree that how substantial a loss is depends not only on WHAT I lose, but HOW MUCH I HAVE to lose.

There are two types of forgotten victims in our country who objectively may have less to lose on the average but who relatively have more to lose, the young and the old. The very young are particularly forgotten as victims since they rarely appear in our statistics of persons reporting crimes to the police. Yet it undoubtedly is the one group in our country where the threat of extortion of small amounts under threat of bodily harm induces both high levels of fear among the young and is regarded as very serious crime. Continuing threats of coercion, extortion, or of repeated victimization may be regarded as far more serious than the crime itself.

One of the reasons why young people must be regarded as forgotten victims is that for the most part crimes against them are not known to the police. Parents and school officials as well as peers prevent them from reporting their experiences with crime. Recent victimization surveys give us an opportunity to conclude that much serious crime against young persons goes unreported, though precisely how much is difficult to say.

Like all serious crime, it is most evident for younger males in the central cities of our larger metropolitan areas. A recent study of victimization of 13 and 14 year old white and black males and their families in Philadelphia by Leonard Savitz and his co-workers at Temple University, a study funded by the National Institute of OJJDP, provides a rather startling picture of how serious crime can be against young persons. For the 13 and 14 year old black juveniles who reported being victims, they are particularly striking; about 1 in 3 were robbed, most of them by armed robbery where a knife or gun was used by actual assault. About 1 in 5 experienced an assault and 1 in 12 paid some form of protection. Equally striking is the fact that over one-half of all 13 and 14 year old black youth in Philadelphia were fearful of the streets more than a block from their home, and of the subways, parks and streets going to and from school. About 44 percent of all youth reported the school yards as dangerous and about 1 in 3 that the hallways are dangerous. Even allowing for some exaggeration of fear, the young fearing the young poses a serious problem in our cities. Robbery, extortion, and assault characterize crimes of somewhat older against younger persons and of groups or gangs against others when they are vulnerable.

Information from the National Crime Survey (NCS) indicated that young victims are almost always victimized by young offenders. What may be surprising is that the rates of robbery with injury reported in the NCS are about 3 per 1,000 white and 6 per 1,000 black youths age 12 to 15 and age 16 to 19. For blacks these rates are as high as those for persons age 20–24 and for whites they are only slightly lower. These rates of robbery with injury are the highest reported for any age group in the population. Perhaps equally startling are the substantial rates of aggravated assault. For white youth in 1973, the rates were 14 in 1,000 youths age 12 to 15 and 23 for those age 16 to 19; comparable rates for black are 27 and 37 per 1,000 youths. These rates for 16 to 19 year olds are the highest reported for any age group and the 12 to 15 year rates are second highest for blacks and about equal to those of 20 to 24 year olds for white youths.

While the very old have much lower rates of victimization than the young, they are particularly vulnerable to youthful offenders in crimes of robbery and purse-snatching. Indeed, of the crimes of robbery committed by youthful offenders, old and young victims are disproportionately represented.

STATEMENT OF WALTER B. MILLER, CENTER FOR CRIMINAL JUSTICE, HARVARD LAW SCHOOL

Mr. Chairman and members of the Senate Subcommittee on Juvenile Delinquency: My name is Walter Miller. For the past 3 years I have been conduct-

ing a national-level survey of violent and predatory crime by members of youth gangs and other types of youth group in major cities in the United States. The survey was sponsored by the Office of Juvenile Justice and Delinquency Prevention of the Law Enforcement Assistance Administration. In the course of the survey I visited 24 major cities in all regions of the country. I talked to 445 people belonging to 160 different agencies representing a broad spectrum of youth-serving agencies—public and private, criminal justice and social service. Included were police officers, community outreach workers, judges, criminal justice planners, probation officers, prosecutors, defenders, educators, city council members, state legislators, ex-prisoners, past and present members of gangs and groups, and many others. Approximately one half of those I spoke to were members of 3 major minority groups—blacks, Hispanic, and Asian.

I think I can briefly sum up the major thrust of my testimony by saying that the bulk of serious violent and predatory crime in the United States today is committed by youths (that is, persons 21 and under), that the bulk of youth crime is collective (that is, committed by members of groups), that *no* systematic information is currently being gathered anywhere in the United States as to the forms, extent and impact of serious collective youth crime, and that as a consequence of this, there is absolutely *no* effort being made at either local, State, or Federal levels, to develop policy geared specifically to coping with the devastating consequences of collective youth crime.

I would like to devote the rest of my remarks to documenting these assertions, and to propose some initial steps toward remedying what I see to be a major and fundamental gap in contemporary efforts to understand and ameliorate problems of violent and predatory crime.

The assertion that those forms of crime commonly known as "street crime" constitute a domestic problem of the first magnitude has been repeated so often as to have lost its impact on much of the public and many lawmakers. But it has not lost its impact on those American citizens who are now suffering through, for the first time or as a repeated event, the experience of being victimized by a strongarm robbery, a pocketbook snatch, the theft of and/or damage to their automobiles, the burglarizing of their homes, the extortion of their businesses, the damaging or destruction of their homes, their automobiles, their schools, their playgrounds, their churches.

And it has not lost its impact for those hundreds and thousands of American youths whose present lives are being seriously impaired, and future lives seriously jeopardized by their involvement in repeated acts of crime, and the often devastating consequences of being swept up in a criminal justice system which in many cases has proved to be woefully inadequate in providing them either justice, or security, or effective rehabilitation.

Damage both to offenders and victims is incalculable. Out of the mass of evidence concerning the powerful impact of street crime on the lives of ordinary people I would like to note a recent Gallup poll which queried city dwellers as to their future plans. More than one-third said that if they had the chance they would like to move out of the city. Although on a nationwide basis crime was second to overcrowded conditions as the reason most frequently given, concern over crime was found to be growing, and was clearly the dominant reason in the larger cities. Two people in 10 cited crime as their major reason for wanting to leave, compared to fewer than 1 in 20 giving this reason 20 years ago. In the core areas of the big cities, 40 percent cited crime as their major reason. During the past 20 years huge numbers of city dwellers have acted on their desire to leave, with profound consequences. More and more the central city areas are populated by those least able to leave, with direct and monumental impact on housing conditions, welfare costs, unemployment rates, educational circumstances, and the overall quality of city life. In another poll, 53 percent of the residents of the largest cities said that they were afraid to walk alone at night in areas a mile from their residence; 58 percent of females nationally expressed such fear.

In order to get some idea of what proportion of street crime is the work of youth groups, we need answers to two questions: How much serious crime is committed by youths, and what proportion of this is group crime? Recent statements that about half of major crimes are currently accounted for by juveniles actually underplay the youth crime picture—since they generally omit from consideration persons aged 18 through 20—not "juveniles," but certainly youths. Let's look at four of the highest volume offenses designated as "Part I," or

most serious crimes by the FBI. In 1976, persons under 21 accounted for 72 percent of all arrests, nationwide, for burglary and auto theft, 60 percent of arrests for larceny-theft, and 57 percent for robbery, the most violent of the high-volume offenses. For persons under 25 the figures are, 84 percent for burglary and auto theft, 76 percent for robbery, 74 percent for larceny.

It should be noted that for the first time in history we now have an independent check on the validity of the FBI arrest figures, which are often called into question on the grounds that crime reporting by local police departments may be inaccurate to various degrees. This check is found in the systematic victimization studies conducted by census bureau during the past 5 years—which obtain data on crime directly from victims, completely bypassing police sources. In many of the areas where arrest data and victimization data are directly comparable, there is a surprising degree of correspondence between the two. For example, where 1976 arrest figures show that minors account for 57 percent of robbery arrests, the victimization studies, using a somewhat different type of categorization, show that for robberies reported by victims to have been committed by two or more persons, between 45 percent and 65 percent of offenders were minors—figures close to the arrest figures.

It should also be noted that auto theft, for which ¾ of arrests are of youths, and which is often dismissed as "joyriding," increasingly means permanent rather than temporary theft of the vehicle. In 1977 only about 59 percent of the value of stolen automobiles was recovered, compared to 86 percent just 10 years before.

Of this enormous volume of youth crime, what proportion is "collective" rather than individual? As noted earlier, there is little systematically collected information on this, but what information is available points in a consistent direction. A 1977 study of burglary offenses by the Criminal Justice Research Center at Albany showed that for burglaries where offenders were under 17, 80 percent involved multiple offenders. The St. Louis Police department, one of the few to collect information on group offenses, reports that 65 percent of juvenile felonies were committed by members of groups. A recent study, also by the Albany research center, gives data on participation in the four high-volume offenses just noted. For urban male offenders, the proportion of youths reported as committing crimes "usually or always with others" was 89 percent for robbery, 84 percent for burglary, 91 percent for larceny over $50, and 77 percent for auto theft.

In the past, the major approach to problems of collective youth crime has been through the concept of "the gang." This notion was never very satisfactory, and has become increasingly unsuitable. To meet the task of describing and estimating the criminal output of the enormous number and variety of youth groups in the country today, our survey has proposed the notion of the "law-violating youth group" to replace the "gang" as the major unit of examination, and has developed a preliminary typology of 18 of the most prevalent forms of youth collectivities. These types are presented in Chart I.

Note that of these 18 (which include subtypes of 12 major types), only three are designated as "gangs"—Turf gangs, Gain-oriented Gangs, and Fighting Gangs. What is the difference between "gangs" and "groups"? According to our detailed analysis of definitions provided by over 300 practitioners in all parts of the country, gangs have five features which distinguish them from other types of groups. These are: being formally organized, having identifiable chain-of-command leadership, claiming a turf, associating continuously, and being organized for the specific purpose of engaging in illegal activity. In fact, only a relatively small number of the hundreds and thousands of law-violating youth groups in the United States today fit these criteria. But the fact they are *not* considered "gangs" by commonly accepted criteria does not mean that they don't pose crime problems. To get some notion of the amount of crime accounted for by gangs as distinguished from other types of youth groups, the two will be considered separately.

First—where are the gangs, and how many are there? Chart II shows the situation in 23 surveyed cities as to crime problems with gangs and groups. Column 1 lists 9 cities which have major gang problems. These include the four largest—New York, Chicago, Los Angeles, and Philadelphia. Problems are extremely serious in Los Angeles, remain serious in Chicago and New York, and have slacked off somewhat in Philadelphia. In addition to the 9 cities in Chart 1, an additional 5 or 6 cities, not surveyed, including Buffalo, El Paso, and

Jersey City, probably also fall into this category. In these 15 cities there are an estimated 1,200 youth gangs with about 52,000 members. The size of the average gang ranges from about 60 for New York and Los Angeles to about 10–15 for Boston and San Francisco. Of the approximately 52,000 gang members, about 43,000, or 80 percent, are in the three largest cities.

What proportion of serious youth crime do gang members commit? Arrest figures are available only for the 3 largest cities. In 1974, the latest year for which figures are available, arrests of gang members in the three cities for the four Part I violent crimes (murder, aggravated assault, forcible rape, robbery) were equivalent to about one-third of all juvenile arrests for these offenses. Los Angeles showed the highest proportion, with gang member arrests amounting to about 45 percent of juvenile arrests for the most violent crimes.

There is virtually no carefully collected information on the numbers of groups other than gangs and the amount of crime they are responsible for. Estimates based on what information we do have, however, indicates that their numbers are enormous, and the amount of crime they commit represents the bulk of serious violent and predatory crime in the country today. We can get a rough idea of the nature of the group problem by looking at three of the types of Chart I—disruptive local groups, burglary rings, and robbery bands. Of these, our survey inquired specifically about only one—disruptive local groups, often called "street corner" groups or gangs. Estimates based on survey figures indicate a figure of about 27,000 such groups in the 15 gang problem cities, with a total estimated membership of approximately 400,000. This figure represents about 20 percent of the male youth (10–19) population of these cities, compared to a figure of about 3 percent to 5 percent for gang members. On the basis of these figures we get an estimate, for this type of group alone, of about 22 local groups for every gang, and 8 group members for every gang member.

Bear in mind that these figures apply only to those 15 cities with recognized gang problems. There are about 100 cities in the United States with populations of over 100,000 and about 250 with populations of over 50,000. Every one of these has many such groups, so that we are talking about tens of millions of group members. Not all of these groups, of course, engage repeatedly in serious crime. However, the enormous volume of relatively low-level offenses many are involved in adds up to a monumental problem. In a single city, Boston, police during a recent year responded to 58,000 complaints of group disorders—about 160 incidents a day, 365 days a year. An offense particularly characteristic of such groups is vandalism. Group members destroy and burn hundreds of millions of dollars of residential, school, and other property every year.

The number of youthful burglary rings in the United States appears to have burgeoned in the past decade, with burglary now overwhelmingly a youthful form of crime. The average burglary ring consists of 4 to 5 youths aged 13 to 18; the average age is 15½. The poverty of information as to the numbers and criminal activity of burglary groups is particularly striking. One very limited study of incidents selected from 250 reported arrests of burglary ring members in over 200 cities in 40 States indicated that the average ring had committed 40 breaks before being arrested, and that the average value of stolen goods was about $40,000 per group.

Youthful robbery bands are less prevalent, but far more terrifying, and thus receive more attention. Respondents in survey cities cited problems with robbery groups more often than any other type; New York newspapers in a recent year printed six stories about robbery bands for every burglary ring story. Similar in size and age to burglary rings, these are the groups which roam the streets and transportation systems of major cities, mugging, snatching purses, holding up gas stations and liquor stores, robbing and beating the elderly. Again, reliable information on the numbers of these bands and the amount of robbery they engage in is almost nonexistent, but their ubiquity in cities such as New York, Washington, Detroit, Newark, Pittsburgh and others is a major reason for the pervasive fear of walking the streets in these cities, noted earlier. The activities of these groups entail a particularly high likelihood of violence, and as the elderly increasingly are their victims, of crippling injuries and death.

How can we explain the existence of collective youth crime, and what can be done about it? As is the case for many of our pressing domestic problems, there is very little consensus among experts as to causes and cures. Explanations and program proposals are closely related, since the way one chooses to explain the causes of the problem directly influences the kinds of remedies one proposes.

There are first of all a set of classic academic controversies among proponents of physiological, psychological, social, and cultural explanations. But when policy is ones' major concern, two sets of controversies are particularly important—differences between advocates of "root cause" and "permissiveness" explanations, and differences between advocates of grass-roots citizens' programs and advocates of government-controlled programs.

"Root cause" proponents see youth crime primarily as a product of basic social defects such as inequalities in wealth and privilege, racial and ethnic discrimination, unequal application of justice, denial of opportunity, and the like. The basic policy prescriptions which follow from this diagnosis centers on comprehensive measures to alleviate poverty, provide equal adequate employment opportunities for all, insure the just and equitable operation of criminal justice, dealing with offenders in a community context to the maximum possible degree, and the like. The "permissiveness" position sees youth crime primarily as a consequence of an increasing deterioration of moral standards and a widespread failure to enforce adequate discipline and develop a sense of personal responsibility by virtually all the major social institutions, including the family, the school, and the criminal justice system. Policy proposals following from this diagnosis center on a revitalization of basic moral teachings in the home, school, and church, a return to basics and disciplined policies in education, and a "hard-line" approach to habitual offenders, with expanded arrest campaigns, judicial decisions focussed on the rights of victims rather than offenders, and assured incarceration in secure facilities.

Proponents of the "grass-roots" position see the genesis of youth crime problems in the conditions of the local community—deteriorated housing, lack of adequate recreational facilities, inferior schools, the powerful lure of street culture, the absence of satisfactory adult role models. Grass-roots advocates call for massive infusions of funds directly to the local communities, community-based programs run primarily by citizens, and freedom to design and execute such programs with a minimum of professional or governmental interference.

Governmental program advocates see the genesis of crime problems not in the unique circumstances of the local community, but in very broad and general conditions which can be materially affected only at higher levels. These include the overall economic situation which affects employment, income, and funding of services, governmental resource-allocation policies, the general tax structure, governmental health, welfare, and educational policies, and the like. Major policy decisions, and major implementation, must be the primary responsibility of competent professionals operating at the higher levels of government.

My reasons for citing these opposing positions is not simply to remind you of a set of controversies with which we all are too familiar, but rather to point out that these differences are there, exert an enormous influence on attempts to develop effective policy, and must be recognized by those responsible for policy formulation. In order to be politically viable, proposals must take into account the existence and vitality of these opposing positions. To take an inflexibly partisan position, to ignore either side, is to greatly reduce the chances of developing a crime-control policy which has any realistic chance of surviving the realities of the political process, and, ultimately, to achieve the goal of reducing serious youth crime.

My own policy proposals are based on attempts to reach a middle ground between these opposing prescriptions, and to develop policies which incorporate aspects of both the root-causes and permissiveness schools, and of the grass-roots and governmental approaches.

Some time back I forwarded to some of the President's advisors a proposal for new Federal initiatives with respect to serious collective youth crime which is based on these principles. Its details are rather too specific for the purposes of these hearings, and I will ask that it be entered into the record.[1] While the major arena of prevention and control programs is the local community, the proposal calls for specific and differentiated actions at the Federal, State, city and local neighborhood level and a systematic articulation of these efforts. I was pleased to note that the basic thrust of these recommendations corresponds closely to the spirit of the President's recent urban policy proposals, which call for a new partnership between all levels of government and local communities as the basis for a renewed attack on the pressing problems of our cities—among

[1] See p. 262.

which the problem of collective youth crime must certainly be seen as one of the most serious.

STATEMENT OF VICTORIA H. JAYCOX OF THE NATIONAL COUNCIL OF SENIOR CITIZENS

My name is Victoria Jaycox and I am the director of the Criminal Justice and the Elderly Program conducted by the National Council of Senior Citizens. Our program, which is part of NCSC's Legal Research and Services for the Elderly, is participating in a national program aimed at combatting crime against the elderly.

We are very encouraged that the U.S. Congress is concerned about what crime is doing to our senior citizens. In recent years, public and private agencies across the country have begun a counterassault in response to this problem. Our program began in 1977 when four Federal agencies—the Administration on Aging, the Department of Housing and Urban Development, the Community Services Administration and the Law Enforcement Assistance Administration—initiated an unusual coordinated program to alleviate the problem. AoA and CSA funded seven projects to reduce crime against the elderly in six cities: New York, Chicago, Los Angeles, Washington, D.C., New Orleans, and Milwaukee. HUD and LEAA, with support from the Ford Foundation, made it possible for the National Council of Senior Citizens to establish in its Washington headquarters the Criminal Justice and the Elderly Program, a research and resource center serving the six cities' demonstration projects and others.

I want to talk to you today about the role which juvenile offenders play in this serious problem. Since our research is only just underway, I will rely in great part on statistics gathered by others on the amount and extent of juvenile crime against the elderly.

THE PROBLEM OF JUVENILE CRIME AGAINST THE ELDERLY

Until very recently, most of our information on juvenile crime against the elderly resulted from a number of smaller studies of the problem in cities such as Wilmington, Houston, Kansas City, Mo., Boston, and Detroit. While a great deal of interesting qualitative data was collected in these studies, the most reliable source of statistics on the actual incidence of the problem is the National Crime Panel surveys financed by the Law Enforcement Assistance Administration. The first of these victimization surveys was conducted in 1973 when data about persons' actual experiences with crime were collected by the Census Bureau from nearly 375,000 respondents.

A recent analysis of this data which looks at personal crime against the elderly (by researchers Antunes, Cook, Cook and Skogan) distinguishes between *violent* crimes against the elderly (defined as assault and rape) and *predatory* crimes (robbery and larceny). They conclude that 28 percent of violent crimes against persons 65 or older are carried out by youths (persons under 20 years of age). This percentage is larger than that committed against persons aged 21 to 49 but is not nearly as large as the amount of violent crime young people perpetrate on each other. Contrasted with the figure of 28 percent of *violent* crimes, however, is the finding that 51 percent of the *predatory* crimes against the elderly are committed by youths. Again, young criminals commit most of their predatory offense against their peers, but the fact that they thereafter victimize the elderly in such relatively large numbers is very troubling.

Another finding of interest from these victimization surveys concerns crimes committed by gangs as opposed to individual youths. Elderly victims said that 16 percent of the violent crimes and 21 percent of the predatory crimes were carried out by gangs of three or more persons. This amount was about the same as the *violent* gang victimizations of other age groups but was *less* than the amount of *predatory* crime by gangs on other age groups. Thus, the researchers conclude that a great deal of the crime against older persons is committed by young persons acting alone.

From this study and the others already mentioned, we are also learning more about the nature of this pattern of torment. For one thing, the overall picture is that juvenile crime against the elderly is neither as widespread nor as violent as some of the media reports would have us believe. This is not to discount the horror of the kinds of incidents such as Oakland, California's "Wolfgang" which over the space of several months in 1975 systematically brutalized a long line

of elderly robbery victims. It is, however, to say that these incidents are relatively isolated and infrequent and do not constitute what might be considered a "typical" crime against an older person by a juvenile.

One fact which reoccurs in the studies is that a high concentration of crime against the elderly committed by juveniles takes place in "pockets" in our major cities, in poor or transitional inner-city neighborhoods. The crimes are fairly predictable in their timing, being concentrated around regular monthly payments to social security or welfare recipients and around their regular daily routines.

In addition to being localized, another typical characteristic is that the criminal and the victim both come from the neighborhood where the crime occurs, due to their lack of mobility. However, the juvenile attacker is very likely to be a stranger to the victim. The juvenile offender is often black and male and his elderly victim is almost as typically black and female, a not too surprising finding in light of the racial composition of most of these neighborhoods. However, the LEAA surveys have also found a higher incidence of black on white crime among elderly victims than among other age groups.

Some studies have attempted to understand the motivation of the juvenile delinquent who chooses an elderly victim. Several reasons have emerged. The most common one is because they're there, and because they're easy. When inner city and transitional neighborhoods are composed of large percentages of juveniles and elderly, this kind of crime is all too predictable, particularly when the relative vulnerability of the elderly is considered. Juveniles also choose the elderly because they believe that if they are caught, the older victim will not be able to identify them. This pattern is generally one of an "income transfer" with no particular malice on the part of the young thieves, or at least most of them—although the elderly victim, of course, frequently perceives a high degree of intentional cruelty in such robberies, an emotional response which is often as consequential as the loss of income itself. The data from the LEAA surveys confirm this conclusion, since the crimes most often committed are "predatory crimes" intended only to gain a person's property through whatever means are necessary.

Another reason for youth-on-elderly crime which emerges from our research is the perception—or more accurately, misperception—on the part of many juveniles that the elderly possess a great deal of wealth which they are hoarding. Police in several major cities have told our researchers that this misperception may be resulting in an increased number of multiple crimes against the elderly. For example, a residential robbery is accompanied by an assault or property destruction in an attempt to wrest the hidden treasure from the victim or in the robber's frustration at not finding anything of value to be taken. Here, of course, the motivational pattern of the young robbers shift; terrorism now becomes a tool of their trade. The groups of youngsters who conduct "push-in" robberies, or who perversely threaten retaliatory violence if the victims report the crime, probably remain a small minority. But because they seem to be concentrated in certain neighborhoods, and seem so barbarous in their cruelty, they have produced a widespread sense of outrage.

In a larger context, this localized form of assaultive exploitation of the vulnerabilities of old age may merely be a manifestation of the widening breach between the generations, resulting from the breakdown of the extended family in this country. That change is often most wrenching in poor communities, since many sustained the institution of the extended family longer than others (along with the cultural values ascribed to old age), and yet have just recently become the primary battlegrounds in this one-sided, generational warfare.

But from our perspective there are other reasons for great concern about crime against the elderly. Crucial to this perspective is the terrible impact which even a minor crime can have on an older person. Such a crime can cause a major life crisis for the victim, financially, physically, and emotionally. Unlike a younger person, their wounds do not heal quickly. Even a small monetary loss can mean the difference between eating and going hungry for the month. And the fear in an older person aroused as a result of a crime can have a debilitating effect which lingers for the rest of his life. That is the true "violence" which crime inflicts on elderly victims—and it is a far larger problem than the "violent" depredations committed by juveniles. That, I think, bears emphasis. The violent offender is a frightening creature, as these hearings bear witness. But we should not allow that kind of delinquent to distort our percep-

tions: far more mayhem against the elderly is committed by nonviolent, predatory youth than by violent ones because there are far more of the former. And, from the victim's perspectives, all of these violations have a high potential for acute distress.

It is easy to understand why an older person who has been victimized or is in predictable danger of such victimization can be paralyzed with fear of crime and may radically alter his life style to avoid any threat of crime. What is less easy to explain are those similar behavioral changes among the elderly who have not been victimized and who live in areas where the danger of becoming a victim are minimal. It is clear that these elderly fear crime far out of proportion to the actual risk of its occurrence.

We don't presently know why this is happening, or, more importantly, how to reduce such self-inflicted suffering to a more "reasonable" level. But in seeking answers, we should examine closely the role which the media play in the depiction of crime against the elderly. It is possible that fear of crime among the elderly is being exploited by the media through inflammatory coverage of those isolated stories of violent crime which do exist. Anyone who doubts the potential harm which the media can do in this respect should watch a report to be broadcast by CBS television on April 26, 1978. Entitled "Seige," it portrays a juvenile gang in New York which stalks and terrorizes elderly victims. However descriptive of actual conditions in a few wretched neighborhoods, such depictions have thus far induced far more fear than remedial action.

And that, we believe, is the primary danger faced by the elderly—a pervasive sense of fear which drives them into further isolation, which, in turn, provides them increasingly little security and less comfort. Perhaps, the major enemy, then, is not the youth gang but a cycle of reduced social involvement and fearfulness. Although the elderly are the most abused victims of this pattern, the fact is that many city dwellers have abandoned their streets and their neighborhoods to the predators. To reclaim our turf, criminal justice agencies have a role to play, as do crime prevention specialists and those of us who work with subpopulations like the elderly. But to serve all these constituencies well, it will probably be essential to build neighborhood coalitions determined to establish, or re-establish, a protective social network that simply will not countenance the kind of crime which is the subject of this hearing today.

THE NATIONAL PROGRAM TO COMBAT CRIME AGAINST THE ELDERLY

The problem of juvenile crime in this country has traditionally focused only on the juvenile offender—on preventing his delinquency or on rehabilitating him after a crime. We have no real argument with this focus or with augmenting and improving it as much as possible. But this approach is long-range and does little about a problem for which our elderly need an answer today. Thus, our program has chosen to focus on victims rather than offenders in order to act immediately to lessen their danger and ease their hardships.

In order to provide immediate aid to the elderly, our seven demonstration programs have adapted anti-crime techniques to the neighborhoods they serve. And while each has unique features, all of them serve their elderly constituents in four broad areas:

Helping the elderly avoid victimization.—The elderly are considered low-risk, easy prey by juvenile delinquents and other criminals. Thus, a major goal of our projects is to change the elderly from being easy targets and to reduce the *opportunities* for crime against them. The projects accomplish this goal through education, by teaching them where the real risks are and how to avoid them and by making their homes more secure against simple opportunistic crimes. By raising the risk of these crimes for juveniles, we hope to be able to lower their incidence.

Re-establishing the social network of the neighborhoods.—Isolated individuals are more vulnerable to crime than people in groups. However, the social disintegration and sense of alienation which pervades many big city neighborhoods makes isolation a way of life for many elderly. Our projects recreate a sense of community around the idea of protecting each other and the elderly from the threat of crime. They are attempting to form and keep alive intergenerational block clubs and to stay in contact with each other, both in order to reduce crime and to ease the fear of crime.

Aiding the elderly victims of crime.—Our projects are responding to the real fact that for many elderly even a so-called minor crime can cause a major crisis which calls for an immediate response in order to prevent lasting damage. In cooperation with police and social service agencies, all of the projects are offering real and tangible assistance to these victims, often within hours of a crime.

Reforming public policies.—An important goal of our program at both the national and local levels is to convert an experimental idea into a normal public service. In order to do this, persons at all levels must be made aware that of all the social groups harmed by crime, few are victimized more cruelly than the elderly. In addition, we are demonstrating that well-conceived service programs can reduce this damage considerably. We are, therefore, working in the six cities and nationally to convince the public at large that such programs should be established and maintained in every high-crime urban neighborhood—perhaps in every community in the country.

RECOMMENDATIONS

I have already described our program's bias on how to address elderly crime by juveniles: the urgency of the problem requires programs and research which focus specifically on the elderly. For this reason, our recommendations for action in this area also concern the elderly. There are several kinds of programs which we recommend be adopted in major urban areas:

Programs which provide the elderly with education on strategies to prevent crimes of opportunity against them. This education must be designed so that it does not raise the already high levels of fear which exist among the inner city poor, and should provide a realistic picture of what is safe as well as when and where the risks are greatest.

Programs which attempt to rebuild neighborhoods by stimulating a sense of community and involvement in preventing crime among the residents of every generation.

Victim assistance programs which can respond immediately to the needs of elderly and other special victims and which will serve not only to rehabilitate offenders, but will also aid victims and create intergenerational communication.

In the area of legislation which will assist elderly victims, we are advocating, at both the State and Federal levels, for changes in victim compensation legislation which will better meet the needs of the elderly. At the Federal level, there is currently under consideration in the Senate Subcommittee on Criminal Laws and Procedures a victim compensation bill which is the companion to the bill passed by the House on September 30, 1977 (H.R. 7010). Known as the Humphrey-Kennedy bill, S. 551 would provide a Federal share toward a State's costs of paying compensation to victims of crime.

It is clear that a Federal victim compensation law will provide a strong incentive to States not only to finance such compensation programs but also to conform to the provisions included in a law. We, therefore, believe that it is critical that a number of provisions should be included in this bill which will be responsive to the needs of elderly victims:

The bill should include a simplified mechanism for providing emergency assistance funds for victims for such items as food, medicine, rent, utilities, and other essentials;

The bill should not establish a minimum loss from a crime as a requirement for compensation;

The bill should provide for compensation of essential property which is lost as a result of a crime.

We urge you to support these provisions in order to make this a victim compensation bill which is meaningful to victims of all ages.

We appreciate the opportunity you have given us to speak about the problem of juvenile crime against the elderly and about our program.

STATEMENT OF ROBERT F. LEONARD, PRESIDENT, NATIONAL DISTRICT ATTORNEYS ASSOCIATION

The following are my positions and do not necessarily represent the positions of the National District Attorneys Association.

PROSECUTORIAL INVOLVEMENT

Vigorous representation of the State's interest by the prosecutor—as opposed to social workers and other non-attorneys—would, in my opinion, do much to protect the public's interest and safety in cases of violent offenders and non-violent chronic offenders. Unfortunately, many States have been slow to abandon the informal, non-adversarial nature of their juvenile court proceedings and have made very limited or no provisions for representation of the State's interest, i.e., representation by prosecutors. The result has been a lack of vigorous, effective representation of the State's interest in all cases including those of violent and repetitive offenders. Since juvenile court proceedings are now supposed to be adversarial in nature, it is vital that the interests of the State be adequately represented. To accomplish this, a prosecutor should participate in every proceeding of every case in which the State has an interest. Despite being a vigorous advocate, however, the juvenile prosecutor should not lose sight of the philosophy and purpose of the juvenile court in insuring the best interests of the youth.[1]

At the intake stage the juvenile prosecutor should be available to advise the intake officer of the legal sufficiency of the case.[2] If a case is not legally sufficient the prosecutor, working with the intake staff, may be able to advise the police as to what additional evidence must be produced to make the case legally sufficient. Thus, I believe that there is a category of cases against violent or chronic offenders that are now unsuccessful because of lack of legal sufficiency which could potentially be successful if there were increased prosecutor-intake-police communications at the intake stage.

The juvenile prosecutor, and not the intake worker, should make the final decision regarding whether or not a petition seeking an adjudication of delinquency should be filed (although intake workers could make decisions to divert on their own as long as prosecutors were available to advise as to legal sufficiency). This will greatly lessen for likelihood that legally insufficient cases will be filed. Thus, the court and prosecutor will be devoting more time and resources to *meritorious* cases against violent and repetitive offenders.

At the adjudicatory stage, the juvenile prosecutor should, in most cases, fulfill the traditional adversarial role of a prosecutor. He or she would present evidence in support of the petition and would vigorously cross-examine witnesses. The proceedings would be very similar to that of the adult criminal trial. I believe in a highly adversarial system and believe that its implementation in the juvenile court will maximize the likelihood that delinquent (i.e. actually guilty) violent or chronic offenders will be so adjudicated by the court or jury.

Should he or she so choose, the juvenile prosecutor should be allowed to participate in the dispositional hearing to make sure that the interests of the State are made known to the court. Allowing the prosecutor to participate in the dispositional hearing will lessen the likelihood that violent or non-violent chronic offenders will be treated too leniently or in a manner inconsistent with the safety and well-being of the community. Juvenile prosecutors should take into consideration the best interests of the youth in making a dispositional recommendation, as long as the community's interest and safety and order is not endangered. A juvenile prosecutor should also be mindful of recommending the dispositional alternative that is proportional to the offense committed by the youth. Juvenile prosecutors should in no way assume that it is his or her role to automatically take a hardline approach at the dispositional hearing.

The juvenile justice system in Los Angeles County, in the calendar years of 1976 and 1977, utilized intensive prosecutorial involvement similar to that which I have just described. I am referring to this subcommittee a study of that experiment. While I must leave it to others to judge the validity of the study, its results are interesting. According to the report, serious recidivism decreased. Fewer juvenile offenders were detained. Fewer victims and witnesses suffered unnecessary inconvenience. Juvenile offenders were admitting more allegations, obviating unnecessary taxpayer expense.[3] It would seem, on the basis of this report, that the effectiveness of the juvenile justice system increased. It should

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[1] IJA ABA Standards Project, Prosecution, p. 3.

[2] Id.

[3] Memorandum *Impact Of District Attorney Participation In Juvenile Justice Process*, Department of Special Operations, Los Angeles Courts.

be added that as part of this project, due process safeguards for juveniles were increased. I would recommend that similar projects be instituted as demonstration programs so that their effectiveness may be determined.

MAJOR JUVENILE OFFENDER DEMONSTRATION PROGRAMS

I refer to the subcommittee a description of the Juvenile Major Offender Program used in Washington, D.C. The purpose of the program was to make certain that major offender cases were treated in a far more thorough and careful manner than the high case load would permit in the normal situation. Criteria were developed to determine which alleged offender should be covered by the program.[4] I would caution that sensitivity must be used in developing the criteria for which alleged offenders would be covered by such programs.

DUE PROCESS

A violent offender or non-violent chronic offender stands the risk of being subjected to a serious deprivation of liberty should he or she be adjudicated delinquent. This being the case fundamental fair play would dictate that he or she should be afforded the full panoply of due process protections: right to counsel at all crucial stages; right to a jury trial, right to burden of proof beyond a reasonable doubt standard, right to evidentiary rules used in adult court, right to the type of appellate protections afforded adults, and so on. Providing due process will also make it more likely the juvenile will perceive the system as being fair and hopefully this perception will enhance the rehabilitative process. We should strive to afford the full gamut of due process protections in *all* cases but such safeguards are of special importance when a juvenile risks a significant deprivation of liberty.

DUE PROCESS AND BASIC FAIRNESS FOR THE VIOLENT OR REPETITIVE OFFENDER AT THE DISPOSITIONAL STAGE

The judge should be required to state the reasons for a particular disposition—especially the ones involving removal from the home—as well as the goals sought to be accomplished by that disposition. This should be done in the presence of the juvenile and his or her attorney. This requirement of articulating reasons on the record is intended to provide some control over the judge's discretion.

Along the same lines, I support the IJA–ABA Standards principle of, "least drastic alternative." When the disposition involves any deprivation of liberty, or any form of coercion, the judge should be required to indicate for the record those alternative dispositions, including particular places or programs, that were explored and the reasons for their rejection.[5] Placement in a secure facility or even removal from the home is a very severe measure and thus it is not unreasonable to require the judge to justify in writing the use of such a measure. It should also be mentioned here that I support the IJA–ABA Standards principle of "proportionality." The most severe available disposition for particular offense must bear a rational relationship to the severity of that offense. There must be a ceiling or outer limit as to the length of disposition for any particular offense.

POLICY ON UTILIZATION OF SECURE FACILITIES

Reformists argue that there should be a strong presumption against confinement in secure facilities. I strongly believe in this presumption, especially for non-violent offenders even if they are highly repetitive non-violent offenders. For a small percentage of adjudicated youths—primarily violent ones—some form of secure custody is necessary. Such a disposition should, in my opinion, be a last resort, reserved only for the most serious offender (when it is necessary to commit non-violent repetitive offenders to secure institutions they should not be co-mingled with violent offenders). Previous flight from a non-secure facility should be utilized as one significant threshhold criterion for commitment to a secure facility.

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[4] *Juvenile Major Offender Project*, Office of the Corporation Counsel, Metropolitan Police Department, Washington, D.C.

[5] IJA/ABA Standards Project, *Disposition Procedures*, 51–54.

The arguments supporting the strong presumption against utilization of secure facilities are well summarized in the tentative draft of the ABA–IJA volume on *Dispositions*. I find these arguments to be highly convincing. In general, the ABA–IJA project points out, studies reveal that institutionalization is no more effective in reducing recidivism than alternative non-incarcerating sanctions. Some studies indicate that institutionalization actually may increase recidivism. Studies also indicate that longer sentences to institutions may be associated with greater recidivism.[6]

Further, commitment to a training school is destructive of the youth's family and community ties. Institutional confinement often worsens the anti-social attitudes of the juvenile and has a destructive impact on his or her self-image.[7]

Despite all of this, a very small proportion of serious offenders probably need to be committed to training schools for the safety of the community. Again, I stress that the presumption should be against such commitment and that it should be used only as a last resort.

PRIORITIES AND LIMITED RESOURCES

Courts, prosecutors and law enforcement resources are finige and highly limited. Thus, wise prioritizing is essential. The juvenile justice system cannot solve all crime problems or all social ills. I believe the juvenile court system should devote major emphasis to serious offenses, repetitive offenses, and to child abuse and neglect. Accordingly I support:

(1) Extensive use of diversion on non-judicial handling of problems. Any case which can be dealt with effectively outside of the system should be so handled provided that such a disposition is not inconsistent with the safety and well-being of the community.

(2) Removal of status offenses from the jurisdiction of the juvenile court. There are more sound policy reasons for this position beyond wise prioritizing but they are not within the purview of this testimony.

STATEMENT OF WALLACE J. MLYNIEC, GEORGETOWN UNIVERSITY LAW CENTER, JUVENILE JUSTICE CLINIC

My name is Wallace Mlyniec. I am Director of the Georgetown University Law Center's Juvenile Justice Clinic. For the past 7 years, I have been actively engaged in defending juveniles before the District of Columbia Superior Court. The children represented by our clinic staff now number over 1,000. Their offenses range from simple run-aways to serious property and assaultive crimes. They include first offenders and those whose arrests number in the teens. All of these children have been processed by the juvenile system in order that they could be rehabilitated. Most have now passed through the system. In accordance with the basic tenet of the juvenile court, they should have been rehabilitated. My belief, after 7 years of practice in the District of Columbia, is that (1) very little rehabilitation is taking place; (2) no one knows which children are in need of either habilitation or rehabilitation; (3) all children receiving similar sentences tend to be treated in basically the same manner rather than in an individualized manner; (4) no one presently can differentiate between a dangerous and non-dangerous juvenile offender; (5) because no one can differentiate, many children are unduly punished while others are prematurely set loose to prey on the community; and (6) the so-called "successes" of the juvenile system probably occur for reasons other than the juvenile system.

Numerous reports have discussed the uncertainty over the causes and cures of delinquency. Evidence is mounting that the juvenile corrections system helps few children and may, in fact, be harmful to many others. Recently, the concept of rehabilitation, the traditional cornerstone of the juvenile system has been attacked as being ineffective in reducing the crime rate among juveniles as well as adults. Even those who believe rehabilitation is possible, admit that resources that are currently being committed to the process are so insufficient that we might just as well recognize it as a purely penal system. What is most intriguing

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[6] Id, p. 72–73.
[7] Ketcham, Orman, *National Standards For Juvenile Justice*, 63 Virginia Law Review 189, at 208.

about these studies and reports is that the person whom they all seek to discuss and the methods they seek to use to change his behavior are largely unknown.

There is no doubt that the incidence of serious crime among young people is alarmingly high. Each year, FBI statistics indicate that young people are responsible for significant numbers of violent and other serious offenses.

From these figures, people assume that there is a serious or violent offender who is slipping through the juvenile system unrehabilitated, preying ceaselessly upon the public. This is probably a correct assumption. However, no one really knows who that person is. Until he can be identified, if indeed, he can be isolated at all, any reforms of the juvenile system, either in terms of the rehabilitative efforts or long-term sentences for societal protection will remain largely a speculative venture. To apply one or the other system of corrections without knowing what kind of person with whom we are dealing results in unfairness to many children and in danger to the public.

Two common methods of identifying the serious juvenile offender are the nature of the crime or the length of the offender's record. Both are unsatisfactory in determining whether the child is a serious or dangerous offender for either rehabilitative or punitive corrections system. Our experience shows that the crime a child commits is not necessarily an indicator of his propensity for violence or career criminality. Children commit crimes for various reasons. A certain amount of anti-social behavior accompanies adolescence. Children often make poor judgments in the face of peer pressure. Crimes, especially serious, violent assaults often just happen. Taunts escalate to fights; sticks become weapons; a real weapon may just be available. The result is a serious or violent juvenile offender. Children are surrounded by material temptations; they have no money. Prodding by others and need for peer acceptance results in a robbery—a serious violent offense. On the other hand, our experience indicates that some serious and violent crimes are contemplated in advance and deliberately carried out. Why they occur is often unknown.

Designating a person as a violent offender by the nature of the crime he commits groups all of these children together, regardless of their motivations and is therefore misleading. Similarly, designating a person a serious offender because of his recidivism rate is misleading since the motivations for each of the crimes is likely to vary. Rehabilitation becomes suspect and the safety of the community becomes tenuous when the juvenile court treats all of these people the same way rather than individually. In our experience and in the experience of other defense attorneys with whom I've spoken, the juvenile system relies primarily on probation and institutionalization alternatives. In the District of Columbia, it appears that all children given probation tend to spend the same amount of time on probation and all children incarcerated tend to spend the same amount of time in institutions, no matter what the reason for court intervention. No differences occur within the offense categories or the recidivism categories and, further, no difference occurs between the different offenses. Consequently, a child convicted of a 7th petty offense will spend 9 to 11 months incarcerated. A child convicted of rape will spend 9 to 11 months incarcerated. A child prodded into armed robbery as well as a child committing a premeditated armed robbery will spend 9 to 11 months incarcerated.

While this may seem to be absurd, it is actually inevitable because of the present inability to differentiate between the children; the inability to know which of these children is likely to commit a crime again; the inability to determine or carry out a proper rehabilitative plan; ill used or unused discretion by the juvenile court judge; and the 2-year maximum placed on all sentences.[1] To retain a rehabilitative system in the face of so little knowledge about rehabilitation and so little real commitment to it must result in sending some dangerous people back onto the street. To stiffen penalties does not provide a ready answer. It may keep some children off the street longer but there are limits to the period beyond which no society should go. Further, a large number of children may be damaged by inappropriate institutional placements and may become career criminals because of the experience. Of the two, avoiding damage to untold numbers seems a better alternative even if some dangerous people are set free.

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[1] While the period can be extended in 1 year increments up to the age of 21 upon order of the court, I cannot recall ever seeing a motion filed by the government to obtain such an extension. It must, however, happen from time to time.

Although no one is sure, psychiatrists, social workers and defense lawyers believe, possibly based only on intuition, that the serious violent juvenile offender accounts for only 10 percent of the juvenile court clientele. The first problem is finding him. Once he is isolated, the civil liberties ramifications of his treatment are complex. Even if these are surmounted, treatment may be an illusory concept.

One serious attempt to isolate the serious, violent offender is currently being conducted by Dr. Allen Zients of the District of Columbia Superior Court Forensic Psychiatry offices. He has studied the histories of juveniles convicted of murder and preliminarily determined that they fall into three classes: (1) the innocent murderer; (2) the unique adolescent event murderer; and (3) the non-empathic murderer. The juvenile court, considering all of these as serious violent offenders because of the nature of their offenses, tended to treat them similarly. Dr. Zients' studies indicated the first should not be in the system at all, the second could be rehabilitated, and the third was untreatable and predictably dangerous. Interestingly, another of his findings is that the non-empathic person is most likely to conform in an institutional setting and therefore, most likely to be released early. Once out of that setting, however, he will return to his violent ways. His findings remain preliminary. However, if they are correct, our entire juvenile corrections concept may be inappropriate. Fashioning a new one in accordance with civil liberties may be difficult. If he is wrong and we discover it, we are no further along than we are now. If we don't discover it, again, large numbers of children may be damaged.

My problem today is that I can offer no answers to the questions I raise. Nor do I know anyone who can. I happen to believe that we should assist children whenever possible, but with a minimum of coercive intervention. On the other hand, rehabilitation as practiced today is meaningless, and results in the early release of some dangerous people. To admit that it is meaningless does not necessarily lead to longer or mandatory sentences for juveniles since to do so cannot guarantee safety unless sentences are extremely long and can harm a great number of children unnecessarily. If intelligent choices are to be made, more studies like that of Dr. Zients must be performed. Yet, we must also remain wary of his findings until much more concrete information is available. Only then can we grapple with the civil liberties and safety issues in an intelligent manner.

STATEMENT OF WILLIAM S. WHITE, PRESIDENT-ELECT, NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

I. THE JUVENILE COURT WAS CREATED AND DESIGNED TO HELP THE CHILD WHO WAS A PETTY OFFENDER OR NO OFFENDER AT ALL

In 1899, a father went to court in Cook County, Illinois complaining of his son's conduct. A petition was filed which alleged simply, "I am unable to keep at home. Associates with bad boys. Steals newspapers, etc." A jury of six was impanelled. The boy was found to be *dependent* and was committed by the court to the Illinois Manual Training School Farm. The mittimus fixed his age at 11 years. This was the very first juvenile court case. It was the beginning of juvenile court law in America.

Recently, a ward of that court, a small, slender 14-year-old gang leader, wearing glasses, speaking softly and matter of factly explained his involvement in crime. "I don't expect to live to be 16—my life means nothing. It's the other guy or me—I'll kill him first if I have a chance and my gun." This boy—who instead of playing ball is playing cops and robbers for keeps, fighting for survival in the inner city jungle—typifies the young felons now appearing and reappearing in juvenile court in Chicago and juvenile courts across this Nation charged with startling acts of violent crimes against people. Their deeds are chronicled in our daily papers. They are the subjects of television specials and feature stories in weekly news magazines. The media are not to be criticized for this; negative incidents and violence are newsworthy. People are talking about juvenile crime, asking why is it happening? What is being done? What can we do? What should we do?

Juvenile courts were established to meet the needs of children like the boy in our first story, children whose conduct or condition makes them borderline cases

for either the criminal justice system or the welfare system. The courts used petitions charging that the children were dependent, neglected or delinquent. Early statutes defined delinquency to include the most trivial of acts. (Patronizes public poolroom, smokes cigarettes in public, uses vile obscene language, associates with vicious or immoral persons, begs or receives alms, wanders about railroad yard, sings or dances in public places are examples.) It didn't make much difference which type of petition was filed; under each the child received substantially the same "treatment." The parens patriae philosophy and the procedures adopted by the court were designed for children who were more in need of social services than criminal sanctions.

II. THERE HAS BEEN A STEADY SHIFT IN JUVENILE COURT POPULATION TO MORE SERIOUS OFFENDERS

Not so long ago joy riding in a stolen car was the criminal conduct which brought the largest number of boys to court. Now it is burglary. Between 1960 and 1970, the arrests of juveniles for all infractions doubled, but arrests of juveniles for violent crimes increased 216 percent. Youths under 18 were arrested for more than half of the serious crimes committed in the United States in 1970. Some question whether the juvenile court with its non-punitive 1899 approach is adequate to deal with today's juvenile crime.

The Supreme Court in the 1967 case *in re Gault* looked at juvenile crime figures and concluded that juvenile courts' performance in matters of juvenile crime generally had "not been entirely satisfactory." The New York Coalition for Juvenile Justice and Youth Services reported that "for the year 1976 one of the major areas of concern for the legislature was responding to a small number of violent juveniles who have created a public clamor and intense debate as to how the juvenile justice system should be modified to cope with them."

III. STATISTICS INDICATE JUVENILE CRIME IS GOING DOWN

The worst is over. This is true nationwide and in the juvenile division of the circuit court of Cook County. (See figures 1–4 attached hereto.) A check was made with the Chicago Police Department to see if the reduction in court petitions might be due to diversion to some other agency, of children found by police to be involved in crime. Police statistics, however, showed the same downward trend for arrests for violent offenses as we found in court petitions for violent offenses. There has been a decrease of approximately 15 percent in the number of total juvenile offenders Chicago police processed between 1973–1977. A consistent 70–72 percent of these juveniles are community or station adjusted each year. Of the juveniles sent to the juvenile court 1 in 4 is charged with a serious violent offense (assault, homicide, rape or robbery). This proportion has remained fairly constant despite a downward trend in the absolute numbers. How appropriate then is this recent intense interest in juvenile justice? It is welcomed, but much can be filed under "a day late and a dollar short."

IV. THE BASIC CAUSES AND THE CURES FOR CRIME ARE BEYOND THE REACH OF ANY COURT

Since juvenile courts and the Juvenile Justice System are blamed when the level of juvenile crime is high, there is a temptation to claim full credit for a reduction. I do think the figures indicate we must be doing something right. However, both the blame and the credit taking are based on false premises, as we know well from our elementary sociology course. A walk down the corridors of any metropolitan juvenile court and a look at the people who are there will tell you that the juvenile court is a poor people's court. Violent crime is principally a problem associated with the inner city poor. In Cook County, the chances are 3 to 1 that the serious violent offender is from the city of Chicago, as opposed to suburban area. In Chicago in 1976, 65 percent of arrestees for all charges in all age groups were black and 70 percent of all arrestees for the crimes of murder non-negligent manslaughter, forcible rape, robbery, aggravated assaults, and other assaults were black.

We can describe the delinquent in statistical terms with some fair accuracy. We know quite a bit about what he looks like, where he comes from and what some of his experiences will have been by the time he comes to the attention of

the various juvenile authorities. Yet to know all of this does not begin to address the problem of causes. Rates of delinquency have been disproportionately high among children who are (1) males, (2) from urban areas, (3) from broken homes, (4) doing poorly in school or have dropped out before graduating, (5) socially or economically deprived, (6) residents of a deprived neighborhood. Clearly, however, most children living under these circumstances do not become delinquent. Delinquent conduct has also been linked to poor intrafamilial relationships. Chronic delinquents tend to engage in delinquent conduct beginning at earlier ages, and tend to commit more acts of delinquency by the time they reach the age of 17. But now that the likely delinquent is described, do we know any better what has caused his conduct when his neighbors and/or siblings under near-identical circumstances have not become involved in delinquent acts? To answer the cause question is not our most productive approach to the problem of cure.

Those of us who work in police departments, courts and corrections would like to think that in addition to providing justice we are having some impact on the crime problem. But we know that really neither the cause nor the cure for crime, juvenile or adult, can be found in the justice system. (The drop in crime is probably due principally to the fact that children born in the post World War II baby boom have now passed the crime prone years.) Until the Millenium comes which will provide the good economic base and social environment needed by every person we must do the best that we can. The statistics are going down, but people are still being assaulted, raped, robbed, and killed in the streets and indeed in their homes, and 31 percent of these offenders in Chicago were under 18 years of age.

How has the Juvenile Justice System, created as a quasi social agency with access to judicial power, designed principally for non-violent petty offenders, coped with the problems of the serious offender? What has the Juvenile System done with children who have committed Part 1 Index Crimes? What should it do? Those are questions which I feel need the far greater emphasis.

V. THE SERIOUS OFFENDER IN THE JUVENILE COURT RECEIVES: ISOLATION, IDENTIFICATION BY TRIAL, SOCIAL SERVICES AND SURVEILLANCE THROUGH PROBATION, INCAPACITATION THROUGH INCARCERATION

There are diversion programs at every stage in the process, from arrest through disposition, which combined, create an overall "skimming" effect, skimming off at each stage of diversion, the less serious, less violent, less chronic offender. What happens is that factors which describe the serious, chronic, violent offender are generally the same factors which create the highest likelihood that the child will not be diverted from juvenile justice processes. At each stage at which diversion can occur, the relative seriousness of the offense and the youth's prior record are prime considerations in the decision as to whether or not to divert. The less serious or less violent the offense, and the fewer prior police/court contacts, the more likely the child is to be diverted from further formalized process.

America's probation system began in the juvenile court (Fox). It continues to be the favored disposition. How does it differ from adult probation? It is wider ranging, more diverse, more tailored to the perceived needs of the individual.

In Illinois, we are continuing to use incarceration. This means commitment to the youth division of the department of corrections. This response is suited to the needs of the community:

1. To feel protected from this offender by the removal of the child from the community;

2. To feel vindicated by the social banishment. The right-doers feel some positive reinforcement for conforming their own conduct when the wrongdoers are censured drastically.

There is some experimental use of community based intervention services.

VI. RECENT STUDIES INDICATE JUVENILE COURT METHODS WORK WHEN APPLIED TO SERIOUS OFFENDERS

The pragmatic question is, has this nonpunitive system having rehabilitation worked with juvenile fellows, like the gang leader in our story? The answer is

an astonishing and resounding, Yes. A study of over 800 juveniles found delinquent in Cook County in 1974 for committing violent offenses (rape, robbery, homocide assault and battery) has been recently completed.[1] Some 200 of these were committed to the youth division of the department of corrections. The remaining 606 constituted the base group of the study. They were traced from their base findings of delinquency in 1974 through March 1977 for findings on new offenses. The study reveals the following:

1. Of the 606 juveniles in the base group, 84 had findings for new offenses, violent or non-violent. In other words, the proportion with *any overall recidivism was 1 in 7, or 14 percent.*

2. The overall recidivism rate was lower for older juveniles: Most (337) of the base group were 15 or older January 1, 1974, and so had much less time than the others to commit new offenses as juveniles. These had an overall recidivism rate of 1 in 20, or 5 percent of that age group. Those under 15 on January 1, 1974 had an overall recidivism rate of 1 in 5, or 25 percent of that age group.

3. For almost half (31) of all 84 recidivists, the new findings were violent offenses. This makes a violent recidivism rate of 7 percent, or 1 in 14, or the total base group.

4. Eleven recidivists had findings for more than one new offense: 10 had 2 new findings; 1 had 3 new findings. They make for a multiple recidivism rate of 2 percent, or 1 in 50, of the base group.

5. In 18 instances the new offense was more serious than the base (1974) offense. Thus only 3 percent, or 1 in 33, became involved in offenses more serious[2] than that for which they were originally referred.

Since 1974 we have had in Cook County, a federally funded program called U.D.I.S. an anacronym for unified delinquency intervention services. This agency receives from the juvenile court referrals of youths who have been adjudicated delinquent so often or for an offense so severe, that they would otherwise have been committed to the department of corrections. U.D.I.S. deals with these juveniles *without institutionalization.* Recently, a report of U.D.I.S. operations has been filed with the Illinois law enforcement commission.[3] The report contains 3 findings of great significance.

1. Significant reductions in the incidence of offenses—as high as two-thirds of the preintervention rate—can be achieved, even with the most chronic, serious delinquents in Cook County, through the use of energetic correctional intervention.

2. Whether the program was U.D.I.S. or D.O.C. correctional intervention in the life of the chronic juvenile offender in this study had a powerful and apparently long-term inhibiting effect on subsequent delinquent activity.

3. The recidivism analysis did not make a case for the overall superiority of either U.D.I.S. or D.O.C. It concludes that "reports of the futility of juvenile corrections have been greatly exaggerated."

The problem of the serious juvenile offender is receiving increasing attention nationally. State and local governments are preparing solutions primarily in two areas: (1) trial of the juvenile as an adult; (2) lock him up. Legislation is currently under consideration in New York, Kentucky, Pennsylvania, and Maryland to achieve this.

There is a rush to treat children involved in crime as adults either through reduction in juvenile court jurisdiction or by importing adult criminal justice philosophy and methods into the juvenile justice system. This stands the Nation's response to crime on its head. We should be transferring juvenile justice methods which we know from empirical evidence work into the troubled adult system.

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[1] Brennan, Michael, *Recidivism Study of violent offenders,* Juvenile Division, Circuit Court of Cook County, September 22, 1977. (See pg. 371 for full text of study.)

[2] Ibid. The standards for deciding which offenses were more serious are as follows:
(1) Those offenses defined in law as necessarily involving (More) physical harm or contact. Thus rape or battery is considered more serious than robbery or assault.
(2) Those as serious as the 1974 finding, but with more counts. There were two such cases.
(3) Aggrevated battery was considered more serious than (simple) Battery; aggravated assault, more serious than (simple) assault.

[3] Murray, Charles A. Thomson, Doug and Israel, Cindy B., *UDIS: Deinstitutionalizing the Chronic Juvenile Offender;* prepared for the Illinois Law Enforcement Commission: American Institutes for Research, Jan. 1978.

VII. WHAT THE JUVENILE JUSTICE SYSTEM NEEDS TO BE MORE EFFECTIVE IS:

(A) More coherence, cooperation, and coordination among its component parts;

(B) Authority in the judge to order State and local agencies to deliver services to court wards when those agencies have failed or refused to do so;

(C) Responsibility in the judge to fix the limits and the extent to which the State coercively intervenes in a child's life within limits set by statutes relating to proscribed conduct, regardless of whether intervention is done under rubric of punishment or rehabilitation;

(D) Responsibility in the judge not the prosecutor, not the legislature to determine which child is the appropriate subject for the adult criminal court; and

(E) money.

My basic recommendation is that the traditional juvenile justice focus, priority on the actor above the act, must be maintained, not just because it is humane but also because it can work. Let us not lose sight of the fact that socialization is a process lasting over much of a lifetime, and varying from individual to individual. The responsibility of adults in the society, from individual parents to social and political leaders, is to insure that socialization process is one in which the maximum number of young people will be engaged successfully. Few of us as individual parents "throw in the towel" on socializing our own children. We have stood with them generation after generation. We have lived through flappers, and be-boppers, beatniks, hippies, yippies and peaceniks.

The transition from childhood to adulthood has often not been smooth, even for society's most privileged members.

This is not to say, of course that crime can be eliminated if we have the right approach, but only to say that those whose paths can be changed are entitled to have that opportunity.

In preparing the foregoing remarks I have shamelessly taken the words and ideas of scholars who are my friends and have permitted me to do so. They include:

Dr. Jacqueline Corbett, National Center for Juvenile Justice; Ms. Betty Begg, Assistant Director, Chicago Cook County Criminal Justice Commission; Mr. Edward Nerad, Director of Court Services, Juvenile Division, Circuit Court of Cook County, Illinois; Ms. Elmyra Pratts-Powell, Administrative Assistant to Presiding Judge, Juvenile Division, Circuit Court of Cook County, Illinois; Mr. Samuel Sublett, Jr., Administrator, Office of Institution Services, Juvenile Division, Illinois Department of Corrections; Mr. Harold Thomas, Commander, Youth Division, Chicago Police Department.

They of course are in no way responsible for any erroneous conclusions I may have reached.

FIGURE 1.—DELINQUENCY PETITIONS AND COUNTS BY YEAR AND SEX FOR SELECTED OFFENSES, JUVENILE DIVISION, CIRCUIT COURT, COOK COUNTY, ILL.

	1973		1974		1975		1976		1977	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Percent of assult	82	18	83	17	84	16	85	15	84	16
Assault offenses	2,582	574	2,360	495	1,938	361	1,755	314	1,634	308
Percent of homocide	93	7	95	5	90	10	91	9	96	4
Homocide offenses	123	10	131	7	101	11	108	11	110	5
Percent of rape	99	1	100	0	100	0	100	0	100	0
Rape offenses	112	1	107	0	134	0	126	0	88	0
Percent of robbery	95	5	94	6	95	5	96	4	96	4
Robbery offenses	1,922	96	2,141	127	2,022	104	1,677	74	1,426	65
Selected offenses percentage of annual total of delinquency counts and petitions	21		26		27		26		25	

FIGURE 2.—JUVENILE DETENTION CENTER POPULATION BY VIOLENCE OF OFFENSE CHARGED AND SEX COOK COUNTY, ILL.

[In percent]

	Sept. 1, 1972–Aug. 31, 1973		Sept. 1, 1973–Aug. 31, 1974		Sept. 1, 1974–Aug. 31, 1975		Sept. 1, 1975–Aug. 31, 1976		Sept. 1, 1976–Aug. 31, 1977	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
General population of detention center	73	27	75	25	76	24	80	20	84	16
Violent offender [1] population of detention center	89	11	92	8	93	7	91	9	93	7
Total percent of violent offenders in general population of detention center	24		27		27		27		28	

[1] Minors detained in this category were charged with the offenses of armed robbery, other robbery, assault, battery, assault with a deadly weapon, homicide and rape. No difference in sexual percentages was noted whether rape was included or excluded.

FIGURE 3.—JUVENILE DETENTION CENTER POPULATION BY SEX FOR SELECTED VIOLENT OFFENSES, COOK COUNTY, ILL.

	Sept. 1, 1972–Aug. 31, 1973		Sept. 1, 1973–Aug. 31, 1974		Sept. 1, 1974–Aug. 31, 1975		Sept. 1, 1975–Aug. 31, 1976		Sept. 1, 1976–Aug. 31, 1977	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Femal
Total number of children transferred to detention center	3,117	1,173	3,263	1,113	3,359	1,083	3,110	787	2,903	568
Percent	73	27	75	25	76	24	80	20	84	16
Armed robbery	228	12	289	7	339	15	258	10	213	6
Percent	95	5	98	2	96	4	96	4	97	3
Other robbery	165	7	246	12	230	8	216	10	197	8
Percent	96	8	95	5	97	3	96	4	96	4
Assault	98	9	118	12	79	16	72	4	106	10
Percent	92	8	91	9	83	17	95	5	91	9
Battery	266	71	299	54	275	37	258	53	289	43
Percent	79	21	85	15	88	12	83	17	87	13
Assault with a deadly weapon	0	0	0	0	0	0	0	0	0	0
Homocide	99	9	71	6	103	6	81	7	61	1
Percent	92	8	92	8	94	6	92	8	98	2
Rape	63	0	51	0	69	1	79	0	45	0
Totals for selected offenses	919	108	1,074	91	1,095	83	964	84	911	68

FIGURE 4.—DELINQUENT PETITIONS AND COUNTS BY SOURCE OF COMPLAINT FOR COOK COUNTY, ILL.

[In percent]

	1973	1974	1975	1976	1977
Chicago First Municipal District	70	66	59	60	62
All suburban districts combined 2-3-4-5-6 municipal districts	15	14	17	15	19
All other miscellaneous sources (not by municipal districts)	15	20	24	25	19

FIGURE 5.—TABLE II: TYPES OF COUNTS FILED FROM JAN. 1 TO DEC. 31, 1977 WITH COMPARABLE DATA FOR THE YEAR 1976

	Males	Females	1977	Percent of total	1976	Difference in 1977
Delinquent petitions and counts:						
Arson	98	6	104		171	−67
Assault[1]	1,634	308	1,942		2,069	−127
Burglary	2,894	89	2,983		3,114	−131
Violation of court order	3	1	4		5	−1
Criminal damage to property	676	41	717		517	+200
Auto theft and C.T.T.V.	1,330	38	1,368		1,224	+144
Glue sniffing	3		3		6	−3
Homocide[2]	110	5	115		119	−4
Controlled substance[3]	323	41	364		436	−72
Rape	88		88		126	−38
Robbery and armed robbery	1,426	65	1,491		1,751	−260
Theft	1,450	188	1,638		1,545	+93
Unlawful use of weapons[4]	688	73	761		623	+138
Other delinquent behavior	1,567	194	1,761		1,788	−27
Total	12,290	1,049	13,339	62	13,494	−155
Minors in need of supervision petitions:						
Runaway	558	898	1,456		1,285	+171
Truancy	62	49	111		82	+29
Ungovernable	590	586	1,176		922	+274
Other supervision petitions	482	591	1,073		1,035	+38
Total	1,692	2,124	3,816	18	3,324	+492
Dependent petitions	220	203	423		265	+158
Neglect petitions	1,866	1,775	3,641		3,774	−133
Truant petitions						
Paternity petitions		251	251		426	−175
Mental retarded petitions						
Total	2,086	2,229	4,315	20	4,465	−150
Total petitions and counts filed, 1977	16,068	5,402	21,470	100	21,283	+187

[1] Assault includes aggravated assault, battery, aggravated battery.
[2] Homocide includes reckless homocide, involuntary manslaughter, voluntary manslaughter, murder.
[3] Controlled substance includes possession or sale of narcotics.
[4] Unlawful use of weapons includes unregistered gun and unregistered gun carrying.

STATEMENT OF COLONEL ROBERT O. MATHEWS, CHIEF OF POLICE, HOWARD COUNTY, MARYLAND

I appreciate the opportunity to comment to the subcommittee on the issue of dealing with juvenile offenders within the juvenile justice system. I have been in law enforcement for 20 years in a suburban police department adjacent to two large metropolitan centers, Baltimore, Md. and Washington, D.C.

Our jurisdiction encompasses 251 square miles with a very affluent population of over 120,000 people. We have no incorporated towns but the City of Columbia is of moderate density and contains approximately 45,000 residents. During calendar year 1977 our police department arrested 1,038 juveniles for criminal violations. Of these, 539 were for serious crimes. Many were repeat offenders.

Having served for several years on Maryland's Juvenile Justice Advisory Committee has provided me with additional insight into the goals and objectives of current juvenile justice trends. The progress in the deinstitutionalization of juvenile offenders, the use of the group home concept and priority actions towards status offenders is excellent. We must continue to strive in this direction.

My concern, however, is that we have failed to accept and overlooked the premise that there is such a thing as a "juvenile criminal". My own perception and those of most of the Chiefs of Police with whom I have discussed this issue is that if we could remove a certain hard core of serious juvenile offenders from our jurisdictions, we would realize a noticeable reduction in many offenses. We are failing miserably in providing meaningful institutionalization for these offenders within the Juvenile Justice System.

We must diligently develop programs, design facilities and provide funding to work with the hard core delinquent. The historic training school concept for many is nothing more than a juvenile penal institution for the housing of kids. From this posture, certainly the concept of deinstitutionalization is important. We must, however, develop institutions for this small minority of serious offenders. In these institutions the primary goals must be security and the implementation of programs which can impact on the kids in a true effort towards rehabilitation.

In my county youth crime was identified by citizens' juvenile task force as the primary criminal concern within the society. The average citizen does not understand, and is not willing to accept what they perceive is a molly-coddling attitude by juvenile justice.

I also submit that we must identify the hard core offenders, bring them before the justice system rapidly and remove them from society until such time as we are reasonably certain that they can be placed back into society as responsible citizens. The only possible way to do this is by establishing institutions which offer tailored programs for each of these young peoples' needs.

As an important part of the juvenile justice funding package which Congress is currently considering, I urge that you place in the requirements for funding by State and local subdivisions that they develop such programs. Should we fail to go in this direction, the small percentage of hard core juvenile criminals will become the serious offenders in adult life. Realistically, I do not believe that we can salvage every one of them, but neither do I believe that we are now, nor have been in the past, proceeding towards implementation of effective measures for dealing with this type of youngster. They clearly are the forgotten element within the juvenile justice system.

Delay in trials of youth offenders, lack of corrective facilities and programs are totally counter-productive. A young offender knows that the juvenile justice system is ill-prepared and ill-equipped to deal with him in any fashion that impacts on him.

It is very depressing to converse with a young delinquent who has been released from an institution. They are embittered, callous, and often have learned to be a better criminal. They are totally aware that the trouble they have had as juveniles is confidential thus providing them with a clean record when they become adults and actually can start fresh in a life of crime.

We must realize that there is a group of youngsters who are criminals and will continue to be better criminals as they advance in age and experience under the current trends of forgetting them. I believe many can be salvaged, however, with the right type of institution, well-funded, regulated and designed to truly assist young offenders with programs. It is going to be expensive but it is the only answer.

WEDNESDAY, APRIL 12, 1978

STATEMENT OF JOHN M. RECTOR, ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

It is a pleasure, Mr. Chairman, to appear today before the Subcommittee to Investigate Juvenile Delinquency to address an important problem of national concern—violent juvenile crime, especially the chronic offenders.

When young people confront our juvenile justice system, injustice is a frequent result. The system does not provide the individualized justice promised by reformers at the turn of the century; it does not help the many non-criminal status offenders who fall into its jurisdiction; and it does not protect communities from juvenile crime.

Understandably, we are all horrified by the brutal reality of violent juvenile crime.

Richard, 11, dead in Detroit after 13-year old Kenneth shot him in the head with a 10-gauge shotgun. Police said the two boys had argued over which of them was responsible for a broken window. Richard's body was found wrapped in a plastic garbage bag and stuffed into a remote corner of Kenneth's attic.

In Baltimore, a 3-year old took his father's .357 magnum pistol—which had been left within his reach—and shot a 7-year old playmate at point-blank range. The children had been in a minor argument prior to the shooting. The small boy died before the ambulance arrived.

Willie, 12, Selma, 11, Michael, 11, and Freddie, 11, have all been taken into custody by the Atlanta Police Department during the past 4 years. All were picked up in connection with homicides. Willie was accused of killing a female playmate after she had thrown water at him; Selma told police she had killed her little brother following an argument; Michael confessed to killing his sister because they had fought over a piece of candy; and Freddie was believed to have killed his mother's common-law husband because he thought the man was hurting her.

Last summer, *Time Magazine* (July 11, 1977) shocked the American people with its cover feature "The Youth Crime Plague." It opened with the following bone-chilling chronicles:

Chicago. Johnny, 16, who had a long record of arrests for disorderly conduct, simple battery and aggravated assault, lured a motorist into an alley. He drew a .22-cal. pistol and shot the driver six times, killing him. Johnny was arrested yet again, but he was released because witnesses failed to show up in court. Today he is free.

New Orleans. Steven, 17, was first arrested for burglary when he was eleven and diagnosed as psychotic. But he kept escaping from the state hospital and was seized for 22 different crimes, including theft and attempted murder. Just 4 days after he was charged with robbery and attempted murder, he was arrested for raping and murdering a young nurse.

Hartford. Touche, 19, who earned his nickname by his dexterity with a switchblade, has been in trouble since he was 11; he started fires, snatched pocketbooks, stole cars, burglarized homes, slashed and shot people. When a pal was locked up in Connecticut's Meriden Home for Boys, Touche broke in with a gun and freed him. Touche was placed in a specially bulit cell in Meriden because he had escaped from the institution 17 times.

Wilmington. Eric, 16, who had escaped conviction for a previous mugging charge, pleaded guilty to knocking down an 86-year-old woman and stealing her purse. Three months later, the woman is still hospitalized and is not expected to walk again. Eric was released into the custody of his father. Since then, he has been charged with three burglaries. Says Detective James Strawbridge: "He's going to kill somebody some day, and he's still out there."

Houston. Lawrence was 15 when he was charged with murdering two brothers in his neighborhood: Kenneth Elliott, 11, and Ronald Elliott, 12. Lawrence tied up Kenneth, castrated him and stabbed him twice in the heart. Then he cut off the boy's head, which he left about 50 feet from the body. He also admitted killing Ronald, whose body was never found, in similar fashion. Like all other offenders in juvenile facilities in Texas, Lawrence was released from prison when he turned 18.

Its authors argued that: Many youngsters appear to be robbing and raping, maiming and murdering as casually as they go to a movie or join a pickup baseball game. A new, remorseless, mutant juvenile seems to have been born, and there is no more terrifying figure in America today.

It's absolutely essential that we ask, especially as public officials, several elementary questions.

What do we mean by violent crime? The U.S. Department of Justice, FBI Uniform Crime Reports define the offenses of murder, forcible rape, robbery and aggravated assault as violent crime.

To what extent are youths responsible for crime?

In 1976, 7,912,348 persons were arrested. Three out of four (3/4) of those arrested were adults, the remaining 1,923,254 were juveniles. In the category of serious crime, juvenile arrests accounted for 666,910 or 46.1 percent of the property crimes (burglary, larceny, theft, and motor vehicle theft) and 22 percent or 74,715 of the violent crime arrests.

Thus, 95 percent of all juvenile arrests are for non-violent crimes (74,715/1,973,254). Furthermore, juvenile arrests account for less than 1 percent of all arrests for violent crimes (74,715/7,912,348).

These figures should help separate the reality of violent juvenile crime from myth.

What do we know about violent crime trends?

From 1967 to 1976, adult arrests for violent crime increased from 91,986 to 151,769 or 65 percent. During the same period, juvenile arrests for violent crime increased from 22,919 to 45,468 or 98 percent. However, from 1972–1976 adult arrests for violent crime increased 32.5 percent while juvenile arrests for violent crime increased 28 percent.

Lastly, the most recent comparison, 1975–76, revealed that adult arrests for violent crime decreased 9 percent and juvenile arrests for violent crime decreased 12 percent.

Statistics, percentages, and trends help focus our attention on the actual magnitude of violent crime but are of little comfort to victims. Interestingly, juveniles are most likely to be the victims of violent crimes.

The 1976 LEAA National Crime Survey, for example, found that youths are two and one-half (2.5) times more likely to be robbed and more than ten (10) times more likely to be assaulted than our citizens over age 65.

Similarly, one-fourth of juvenile victims and one-sixth of elderly victims are hospitalized.

While we work to help citizens better understand how to protect themselves and their families, we intend to work with the National Association of Retired Persons and other groups to counteract misconceptions regarding juvenile violence and its victims.

Hopefully, these and similar efforts will help assure that all of our citizens are better protected and at the same time not as fearful of our 66 million young citizens.

I would like to call your attention to several projects, funded through the Office's Institute for Juvenile Justice and Delinquency Prevention, which have made important contributions to our understanding of serious and violent delinquency and ways of dealing with these intractable problems.

A 3-year study at the Institute for Juvenile Research in Chicago has involved analyzing data collected during 1972 through a statewide Illinois survey of a random sample of over 3,000 youth aged 14–18. Delinquency involvement was measured through self-reports from the youths themselves and correlated with such factors as family, peer group, community, and school influences. The results have shed new light on the nature of delinquency. Among the major findings were the following: (1) Contrary to popular conceptions based on arrest data, kids reporting delinquent behavior (other than armed robbery) are nearly as likely to be white as black, just about as likely to be a girl as a boy, as likely to live anywhere in Illinois as in highly urbanized Chicago, and just as likely to come from an intact as a broken home (2) peer group pressure is the single most important factor in determining the presence or absence of delinquent behavior (3) the community context serves as an important mediating influence in delinquency—particularly in the case of violent conduct; and (4) much of delinquency arises out of youths' response to contradictions or tensions displayed by authority figures in the family, school, and juvenile justice system contexts.

Two studies have made significant contributions to our understanding of delinquent career patterns as they relate to adult career in criminality. The first of these is a follow-up study made of the landmark Philadelphia research conducted in the early 1960's of almost all males born in that city in 1945.

The follow-up study involved gathering data up to age 30 on the offender careers of a 10 percent sample of the original group. Significant findings from this effort include the following: (1) about 15 percent of youths in the 10 percent sample were responsible for 80–85 percent of serious crime; and (2) chronic offenders (5 or more police contacts), who made up only 6 percent of the larger group from which the 10 percent sample was drawn, accounted for 51 percent of all offenses among the total sample—including over 60 percent of the personal injury and serious property offenses.

The second of the two major offender career studies is a project currently underway at the University of Iowa, which is assessing the relationship of adult criminal careers to juvenile criminal careers. This project consists of a follow-up study of 1352 juveniles born in 1942, and 2099 juveniles born in 1949, in Racine, Wisconsin. The study is designed to (1) provide information on the nature of urban delinquent careers (including age, race, sex, and other offender characteristics, such as seriousness of offense) and their relationship to later adult careers; (2) determine the extent to which various alterative decisions by juvenile justice system authorities or by the juvenile have contributed to continuing careers; and (3) evaluate the effectiveness of the juvenile justice system and other community factors in deterring or supporting continuing delinquent and criminal behavior.

The major preliminary findings to date follow: (1) about 5 percent of the white males in the 1942 and 1949 groups accounted for over 70 percent of the felony offenses (police contacts); (2) about 12 percent of the white males in

these two groups accounted for all police contacts of white males for felonies; and (3) minorities (blacks and Chicanos) were disproportionately represented, in comparison with whites, among those referred to court and placed in correctional institutions.

These data make it clear that, at least in Philadelphia and Racine, Wisconsin, a very small proportion of juvenile offenders account for an extremely large volume of serious and violent crime. However, the difficulty in taking the next step—that of responding appropriately to reduce crime through focusing on chronic offenders—is in predicting who will in the future be a chronic offender. A major conclusion of the Philadelphia and Iowa research is that juveniles do not specialize in particular types of offenses nor do they necessarily progress from less serious to more serious offenses. Prediction of delinquency remains an elusive goal.

Another study recently concluded under Institute funding constitutes a 7-year evaluation of the Massachusetts experience in its statewide community-based movement. In 1969–72 Massachusetts replaced its training schools for juveniles with community-based alternatives to traditional incarceration. This is the only State that has deinstitutionalized its correctional institutions statewide, in either the juvenile or adult areas. The results of the evaluation have indicated that youths do as well in the new programs as they did in the old training schools. However, youths in less secure programs did better than those in the more secure community-based programs, and youths in the more established programs did much better than those in the new programs. In addition, the community-based programs provide a much more humane and fair way of treating youth than did the large institutions previously used. A major conclusion of the study was that the important factors affecting success or failure with individual youth lay not so much in the qualities of specific individual programs to which the youth were exposed, but in the characteristics of the total social network for each youth in the community.

The results of this research and the success of the Massachusetts experience led to other projects that we are now preparing to undertake in the State. The first of these is a research effort focused on the problem of secure care in a community-based correctional system. This research will examine how the State (particularly police, court, and correctional agencies) is making decisions about those youths who require secure care treatment. (The research will also involve an examination of how a few other States are addressing the secure care problem.) In Massachusetts these youths constitute about 10 percent of the total number of youths presently committed to the Massachusetts Department of Youth Services. The significance of this research is that the key to long-run success in persuading States to adopt policies of deinstitutionalization and establishment of community-based programs depends in large measure on devising means to alleviate public fears about protection in the community.

The second of the two new Massachusetts projects is to be a rather large-scale training program. Through it, along with other OJJDP training, technical assistance, and action programs, we hope to persuade a few other States to deinstitutionalize statewide their large juvenile correctional institutions. The content of the training program will draw mainly upon the results of the 7-year Massachusetts study, the new secure care study, and the results of other OJJDP research, evaluation, and action program activities in the deinstitutionalization area.

A high priority of the Office will be to carefully review all available materials on violent juvenile crime and its prevention. Once assessed, we intend to distribute it widely. Not in the form of lengthy esoteric volumes that collect dust, but information tailored to the actual needs of all interested persons.

As the Committee knows too well, we as a Nation indiscriminately respond to children in trouble—from those who are abandoned and homeless to those, the subject of your hearings, who threaten public safety.

The Juvenile Justice and Delinquency Prevention Act of 1974, that established our Office, was developed in response to the inconsistencies of our present system.

The act tells us that indiscriminate punitive placement, whether in public or private facilities, masquerading under the questionable disguise of "rehabilitation" or "the best interest of the child," only increases our already critical crime rate by supplying new recruits for the jails, detention centers,

State farms, camps and training schools, which are often nothing more than wretched academies of crime.

The traditional "solution" for juvenile crime has been to upgrade personnel, improve services, or refurbish facilities. The act tells us that this is not adequate. What we need is an uncompromising departure from the current practice of institutionalized overkill which undermines our primary influence agents—family, church, school and community. We must support policies and practices which protect our communities while also assuring justice for our youth.

Some youthful offenders must be removed from their homes. For those who commit serious, usually violent offenses, detention and incarceration should be available.

The overloaded juvenile justice system is under fire for not stemming the tide of youthful criminal violence. We are, however, often and understandably blinded by the lurid publicity given a relative small handful of violent juveniles and we lose sight of the fact that the net of the juvenile system is very wide; that many noncriminal acts and minor delinquencies subject youth to unwarranted and unjust detention and incarceration, grossly disproportionate to the harm, if any, done by the behavior involved. Our collective errors in this regard are compounded by the fact that these indiscriminate incarceration policies which overloaded the juvenile correctional system permit the punishment of ever fewer serious violent youthful offenders.

Violent crimes put the *parents patric* doctrine—the base for the juvenile justice system—to its severest test.

It is not only that the few serious cases are not dealt with seriously but that many less serious cases are treated as serious.

There are serious issues in the area of sentencing. Sentences based solely on the juvenile's needs and backgrounds, in lieu of consideration of the crime, lend to disparity. Even when youths are convicted of the same crime and have similar records, the current system imposes vastly different sentences. While some discretion is essential, sentencing guidelines would be more consistent with justice and community protection. Otherwise we will be unjustly punishing youth on the basis of family background, race, color, creed, wealth and status rather than for their crime. The development of model standards by the Office through our Institute will assist the States in their struggle to deliver justice to our citizens.

When we discuss juvenile crime we should address the policies of a State and its respective communities rather than focusing solely on the individual juveniles and the case-by-case emphasis on the needs of individuals which often permits those intimately involved with the implementation of policy to overlook the cumulative impact of their practices.

The Juvenile Justice Act has been a catalyst for a long overdue and healthy assessment of current policy and practices. Additionally, it has stimulated the development of criteria for imposing incarceration while stressing certainty of punishment for serious offenders.

Mr. Chairman, last week immediately after being notified of these hearings I instructed the staff to prepare materials for your consideration. Today I have them for submission. I would now be pleased to respond to any questions. Thank you.

STATEMENT OF PETER B. EDELMAN, DIRECTOR, NEW YORK STATE DIVISION FOR YOUTH

Mr. Chairman and members of the Subcommittee: I appreciate the opportunity to testify this morning concerning violent juvenile crime, a subject which, I take it, encompasses both sentencing policy and appropriate programs for youth who have been involved in violence.

It is important at the outset to place the matter in proper context in terms of magnitude. Less than ten percent of youth crime nationally is violent crime. By violent crime I mean crimes against the person—murder, rape, arson when human life is endangered, armed robbery, and aggravated assault. Despite media attention, the first three of these are relatively infrequent. Armed robbery and aggravated assault make up the vast bulk of violent crime.

The national debate has been fraught with misleading statements. For example, it is often said that nearly half of all serious crime is committed by

youth under 18. The problem is that the FBI index of serious crime includes auto theft and other property crimes. In 1975, less than a quarter of violent crimes were committed by youth under 18, based on arrest figures. And, as I indicated, less than a tenth of all juvenile arrests are for violent crime.

I stress this context because I see an alarming tendency today to draw only one line in the juvenile area for purposes of analysis—a line between status offenders and delinquents. This way of thinking is tending to cause what I call a restigmatization of delinquents. The implication, at least, is that status offenders are a relatively homogeneous group who should be handled in a non-institutional fashion, and that delinquents are a relatively homogeneous group who should be responded to punitively.

There is, however, a further distinction, which is in my judgment of even more fundamental importance. That is a distinction between those delinquents who, like status offenders, are more victim than victimizer, and not especially dangerous to anybody except perhaps themselves, and those delinquents with regard to whom there is a responsibility to protect the community that is of a weight at least equal to our obligation to try and help them as individuals.

Thus, it is vital to remember that delinquency of a violent nature, while a critically important problem, is small in numbers compared to the overall population of delinquents needing assistance.

Further, I might add that while violent youth crime unquestionably increased significantly from the early 1960's until about 1975, it seems to have peaked about that time around the country, and to have been going down fairly steadily since.

This is certainly the case in New York State. The arrest of juveniles for violent crime dropped about 15 percent around the State from 1975 to 1977. Even when arrests for violent crime are compared to the size of the age cohort, arrests are declining. Thus, on the basis of arrests per thousand in the age cohort, arrests of 13 and 14 year olds for violent crimes declined by 12.6 percent from 1975 to 1976 in New York State, and arrests of 15 year olds for violent crimes declined by 9.7 percent during the same one year period.

Newspapers and magazines find that it makes good copy to say that "15 year olds get away with murder" in New York State, as one cover story in *New York* Magazine had it. The fact is, that in New York State there were a total of 43 juveniles arrested for murder in 1976, and that number was down from 69 the year before. This constituted less than 3 percent of the arrests for murder in New York State in 1976. In New York State, by the way, the term "juvenile" applies to youth under 16, in contrast to most of the rest of the country, where the age of adult criminal responsibility is 18.

All this is not to minimize what is a very serious problem, but only to ask that we do not make it worse than it is by overstating it.

Beyond the understandable public concern about violent crime, whether committed by youths or people of any age, there is a particular reason why violent crime committed by young people has become a subject of special attention. That reason lies in the historical stance of the juvenile justice system that its only responsibility related to the "best interests of the child" and did not extend to the interests of the community. The fiction existed all over the country that, from a criminal point of view, a youth was not "responsible" for any act he committed, however serious, as long as he was below the age of adult criminal jurisdiction. Once he walked through the door of the juvenile correctional system, he would receive the "treatment" he needed, regardless of the act that brought him there. This conceptual position in turn produced the concrete and, I might say, absurd result that many young people who had done very little—who, indeed, were only status offenders—spent longer periods in institutions than youth who had been involved in violence.

This is beginning to change, I am happy to say, but I am concerned that, in our rush to punish, we run a serious danger of pushing the pendulum too far in the other direction.

All over the country, we now hear cries for putting violent juvenile offenders into adult prisons at even more tender ages. The answer is surely not to put 14 and 15 year olds into places like Attica and Statesville and San Quentin. State prisons are certainly not places where rehabilitation takes place. Indeed, for younger offenders, they are in effect schools that teach bigger and better criminality as well as places where youth are likely to be physically abused and victimized in the process.

We seem to have given up on trying to rehabilitate adult criminals, since it is very hard to see how rehabilitations can take place in the places we use for prisons. However, I think it is imperative that we not give up on investing adequate resources in decent services for young people who get in trouble with the law, even very serious trouble. Even with proper financing and fully trained staff, not all youngsters will be rehabilitated, to be sure. Among those who have been in very serious trouble, we may indeed fail with more than we succeed.

Nevertheless, what disturbs me about the current fashion of saying "rehabilitation" has "failed" is that I know there are a significant number of youngsters with histories of serious delinquency who can be reached and helped. While it is obvious that there are youth committing serious acts which hurt others, there is no "new breed" of "remorseless, cold-eyed" youth who do violence to the old and the weak without a second thought and are therefore unreachable. When youth say they do not care, or offer outrageous excuses for their behavior, that is only the beginning for when youngsters are confronted by strong, caring, active, able staff in an atmosphere of close supervision and intensive individual attention, breakthroughs can occur. Sometimes the feelings are unlocked by educational efforts, when a spurt in reading achievement or math achievement makes the youngster feel like he is worth something. Sometimes the breakthrough is started by a new set of teeth or plastic surgery to fix an ugly scar. And sometimes the key is developing a relationship of trust, by way of a skilled person letting the youngster know someone truly does care what happens to him, and, indeed, that someone cares enough to set limits to the youngster's behavior as well as care about what happens ultimately to that youngster.

Starting from all of the premises I have outlined, we in New York State have undertaken a number of departures in sentencing policy and services that I would like to share with you this morning.

When Governor Carey took office in 1975, the sentencing structure in New York State had for some years been one of an indeterminate 18-month placement for both delinquency and status offenses, with one year extensions available until the youngster's 18th birthday. Average length of stay in state training schools (cottage-type facilities) and secure centers was approximately seven to eight months, more or less regardless of the reason the youth was sent in the first place.

In 1976, Governor Carey proposed, and the State Legislature adopted, a new approach—the Juvenile Justice Reform Act of 1976. This new law became effective February 1, 1977.

The premise and philosophy of the new law involves a differentiated sanction within the juvenile justice system. The facts are still to be determined within the juvenile courts, and the place of incarceration is still the agency that I run, the State Division for Youth. Moreover, the law retains the key element of flexibility within the court in choosing the appropriate sanction.

Thus, when a youth is found to have committed either murder, arson I or kidnapping I at the age of 14 or 15, the judge now decides whether to impose a new, "restrictive placement." Taking into account the background of the youth, the circumstances of the crime, and the need to protect the community, the judge may choose a tougher sanction. This sanction involves an overall placement for five years which could be extended annually until the youth is 21. The judge fixes an initial amount of time which must be spent in a secure facility, anywhere from 12 to 18 months, and another year thereafter must be spent in another residential facility. The Division for Youth can extend the secure placement for the entire time of placement if it thinks this is necessary. For crimes that occur more commonly—namely, Robbery I and Assault I, as well as Rape I, Arson II, Sodomy I, Manslaughter I and Kidnapping II—the restrictive placement, if chosen by the judge, involves an initial six to 12 month mandated period in a locked facility and an additional six to 12 month period, again as fixed by the judge, in another residential facility. The overall placement is three years, which again, can be extended annually until the youth is 21.

This year Governor Carey has proposed to toughen the law further, to extend the option of restrictive placement to cover a number of situations not covered by the original law where repeat serious offenses have occurred.

The new law gives the adult prosecuting authorities around the State the local option to enter the juvenile courts for prosecution of these "designated

felony" matters. In New York City the District Attorneys have recently taken over the prosecution of these matters. Some think the new law is still too lenient, others think it is too tough. Some say that not enough offenders have been restrictively placed under the new law, but I think it is in fact premature to make that judgment. The pace has been increasing recently, and I think it will be some time before we are really able to make a more mature judgment about the efficacy of the law. Nonetheless, I think it is an approach that deserves study and attention of concerned people around the country.

What happens to youth who are sent to the Division for Youth as a consequence of having committed violent acts? Those who are placed as restrictive placements under our new law must be sent to secure facilities. Those who are adjudicated for violent acts but not placed restrictively, we put in an administrative category which we call "classified cases." Presumptively, we assume that the youth will be placed either in a secure facility or in a rural, all-delinquent facility with intensive staff and some limited secure capability. About one in five non-restrictively placed delinquents adjudicated for violent acts are nevertheless placed by us in a secure facility, after an administrative inquiry, and about one in five are "declassified" and worked with in a less intensive facility, possibly a community-based setting. "Declassification" can only be accomplished with the personal approval of my Deputy Director for Rehabilitative Services.

We have four secure facilities, three for boys and one for girls. Two of the units for boys and the one for girls are relatively traditional institutional facilities, albeit quite small (75, 60 and 30 respectively). The other secure facility is an innovative joint project with our State Department of Mental Hygiene on the grounds of the Bronx State Hospital.

As with all of our facilities, the service approach of secure facilities has changed radically over the past eight years since jurisdiction over them was transferred to the Division for Youth from our State Department of Social Services.

As in so many parts of the country, it was not unusual a decade ago to find youth kept under control by means of corporal punishment, medication, and solitary confinement. My predecessor, Milton Luger, largely ended these practices, and the Division has for some time had regulations, with the force of law, which ban these practices. An Ombudsman program, involving a cadre of specially trained lawyers who regularly visit all of our facilities to hear any complaints from residents, was created and still exists.

If overt abuse was largely a thing of the past when I took the job, there was still much to be done in terms of program content. The agency was still, if I might say, a "social work" agency. Apart from some excellent use of funds under Title I of ESEA to teach reading and math, the educational programs were disappointing, and there was relatively little in the way of vocational training. Medical and psychiatric services were limited and of uneven quality. The major "therapeutic" tool was group therapy, which in some of our facilities did not occur regularly and as to which there was not enough in-service training.

I can't say we have changed all that, but we are trying. We are currently implementing, with federal counter-cyclical funds, which were appropriated by our State Legislature, a multi-million dollar program of vocational training, job readiness, and work experience throughout all of our facilities around the State. We are concentrating significant efforts on implementing new federal legislation on behalf of handicapped and learning disabled children in our facilities. We have revamped the curricula of our secure facilities and engaged in a number of in-service training efforts for the teachers. In one of our training schools (not a secure facility) we have entered into a model health services contract with a local health maintenance organization which is producing high quality medical and psychiatric services on a pre-paid capitation basis. Group therapy sessions are now held regularly—four times a week in the secure facilities—and there is a continuing process of in-service training in the conduct of these sessions.

Another key effort has been in the area of so-called "aftercare." Again, we are far from complete success, or even substantial success, in this area, but we have found the funds, mainly through LEAA, to enable purchase of a variety of employment, educational, and therapeutic services in the community for youth upon their return, and we have been working hard to change the role of our aftercare workers from parole-counselor figures to include a responsibility to broker for services that the youth need as they return to the community.

Overall, our secure facilities are now serving a more consistently appropriate level of youth than they were when I took office. In late 1975 the population at Goshen, one of the secure facilities, while all delinquents, consisted of nearly half property offenders. These were youth who, for the most part, had been transferred in from other programs where they had proved to be behavior problems. We have adopted a due process hearing procedure to govern transfers from our non-secure to our secure facilities, and have also tried much more aggressively to move youth out of secure facilities who do not need to be there. One consequence of this is that the population there is now more consistently difficult. While this is appropriate, it also means that operating the facilities is now that much more difficult. The old and now unacceptable forms of controlling behavior are no longer permitted, and staff complain, with some justification, that they really do not have sufficient sanctions in their stead. There are no easy answers.

One significant departure that has been enormously helpful these past two years is a joint project between the Division for Youth and the Department of Mental Hygiene, located on the grounds of the Bronx State hospital, and designed to serve ten youth in a diagnostic unit operated by Mental Hygiene, and 18 youth in a long term treatment unit operated by DFY. The project is limited to male juvenile delinquents who have been adjudicated for violent acts or who have otherwise exhibited violent acts even when such was not the nature of their delinquency, and it requires that a youth have serious mental problems as well. An initial psychiatric screening and due process hearing are conducted before a youngster is even admitted for diagnosis. Following the diagnostic period, which can be up to 90 days, youngsters are either placed elsewhere in the Department of Mental Hygiene, elsewhere in the Division for Youth, or most often in the Long Term Treatment Unit operated by the Division for Youth.

I was somewhat skeptical at the outset about the validity of the sorting process, and whether there was a danger that the youth sent to the project would be sent there for the right reasons. The nearly two years that the project has operated have convinced me that this is not only not the case, but that the youth whom the project is serving have been most carefully screened, and are most definitely in need of the intensive care that is being provided.

The treatment approach in the DFY unit is not especially startling or bizarre. It consists of a heavy emphasis on individual therapy, group therapy, highly individualized education and recreation. Major emphasis is placed on working with the families of the youngsters as well. The idea, as in any treatment, is to get the youth to confront what they have done and take responsibility for it, to help them get control over their emotions and especially their rage, and to help them think better of themselves so that they may be able to function in the outside society.

The program has been in existence for almost two years. Five residents have completed their stay, and are now functioning under intensive supervision in a variety of settings in the community. With one relatively minor exception, they are doing quite well. They, and a number of residents in the program, have improved considerably under the intensive care that has been provided. The educational attainments of many of the residents have improved markedly as well. The "after-care" supervision is conducted, by the way, by specialists attached to the project with a small intensive caseload which is confined exclusively to "graduates" of the project.

The Bronx State Project suggests a broader issue—what we in New York State do with youngsters in the juvenile justice system who need mental health assistance of some kind beyond that which we can routinely provide through social workers at the MSW level.

In our institutional facilities, including our secure facilities, we do have part time psychiatrists. Their function is primarily to assist in developing and overseeing the carrying out of treatment plans and to prescribe and supervise the administration of psychiatric medication when that is necessary. When a youngster has an acute episode that requires temporary hospitalization, we have been able to work out increasingly effective arrangements for temporary hospitalization within the state hospitals. We have had a number of problems in getting prompt and appropriate service in this area, but the situation here is improving considerably.

Indeed, as a consequence of changes in the leadership in our State Department of Mental Hygiene and a new priority being placed within that agency on issues

affecting children and youth, plans are now in a development stage for some specialized residential care for youth who need long term treatment of a mental health nature. Plans are also in the development stage to provide roving teams of Department of Mental Hygiene personnel to help us in a more systematic way within our own facilities. These arrangements, obviously, are not in place as yet, but there is at present a commitment and a determination to develop new departures that makes me more hopeful than I have been in the past. Nonetheless, this and the related question of what we do for youngsters in the juvenile justice system of extremely low intelligence are continuing, serious problems.

These, indeed, are national issues. Juvenile justice agencies, in general, have never had the capacity to provide highly specialized care for that tiny minority of youngsters who require highly specialized help due either to their emotional disturbance or their level of retardation. In general, juvenile justice agencies have pursued a "medical model" that, ironically, has been doubly inappropriate in effect labeling as "sick" large numbers of youngsters whose problems are educational, attitudinal, and behavioral, and failing to provide the really intensive and specialized assistance for that small, but nevertheless, very real number of youngsters who are indeed mentally ill or retarded.

I think we in New York have made some progress on both scores. We have substantially moved away from the medical model for the vast majority of our youngsters, substituting instead a more three-dimensional approach which emphasized educational, vocational and family-related needs as well as counseling and therapy, and we have at the same time developed (after great struggle, I might say) a few intensive and expensive beds for youngsters with very special problems. Thus, in addition to our Bronx State Project, we have also developed a 20-bed unit specializing in dealing with learning disabilities of a specialized nature, and two ten-bed "Enriched Residential Centers" for youngsters who for one reason or another require highly individualized attention and are not susceptible of the type of care that is based in a group process.

The fact remains, however, that we are not a mental health or mental retardation agency. Our professional base is still in the social work profession and to an increasing extent in educational specialties, and it is difficult for us to attract full-time psychiatric and other mental health personnel who are much more inclined to be professionally satisfied in a mental health or retardation agency. I believe, therefore, that it is essential for the agencies whose mandates are mental health and mental retardation to pay far more attention to developing appropriately specialized programs for that small number of youngsters who do need them.

One related question that I believe would be of interest to you concerns the possibility of providing service to violent offenders outside of institutional settings. Based on a careful assessment process, we do use non-institutional settings as an initial placement for perhaps one out of ten youth who are sent to us for violent offenses. These, of course, are youth who are not sent to us for restrictive placements wherein we are required to use a secure facility at the outset. I believe that, if we have the resources to provide very intensive, individualized programming, there are perhaps another ten to fifteen percent of the violent offenders whom we receive who could benefit from non-institutional programming without posing a threat to the community. Beyond these relatively small numbers, though, I have come to the conclusion, based on the experience of these past nearly three years, that, at least in New York State, when a youngster has actually been adjudicated for an armed robbery or an aggravated assault, or worse, a period of time spent out of the community in humane circumstances with full services, is probably the most beneficial first stop for all concerned in the majority of cases. I think it is critically important that the "correctional authority" retain the flexibility to make this choice in most cases, but I frankly think we would be fooling ourselves if we thought that community placement in the first instance is the appropriate setting for very many who have been found to have committed an armed robbery or an aggravated assault.

In summary, I have no magic solutions to offer from a service point of view. I do think small programs are better than large ones. I think, overall, that an eclectic approach is essential, emphasizing therapy, education, vocational training and work experience, physical health, recreation and family relationships, with the recognition that there may be different key steps for different youngsters in terms of what will accomplish a breakthrough. Money alone is surely not the answer, but the case must be made for adequate funds to be in a position to

make a serious effort. And it must be understood that, even with all the efforts, the "failures" may well outnumber the "successes."

Moreover, we must never delude ourselves. While effective law enforcement and swift and just prosecution are absolute essentials, we must understand that the criminal justice system serves only to pick up the pieces after they are broken. All of us have the responsibility to see to it that the conditions of inner-city life and of poverty and discrimination generally, which are the predominant breeding grounds of serious crime, are alleviated.

Our choices can really not be otherwise. If we fall prey to the accusations and calls of those who now demand a wholly punitive approach, with its attendant warehousing and incarcerating quality, we will surely end up as a nation of prisons, perhaps at greater cost financially than our present cost and effort, and certainly at the cost of bankruptcy of our national soul.

I am sure I need not tell you that the conditions of life in Harlem and in all the Harlems have deteriorated sharply over the past decade. If our only response is to continue to add sanctions, even if we also add the necessary police, judges, and correctional facilities, we will surely continue to accomplish the ultimate and permanent division of this country into two camps with an ever-widening gulf period. That is a consequence which is unacceptable to me. I hope it is unacceptable to you.

STATEMENT OF WOLFGANG EGGERS, DIRECTOR, GREEN OAK CENTER, INSTITUTIONAL SERVICES DIVISION, MICHIGAN DEPARTMENT OF SOCIAL SERVICES

Mr. Chairman, members of the Committee, thank you for the opportunity to appear before you today. I am Wolfgang Eggers, Director of Green Oak Center, an institution for serious and multi-problem adolescents within the Institutional Services Division of the Michigan State Department of Social Services.

I. GREEN OAKS CENTER (WHITMORE LAKE, MICHIGAN)

Green Oak Center is a maximum security, special treatment unit within the Institutional Services Division of the Michigan Department of Social Services. It is a self-contained residential program with a capacity for housing 100 boys between the ages of 12 and 19. Traditionally, the Center has been operating on a near-capacity level. Within the Center, the boys are housed on five wings (living units), each providing living area, a classroom and 20 secure individual rooms.

By way of background, Green Oak Center was built in 1960. It was planned to serve as a "readjustment" program, for the purpose of accepting the most aggressive and dangerous boys from other institutional programs for short-term placement. These boys were to be "turned around" and prepared for their speedy return to their previous placement. This planning resulted in prime emphasis on security and custody in the design of this facility. However, this program design never became an effective reality.

Since 1965 the program direction changed, making Green Oak Center a full, long-term treatment/rehabilitation program, aimed at preparing boys for reintegration into the community (family group homes, halfway houses). In spite of this shift in program direction, the emphasis remained on security, custody, and a not atypical program around traditional case-work, education, and recreation. Throughout the duration of this type of program, until 1971, the predominant culture or milieu within Greek Oak Center remained extremely delinquent, negative, and destructive, characterized by a high incidence of peer and staff assaults, sexual assault, racial difficulties, gross vandalism, and truancies.

II. GREEN OAK CENTER AND MICHIGAN'S DELINQUENCY SERVICE PROGRAMS

Within Michigan's Delinquency Services Programs, specifically the Institutional Services Division (I.S.D.), Green Oak Center serves a twofold purpose: (a) it serves as a back-up to other institutional programs, thereby facilitating their effective work, (b) it provides treatment and rehabilitation services for a group of boys from throughout the State of Michigan, who are judged to be in need of the particular program offered by Green Oak Center.

Green Oak Center is not a direct target agency for Michigan's 83 county departments (Department of Social Services). Green Oak Center referrals

come either through the I.S.D., Case Planning Assistance Program, or through an Administrative Review process, involving the Division Director.

III. GREEN OAK CENTER POPULATION

Generally speaking, Green Oak Center serves Michigan's most difficult-to-work-with adolescents, adjudicated delinquent through the 83 probate courts. These are boys who have been variously described as multi-problem youth, who cannot be worked with in any of the other available programs, and who have essentially been given up as hopeless or not amenable to treatment.

By way of summary, in spite of the extreme heterogeneity of Green Oak Center's population, the following figures may help suggest as least a limited profile.

Age: (Intake for 7/77–12/77, N=30);
Average age at entry=16 years, 3 months,
Average length of stay=11 months (average since 7/74),
Average age at release=17 years, 2 months.
Academic Level: (N=146, youth released 7/75–6/77);
Average grade level at entry=4.9,
Average S.A.T. scores at entry=1.0–12.1,
Average academic gain during stay=1.2,
Average gain "Per year in program"=1.3 (1.0×365 days)= 340 days.
Previous Offense Patterns: (Most serious adjudications: 1/76–7/77, N=119);
Aggressive felonies=55%,
Property felonies=45%,
Misdemeanors=0%,
Status offenders=0%.
Previous Actions and Placements: At point of intake, the average youth;
Had average 3.1 previous court appearances,
Had averaged 2.2 previous adjudicated offenses,
Had average 2.4 previous out-of-home placements.
Previous Mental Health Placements: An average of 20% of Green Oak Center's population have had one or more placements in a Mental Health facility.

IV. GREEN OAK CENTER PROGRAM

Growing dissatisfaction with the former program approach led a group of Green Oak Center staff to look for alternatives. Almost a year of intensive debate and research resulted in the decision to develop a new program approach following the model of Guided Group Interaction, a group-centered treatment approach that was to become Green Oak Center's central treatment modality.

A. Treatment Program:

The treatment program presently operating at Green Oak Center represents a group-centered treatment approach extended throughout the total program organization, encompassing all program components in an integrated manner. The peer group is the major focus of the treatment staff team's therapeutic interactions, and the group functions as the program's main change agent. In order to organize the program to accommodate the group-centered program design, arrangements have been made to have two groups of 10 boys each established on each of the five wings. Since, Green Oak Center has been working with 10 treatment groups.

While Guided Group Interaction (G.G.I.) served as the model for Green Oak Center program design, its implementation in this setting with its select population demands certain adjustments and adaptations. The Green Oak Center model operates along a continuum ranging from "structured group interaction" to the more truly "Guided Group Interaction", varying with any group's level of responsibility, and the degree to which the group operates with honesty, mutual care, and concern. The overriding program objective is always the achievement of a positive group culture and the accomplishment and maintenance of the process of "guided group interaction reflecting breakdowns of responsible, positive group functioning, refers to rebuilding or reparative phases when staff assume relatively greater control and apply pressure and various strategies aimed at helping the group to work harder and more responsibly.

The basic program rules are simple: no one may be allowed to hurt himself or others, and everyone has the responsibility to help and care about others as well as himself.

The continuous process of helping is primarily reinforced in each group's "meetings" (five 90-minute meetings per week) which represent the central program activity. The "meeting" is the critical area for the groups most difficult work: the identification of problems and their analysis; direct and consistent confrontation of problems, not accepting any "copping-out," not letting any problem slide, not accepting manipulations or excuses, assigning goals, developing plans and strategies for problem-solving and goal attainment, making and getting committments, and ongoing reviews of progress. Central in this process is the Group Leader's knowledge and ability to teach the group the skills necessary for accomplishing the above tasks in a therapeutic and helpful manner, particularly in view of the complexity of the problems presented by Green Oak Center's population.

Essential for the effective implementation of a positive, therapeutic group treatment program is the recognition of the informal system represented by the peer groups within the institution, and its legitimization, thus making the peer group system an important part of the formal system within the program organization. This is done by placing meaningful responsibilities on the groups and by having them share with their staff team in decision-making powers concerning their very lives. This process was crucial for changing the powerful, informal culture in terms of the negative, delinquent, and destructive values and norms into a positive culture, characterized by prosocial and constructive values and norms, reflected in helping, care, and concern.

Green Oak Center's group-centered treatment approach, while following the basic guidelines of Guided Group Interaction, differs somewhat from the original G.G.I. modality (as developed at Highfields, New Jersey) :

1. Organizational changes have been implemented in terms of decentralization with program responsibilities for their two groups being placed on wing teams, consisting of a Program Manager, a Group Leader, three Youth Specialists and a basic Special Education teacher, meeting at least once a week for reviews, strategy planning and decision-making.

2. The Green Oak Center approach relies on somewhat greater staff involvement, though the extent of their involvement varies inversely with the degree to which a group functions productively. A variety of staff pressures (or strategies) on groups facilitate the process of forcing them to work responsibly so their conditions may improve toward optimal program openness.

This difficult work is backed by traditional institutional structure and controls, that is, by security provisions that may be resorted to when needed, e.g., the ability to limit privileges and to control groups or group members temporarily by not allowing their movement off their wings, or out of their rooms.

(a) Manipulations (previously major mode) of staff members cannot work but will be dealt with as a problem as staff actually functions as a team regarding all decisionmaking. Approaches will be turned back on to the group.

(b) The only way to improve the degree of freedom in terms of program openness and to obtain privileges, is through responsible, helping behavior on the part of the group.

The system Green Oak Center developed may best be described in terms of an ever-changing continuum from "structured group interaction" to more truly "guided group interaction." Students referred to Green Oak Center have no choice but to become group members. Their becoming a helping, contributing and responsible group member is the responsibility of both their group and their staff team.

3. Program reorganization, to maximize the impact of the group-centered treatment modality, was done in such a way that groups in toto are involved in as many activities as possible, e.g., classroom activities, recreation activities, off-campus activities, etc. In this manner each group has maximum opportunity to control and monitor (checking) their group member's behavior, to know each other and what each group member is doing. So this can, and will, be dealt with in their subsequent group meeting (5 meetings per week, 90 minutes each).

4. Group failure to deal successfully with any of their members, e.g., assaultive, out of control behavior will result in staff intervention (usually supported by group). Such interventions may result in the respective group member's being placed in room confinement on an indefinite basis. In this case, his

group must devote their next meeting to working with him on his problem toward a responsible solution, goal definition, and renewed commitment. It is up to the group to see that their group member comes out of his room (confinement), or to return him to a certain privilege status.

5. Program phases have evolved into a structure of progressions for group members. A new group member (usually by random assignment due to the Center's near capacity operation) will be brought to Green Oak Center by his group leader and several of his new group members, typically from the Division's Reception Center or the program of his last stay. En route he receives his initial orientation. At Green Oak Center he will be placed on an "orientation program": he remains in his room except for 1 to 2 hours in the morning, afternoon, and evening, and his group meetings. Following, at the most, 1 week, he will automatically be given the meeting during which he is expected to talk about himself (life story, institutional history, etc.). At the end of this meeting the group usually decides to have his orientation program status terminated. He may then be placed on "wing restriction" status (participates in on-the-wing activities with some exceptions) if the group feels that they need to know more about him before having him on "open program" status (involvement in activities throughout the facility). Otherwise he may also go directly from orientation" to "open program" status. His first and second meetings, furthermore, result in the group's definition of his problems, his goals, and a commitment as to how the group will help him work to attain his goals. Subsequent meetings are usually devoted to helping him confront his problems, define his goals, and obtaining new commitments as an ongoing process. Later, during his stay in program, depending on his program and his helping behavior toward his group and group members, the group gets involved in decisions about off-campus privileges (in succession):

(a) "Group off-grounds": Group (with staff) includes him in off-campus activities such as shopping, movies, parks, and lakes, etc. The group has the responsibility for assuring his return to the Center.

(b) "Regular off-grounds": His community worker or his family may take him off-campus for 2 to four hours. The group remains accountable for his return.

(c) "Home visits": He may obtain a home visit pass (1 to 5 days). Routinely, such a visit involves specified tasks for him to accomplish and to report back on to the group upon his return, such as working out problems with his family, or negotiating school re-entry with a principal, or preparing an employment situation with a prospective employer, etc.

Again, the group remains accountable for his return.

Group accountability for their part in the decisionmaking process is in their backing their decisions by placing all their privileges on the line. For example, if a group decides to grant a member an off-campus privilege, and he subsequently truants, all group members lose their privileges. These will be reestablished after a series of group meetings designed to deal with any potential problems involved in the specific, undesirable event(s).

(d) "Releases": Based on his satisfactory progress in terms of his goals, and the adequate preparation of a community plan, normally following a series of successful home visits, the group may agree that he should be released from program (final decision with Youth Parole and Review Board).

Program decisions are normally finalized at the end of the group meeting, all critical decisions are impacted by prior, anticipatory decisionmaking of the staff team.

An important part of the group's involvement in decisionmaking is that they will not be allowed to get into punitive decisions. They can only be involved in positive, helping decisions.

B. Education Program

As virtually all program components are highly integrated with the Center's group-centered culture treatment program, groups attend the various activities as a unit, that is, in toto, whenever possible.

Green Oak Center's basic education (CORE) program closely integrated with the Center's total treatment program, includes five general education classes and five kinds of vocational exposure courses. CORE classes are conducted on each wing by the wing's Guidance teacher (special education) for the two groups on that wing, essentially involving the three R's. The content of these CORE classes

has increasingly been coordinated with the respective pre-vocational courses which the wings groups attend at the time. Each pre-vocational course, career education, food services, construction trades, small engines and motorcycles, auto mechanics, lasts for a period of nine weeks, and groups rotate through all of these courses. The Guidance teacher is responsible for reviewing educational records obtained from schools in which students have previously been enrolled, administering screening tests and developing an individualized educational program plan for each student who is admitted to the program. This teacher meets with other members of the school's teaching staff (special education support services) to develop the objectives that are to be included in the program plans for youngsters and to schedule them into classes. At the end of each nine-week school term the Guidance teacher reviews school reports from all of the teachers who have been working with students from the CORE program and records the information in cumulative folders.

When a youngster is due to be released from the institution the Guidance teacher summarizes the information and prepares a transcript which is sent to the community worker who will assist a youngster in re-enrolling in a community public school program, whenever this is a part of the respective community plan. Essentially, the school's schedule looks as follows: on any given wing, groups I are in their CORE classes, while groups II are in their pre-vocational courses in the morning. During the afternoon, the groups switch programs. In addition, individual group members are scheduled for certain periods out into one of two developmental language/reading classes (Title I), developmental arithmetic (Title I), a G.E.D. preparation class, or driver education (all by need and/or qualification). Physical education and health classes involve entire treatment groups.

Further instructional activities provided for the groups are a first aid and overdose aid training course and, soon, a course in human enrichment and sexuality.

Generally speaking, educational growth has been given a high priority emphasis by both staff teams and treatment groups, a situation well reflected in this program's solid and steadily increasing educational growth rates. Recreational activities for their two treatment groups are the responsibility of each staff team. Under the leadership of each wing's half-time recreation instructor, the team plans, organizes and implements all recreational activities for their groups. Of course, both treatment groups are involved in the planning for recreational programs as well.

C. Clinical Services

Limited psychiatric consultation time is available to Green Oak Center's staff teams through up to three psychiatrists, each on a four hour per week basis. The consultants do not provide any long term psychotherapy. Rather, they have been used to do needed evaluations, and to assist staff teams in the development of treatment strategies for group members posing special difficulties. Occasionally, one of the psychiatrists may see a group member (perhaps a psychotic boy who cannot immediately work with his group) for a limited series of appointments, to help him over some major difficulties. However, the focus is always to help him toward the point where he can be more actively involved in and with his group.

The use of psychiatric medication has been reduced to a very minimal level, particularly since the establishment of the group centered treatment approach.

D. Staffing

Green Oak Center's total staff of 63.5 has been organized into five treatment or wing teams and three support services groups (an administration group, a special education support services group, and a custodial and program support services group). Functionally, the support services groups are responsible to deliver services in their domain to the wing teams whenever needed, generally by request. Central to the program organization and program management are the five Wing Teams, each under the leadership of a Program Manager. Daily communications between several team members and, particularly, their weekly team meetings have strengthened these teams into solid work groups. The high level of effective team work is maintained through their ongoing self-evaluation in terms of their performance as a team, as well as their joint problem-solving, planning, decision-making (often anticipatory in nature with regard to expected

group decision-making), and implementation of treatment strategies. Through this ongoing process, all team members maintain their sense of program ownership and their sense of responsibility for the boys in their respective groups.

E. Program Cost

The current cost of Green Oak Center program operations in terms of daily per capita cost is $52.08 or $19,009.00 for a youth per year in program.

V. PROGRAM EVALUATION

Since July of 1974, Green Oak Center youth have been included in the Institutional Services Division's evaluation program. In this program youth are followed into the community via telephone contact with the youth's community care worker. For more than 2,000 youth released in recent years, there has been a 96% rate of successful tracking through three months after release, and 90% through twelve months. Outcome information is regularly reported back to program managers, so that regular review of program objectives and progress is part of the management process.

Arrest Outcomes:

The following figures describe arrest outcomes for Green Oak Center youth, in comparison with overall male institutional population rates. Green Oak Center youth are clearly a high-need treatment population, yet nearly two-thirds (63%) of its releases have avoided the adult corrections system after two and a half years.

[In percent]

	Arrest rate at 3 mo	Arrest rate at 12 mo	Percent in adult corrections after 2½ yr
Green Oak Center	37 (N=244)	60 (N=160)	37 (N=91)
Average institutional male	31 (N=1690)	54 (N=1437)	23 (N=247)

Productivity Outcomes:

Outcome studies clearly indicate that productivity (job or school participation) is an important factor in recidivism. Youth who are not productively involved after release run an arrest rate nearly three times that of productive youth. In light of this finding, the discovery that 60% of all Green Oak Center releases (N=208) and 54% of male institutional releases in general (N=1612) are totally non-productive three short months after release points to a glaring need. Youth regularly leave institutional care with a community plan—approved by the Youth Parole and Review Board—that includes job or school participation. Yet nearly three-fifths of these plans have fallen through within three months. Post-institutional care is clearly inadequate to the needs of these youth. Massive efforts are needed to get the post-institutional youth invested in socially productive activity.

VI. RECOMMENDATIONS

(1) The Federal government has taken a leadership role in the de-institutionalization of the status offender.

Now, it must turn to address the central needs of the "serious" offender in institution programs. The Office of Juvenile Justice should place a funding emphasis on supporting programs for the "serious" offender. It should support experimental and demonstration projects aimed at developing more effective intervention programs for the "serious" offender group. It will be essential that such projects will be designed to generate innovative programs that are humane as well as practical and replicable.

By the way, Michigan is on record as being very receptive to becoming involved in the development of such projects.

(2) The "serious" offender requires strong intervention programs. He must be surrounded, whether in a secure institution or in a community-based program, in a program which can control destructive behavior, yet maintain humane,

therapeutic milieu conducive to positive change and growth. In part, such programs should place considerable emphasis on enhancing self-concept, a sense of personal responsibility, and the development of constructive and prosocial values and norms.

(3) A highly critical need exists in the area of post-institutional care. The majority of the "serious" offender group require strong reinforcement following their release from the institution. Support systems for these youth are entirely inadequate. A variety of support systems could be suggested, such as interim or transition placements in terms of specialized group homes and halfway houses, tied directly to the institution; employment opportunities and employment subsidies, etc.

(4) The interface between delinquency services mental health services needs considerable improvement. Many of the "serious" offenders in delinquency programs such as Green Oak Center are chronic multi-problem youth. Many of the simply aggressive felons, whose basic problems lie in the area of values and attitudes, can be dealt with in less secure programs. The chronic failure, the difficult to treat youth, many with histories of severe mental problems, require the behavioral controls and structuring of delinquency programs, but also the clinical insights and support of mental health resources.

STATEMENT OF SHIRLEY GOINS, ADMINISTRATOR FIELD SERVICES, JUVENILE DIVISION, ILLINOIS DEPARTMENT OF CORRECTION

UNIFIED DELINQUENCY INTERVENTION SERVICES

Although many of the diversion programs of the past are based on humanitarian interests, experience has demonstrated the humanitarian intentions, alone, could not guarantee either more humane treatment, or the protections of the rights of the child. Legal rights for juvenile offenders and delinquency prevention are meaningless goals if the components of the Juvenile Justice System perpetuate policies and philosophies that tend to undermine the goals sought. Also, whatever rationale is publicly exposed for judicial and administrative intervention in the lives of youth is often massively buried in public doubts about the value of services for treatment of juvenile delinquents and their families. The negative political implications of fundamental institutional change often leaves administrators of justice for children to tolerate what the components of system reform say is no longer tolerable. These general observations led to four (4) basic premises underlining the programs of the Unified Delinquency Intervention Services (UDIS) Project;

1. Any money expanded to deliver diversionary services to adjudicated delinquents will be poorly used without, at the same time, consistent and vigorous efforts to identify and correct basic problems in management of juvenile justice that violates the constitutional, legal, or human rights of the children.

2. The fulfillment of the purposes of the juvenile court requires adequate community-based treatment services to minimize the unwarranted confinement of juvenile offenders, or else the court in large measure is reduced to a punitive tool of a society lacking all other alternatives.

3. The administrators of components of juvenile justice systems have to take certain responsibility for the defects of the system so that to serve in good consciousness without the active pursuit of institutional change becomes a moral and psychological impossibility.

4. The administrative structure of UDIS is so designed as to prevent and make difficult administrative capitulation to pressures for surrender to bureaucratic self-interest, political interest, and bureaucratic isolation of agencies.

A real issue in juvenile justice administration is public accountability. Some funds of the UDIS Project are to make major steps forward in institutionalizing public accountability about attacking problems about which there have been public interest and sensitivity. The goal is to achieve new methods of corroborative institutional change among juvenile justice agencies within the state of Illinois in the process of enabling probation violators to avoid illegal behavior.

The term "diversion," as traditionally used in the Juvenile Justice System, refers to the exercise at discretionary authority by probation and/or court administrative personnel and/or judge to substitute informal handling for formal procedures on alleged violations. Pre-adjudicative diversionary programs are

primarily designed to prevent a deep penetration into the system. In contrast to the judicial pre-adjudicative diversionary program, the UDIS Project primarily serves repeated offenders already on formal probation, and referrals are at the post-adjudicatory stage. Thus, the term "diversion" as used in this project, means diversion away from unnecessary institutionalization of the adjudicated delinquent who has been involved in serious offenses; "diversion" also means provisions of special assistance and individualized program in services for the juvenile offender, thus giving to some judges throughout the State of Illinois, clearly defined options to the Illinois Department of Corrections. Philosophically and programmatically, Illinois has been moving from the medical treatment model to the re-integration-justice model. There are shorter institutional stays, greater purchases of service in the community and support and the operationalizing of the youth advocate ombudsman concept. The Department of Corrections, since 1970 had been characterized by: (a) reduction in the number of state institutions; (b) reduction in the institutional population; (c) increase in community programs; (d) increase in the number of youths in the community and community programs; (e) reduction in the number of commitments by the court.

The Chicago Police Department re-ordered their priorities in working with apprehended youth and are making more use of the station adjustment in lieu of referrals to court. The recent changes in the Illinois Juvenile Court Act and new internal diversion mechanisms instituted at the court level has had great impact on the handling of the juvenile population. These changes coupled with the sensitivity of the court leadership to the deficiencies of the Juvenile Justice System, along with a willingness to explore and accept new approaches to dealing with juveniles, created a favorable climate for a project such as UDIS.

UDIS, however, was a significant departure from the established correctional practices in Illinois, and was viewed with some trepidation by the Juvenile Justice System Agencies. The project was originally a three-year demonstration project for Cook County, originally funded by the Illinois Law Enforcement Commission in October of 1974. UDIS is administered by the Illinois Department of Corrections, Division of Juvenile Field Services. The functional goals of UDIS were to divert young people from further penetration into the Criminal Justice System, demonstrate the feasibility of short-termed community-based corrections, and provide a normalizing experience by using local resources. It was projected that UDIS should reduce commitments to the larger institutional facilities of the Department of Corrections, Juvenile Division, by 35% of the commitment rate out of Cook County and at the time of expansion, 50% of the commitment rate throughout the rest of the state.

In 1977 in response to increased commitments to the Illinois Department of Corrections, UDIS services were developed in several counties in central Illinois to demonstrate the viability of such a project outside of Cook County. As a result of this central Illinois expansion, the Illinois Law Enforcement Commission funded UDIS to further expand services to additional counties in the state. Currently the project is a cooperative effort with twenty (20) juvenile/family courts throughout the state of Illinois.

UDIS has incorporated a combination of program approaches and has developed the network of services geared to working on a intensive basis with chronic delinquent offenders who have already been identified as being alienated from the social system. The service network provides UDIS youths with both residential and nonresidential programs; advocacy, counseling, educational/vocational, group and foster homes, wilderness stress and intensive care. These services are provided by community based agencies, which either were existing at the time of the initiation of the project, or by new programs specifically created to work with UDIS youth. Youth generally remain in the program for six (6) months, with continued involvement in some instances, for a period of nine (9) to twelve (12) months. For the most part youths will have contact with a number of different service providers during that time.

Youth are referred as condition of probation by the juvenile court judges, and close contact is maintained between the juvenile court probation officers and the UDIS case manager. Because a youth's involvement in UDIS is voluntary, termination by UDIS staff can occur if a youth decides he does not want to be involved in a program; termination can also occur if the youth refuses to participate in the program or violates another law; under these circumstances the youth will be returned to the court for redisposition. If a youth participates

in working toward the goals set out in his contract, he will egress successfully through the program.

UDIS can be considered a dispositional alternative for any child who:

1. The judge has adjudicated to be delinquent or to be in violation of probation for a delinquent act or who the judge would otherwise commit to the juvenile division, and there are no available resources to meet the child's needs.

2. The youth will have had at least two (2) delinquent petition adjudications in the juvenile court, or have committed an extremely serious offense for which he/she would be committed to the Department of Corrections, petitions that are dropped (DWOP'S) with no findings are not to be considered delinquent petitions.

If a youth meets the above criteria, the judge may refer him/her to UDIS for assessment and development of a service plan by either:

1. Entering a hold-in-custody order; or

2. Allowing the youth to return home for the assessment period.

A referral for assessment can be made either:

1. After a supplemental and social investigation, or a clinical study has been presented to the court; or

2. At the same time a supplemental social investigation or clinical report is ordered by the court, or when the supplementals are ordered on petitions not appearing in court on that day. (Referral for UDIS assessment can be ordered simultaneously in these instances in order to diminish that time in a detention center only if it is likely that the court is considering commitment.)

There is a two week assessment period, at the end of that time the UDIS case manager will appear in court with a proposed service plan involving community-based resources. If the judge is accepting of the plan, he/she will enter a special order designating the youth's participation in the UDIS Project as a condition of probation. This is not a commitment procedure and the youth remains on probation during the period of his activity with UDIS. The judge continues the case for the purpose of a progress report. Written progress reports are submitted on a monthly basis to the court regarding the youth's progress and recommendation for the continuance in UDIS or egress.

Approximately eight percent (8%) of the UDIS clientele are committed youth under the jurisdiction of the Department of Corrections. These young men and women are generally older, more sophisticated, and more institutionalized than the juvenile court referrals.

Programmatically the project is organized around a brokerage systems model, utilizing a case management process model of service delivery and a total purchase-of-care for services. UDIS is designed to be an intensive intervention service that inpacts the child and his family utilizing community resources.

Since the project became operational, there was a trend toward the involvement of the more serious offender. At the completion of the initial project year, (October 1974–September 1975) a total of 221 youths have been served; of these fifty-five percent (55%) were offenders who had been charged with major felonies, including murder, rape, armed robbery, arson, and burglary. Twenty-nine (13%) of these offenders had committed crimes against persons, while 183 (83%) were property offenders. As is noted in the attached monthly report from the Northwestern University tracking system, these percentages have remained relatively unchanged. UDIS has accepted 883 youths between October 1, 1974 and January 31, 1978; of these, 53.5% have been charged with major felonies, including murder, rape, armed robbery, arson, and burglary. Three hundred and eight (35.5%) of the crimes were against persons, 494 (55.7%) were crimes against property.

As we have moved forward in a more innovative pattern of planning and thinking, there are new dilemmas confronting social and state agencies in planning for treatment, based on differentiating between classes of juvenile offenders. Perhaps, a result of moving from the Juvenile Justice System a group of youth with less serious charges, as well as diverting from the system some less serious offenders with serious charges, successfully, has resulted in the identification of a group of youngsters, now to be called serious or violent juvenile offenders.

If our problem is, "what shall we do with the serious juvenile offender?", we must first determine the magnitude of the problem which is somewhat difficult due to the depth of impirical data. According to the uniform crime reports, of 1975, youth under 18 account for almost half of the serious crimes committed in the United States. Since 1960, crimes committed by juveniles have increased in

number at twice the rate of crimes committed by adults. Whether this increase reflects an actual increase in juvenile violence or a higher rate of police apprehension, the public in general, have been persuaded that the streets are unsafe because of the dangerous juvenile. The FBI cautions that these figures may show an increase in law enforcement activity, not necessarily the number of offenders. Data does not show us, however, how many serious juvenile offenders find their way into court, nor can we say how many of those who are brought to adjudication are placed under official control. However, out of the current periodic situation, is emerging a new ideology of hard-line approach demanding more harsh punishment for juveniles.

I propose that we need to consider the directions from which our thoughts are taking us regarding the serious juvenile offender and create viable options between the "nothing works" and "harsher punishment/deterrent of crime."

What sorts of interventions should be used with serious juvenile offenders, how will they work, and how well will they work? The complexity and even entering into this kind of a consideration is apparent in the defining of "serious offender." Are we looking at what is defined as "dangerous"? Are we looking at what is defined as "violent"? Are we going to define all person-related crimes as serious and are we going to use criteria of charges of convicted juveniles as criteria for labeling them as "serious"? Are we going to predict violent behavior of juveniles based on community charges?

As Novall Morris has written: "Why use the criteria of conviction? A short answer is that is the only reliable available basis. Granted, the distortion due to the lack of detection, arbitrariness of arrest, prosecution and conviction, and plea-bargaining, what other acceptable evidence of past violent behavior do we have?" But, what is our ability to predict which juveniles will engage in violent crimes? We must ask ourselves, of any category that we differentiate, "are these categories real and are they relevant to defining a treatment response; it is though a single set of treatments that can relate to a category of "serious juvenile offenders"?

A real myth in this field, I would submit, is a single factor explanation or any single factor solution to youth problems. There is simply no single causes of serious violent behaviors; and if there is a single approach solution it has yet to be discovered. There had been cursory evaluation of a few programs and techniques for working with the "serious juvenile offender".

The Rand Report prepared under a grant from the National Institute of Juvenile Justice and Delinquency Prevention, has indicated that findings were predictable but important; (1) "the data adequate to support finely grained judgments about their realative effacacy of the various treatment modalities does not exist;" (2) they did not encounter any programs that were concentrated solely on behavior-changing efforts with this population; (3) "limited success" was noted with each of the four treatment modalities that they explore. The report further indicates that there were characteristics that were in all of these programs, including; (a) client choice, (b) participation, (c) learning theory features, (d) wide range for applied techniques, (e) heuristic management.

For any program to be successful in working with serious juvenile offender there must be a cooperative attitude with the judiciary, agressive advocaty work, and emphasis on resource development to create programs of varying degrees of structure, attention to procedural detail, utilization of a tracking and monitoring system, an evaluation component, the cooperation and ability of the purchase of care of services to work with the youth, continuing program and fiscal support by the agency administering the program, and flexibility of all program staff.

The serious juvenile offender can be worked with at the community level given a highly individualized approach is implemented and resources created to respond to the need of the individual as well as the protection of the community.

STATEMENT OF CHARLES A. MURRAY, PRINCIPAL RESEARCH SCIENTIST, AMERICAN INSTITUTES FOR RESEARCH

Mr. Chairman and members of the Subcommittee, let me first express my appreciation for the opportunity to come before you. I hope my remarks will be of assistance.

My name is Charles Murray. I hold the position of Principal Research Scientist at the American Institutes for Research, a nonprofit research organization headquartered in Washington, D.C. I recently directed the evaluation of the Unified Delinquency Intervention Services (UDIS) in Chicago, a major program for dealing with the chronic juvenile offender in noninstitutional settings. My initial remarks will deal with that program in particular and with my understanding of the general state-of-knowledge about the issues. I will focus on three questions:

Do noninstiutional alternatives reduce crime?

Do they adequately protect the community?

How do they compare with the alternatives?

Then, I will turn to some potential policy implications as I see them.

Do noninstitutional approaches reduce crime? Let me put it more inclusively: Do correctional interventions—that is, any intervention more severe than simple probation—reduce crime? And the anwer is yes, by a very large proportion—as much as two-thirds of the preintervention rate. In the UDIS experience, for example police contacts dropped 63 percent, violence-related offenses dropped 69 percent, and the proportion of offenses that were classified as "serious" dropped by 32 percent. Nor is UDIS the only source of evidence. An intensive search for comparable studies revealed that each of them, without exception, has found large reduction in post-program offenses. There are only a few of these before-and-after studies—four major ones—but they all tell a similar story.

It must be emphasized that these reductions also appear to be directly attributable to the intervention. In the UDIS case, we looked very hard for alternative explanations, and none were forthcoming. The reductions were *not* the result of maturation; they were *not* the result of a delinquent career having run its course; the reductions could not be attributed to a natural drop from the high levels of activity that triggered the intervention; and they were *not* an artifact of a sample biased toward socially or economically advantaged and therefore "easy" delinquents.

The question is obvious: If the drop in delinquent activity is as sharp and consistent as I portray it, why has it not been common knowledge for years? More to the point, aren't these data contradicted by well-documented findings that correctional interventions for juveniles do *not* work?

No. The widespread impression that correctional intervention for these offenders has been proved ineffective is erroneous, derived from post-program measures that ignore the pre-intervention level of activity. Thus, for example, 65 percent of the boys in the UDIS sample had been rearrested within a year of leaving the program—a high rate, typical of other correctional programs, and the kind of measure of failure to "cure" delinquency that has filled the evaluation literature and eventually has succeeded in establishing the conventional wisdom that, after all, very little can be done to deal with the chronic delinquent. The trick in interpreting this kind of statistic is to keep separate the question, "Do juvenile corrections *stop* delinquency?" to which the answer is a thoroughly-proven "no," from the question, "Do juvenile corrections *reduce* delinquency—which can only be answered through the use use of before-and-after comparisons.

In short, reports of the futility of juvenile corrections have been greatly exaggerated. Despite the immense volume of rhetoric about our inability to do anything about juvenile crime, hard research comparing the way delinquents behave before and after undergoing a correctional intervention has without exception shown that large reductions in offenses occur. As the findings from the UDIS study have circulated, readers have reported a nearly universal conviction that our results are anomalies relative to the weight of scientific evidence. The reduction is understandable, but it is incorrect.

Do noninstitutional programs adequately protect the community? In-program offenses will occur in any community based program, and there is no accepted demarcation between a level that is tolerable and one that is not. It is also a subject that has seldom been addressed except in the media. And because the accounts have so often been of horror stories—the boy on probation for homicide who then commits another one—that there has been a tendency to assume that concerns about in-program offenses are exaggerated. But there is legitimate reason for concern. In the UDIS case, three arrests occurred for each person-year spent in the program. Most of these were relatively minor offenses. Some were not. For every eight boys who stayed in

UDIS for the typical eight-month period, one was apprehended during that time for an armed or strong-armed robbery. One of every eight was arrested for assault or battery. For every four, one was arrested for burglary. For every 38, one was arrested for homicide. This is not a record of mayhem; neither or does it represent a trivial problem.

How do noninstitutional approaches compare with the alternatives? Predictably, lesser interventions such as adjustments at the police station or simple probation did not show positive results for the UDIS sample of delinquents. The fact that these boys had eventually been referred to UDIS reflected the failure of those approaches. The more significant comparison is with the result of traditional institutions.

In terms of annual *operating costs*, UDIS and the institutional programs were equivalent. The proposition that community-based corrections are substantially less expensive than institutionalization was not borne out by the UDIS experience. The comparison did not, however, extend to the question of costs of expansion of services. Presumably, these would be higher for the institutional alternative.

In terms of *in-program offenses*, institutionalization showed much better results, with only .4 offenses per person-year in the program compared to 3.0 offenses per person-year for UDIS. This is a dramatic but unsurprising advantage of institutionalization.

In terms of *post-release recidivism*, the analysis did not make a case for the overall superiority of either UDIS or the traditional institution. The institutions had an edge in reducing the incidence of offenses; UDIS had an edge in reducing the seriousness of the offenses that continued to be committed.

It is hazardous to conclude that institutions and UDIS were truly equal in their effectiveness, however, because of the selection biases at work. They were potent ones. The judges openly (and understandably) tried to send the most intractable cases to institutions. And, because many UDIS "failures" were sent directly to institutions, the recidivism analysis included only those UDIS youth who had managed to successfully complete the program. In a sense, the worst UDIS failures "didn't count" in the recidivism analysis. These factors taken together create serious doubt that we have a clear fix on the relative effectiveness of the institutional and noninstitutional alternatives. Plainly stated, the institutional alternative did as well as UDIS despite having the dice loaded against it.

This is not prelude to a claim that institutions are the answer. Rather, it adds to the potential significance of another finding about recidivism results achieved by different types of UDIS placements; for UDIS itself was not a purely community-based program. It used a variety of services. Some, such as counseling services or educational placements, left the boy at-home, in the community; others (group homes and foster care) were residential services in the community; still others were residential services outside the community (wilderness programs, camps, intensive care facilities). Instead of comparing just UDIS with institutions, we could compare recidivism results among types of intervention ranged in order from "minimal" to "maximum" in the degree to which to they altered the preintervention environment. These were the results, comparing number of arrests in the year prior to the intervention with annual post-intervention rates:

Type of placement:	*Percentage reduction (percent)*
At-home, in the community	−55.8
Residential, in the community	−61.2
Residential, out-of-town	−68.4
Residential, institution	−71.4

The more drastic the intervention, the greater the reduction in police contacts.

My colleagues and I are now conducting follow-on work that I hope will tell us much more than we know now about what this pattern means. Perhaps another explanation will emerge. At the very least, the pattern is provocative.

POLICY IMPLICATIONS

The policy implications of the findings I have presented are profound—but not as profound as some readers of the UDIS report have wanted to make

them. Let me begin this statement of my personal views by saying categorically that the findings of the UDIS evaluation do *not* call for a policy of indiscriminately shipping delinquents to institutions, nor even for expanding the use of the traditional institution. I do have the following thoughts on how we might do better

First, I am becoming convinced that "minimal intervention" is a bankrupt strategy for dealing with the chronic delinquent. There exists a small population of youngsters who commit serious offenses—repeatedly. Their behavior is not altered by lectures from the police or by simple probation. Their behavior *is* altered by a more energentic correctional intervention.

The "energetic correctional intervention" need not be harsh or prolonged; it does need to be convincing. The lesson of the UDIS findings seems to be that the length and the content of the intervention matter less than the fact that intervention occurred. Insofar as content did matter, the critical dimension appeared to be the extent to which it facilitated—or forced—a situation in which the delinquent could step outside the context of his recent past and take stock of his situation. This, in my judgement, is the most parsimonious explanation of the results achieved by the out-of-town placements, including the institutions.

I have been unable to disentangle the relative roles of deterrence and of personal growth in this stock-taking process. Both were probably at work. I am not sure that the distinction is an important one. Other adolescents are expected to fret about directions and options and, after some false starts, slowly come around to satisfying ways of fitting in. It is not far-fetched to suggest that the chronic delinquent is doing exactly the same thing, and that the residential out-of-town placement gave him an opportunity.

In the same vein, I am also increasingly persuaded that our best strategy for dealing with the chronic delinquent is to assume he is a rational person responding like the rest of us to incentives and disincentives. The assumption will sometimes be wrong, of course, as such assumptions are sometimes wrong about all of us. But as a group the boys in the UDIS study certainly looked as if they were acting in ways that made sense. They started to commit offenses, presumably because to do so was reinforcing in some way. They continued to commit offenses until the *first time* that they had credible evidence that serious consequences were either (1) about to ensue, as indicated by a referral to UDIS, or (2) had already become inevitable, as when the court committed them to an institution. Then, offense rates plunged.

The sequence of events looks suspiciously logical, simple, and not at all exotic. We should consider the possibility that while the causes of delinquency may be complex and embedded in socioeconomic issues, it is nonetheless permitted that solutions—or part-solutions—be simpler than causes.

I suggest then that a basic component of a strategy for dealing with the chronic delinquent is to label him as such long before the average 13 arrests that the boys in the UDIS evaluation had accumulated, and then to intervene with a program more forceful than ordinary probation. UDIS provides a useful model of a structure for coordinating intervention services at this stage.

I am not at all sure, however, that the first step beyond probation should always be an at-home service. We should at least be experimenting with the possibility that some youngsters are served best by a short-term stay in a residential out-of-town program, for the reasons I discussed earlier. In making this recommendation, I am assuming that the residential programs in question would take advantage of the many non-repressive, non-abusive examples that are scattered around the country. We have developed a reflexive hostility to residential correctional approaches for juveniles because they historically have been exteremely unhealthy places to spend an adolescence. They do not have to be that way, as the UDIS out-of-town placements illustrate.

It is likely, however, that the nonresidential alternative will continue to be the most frequently appropriate next step beyond probation. And that raises the question of in-program offenses: what is the appropriate balance of priorities between the interests of the youth and of the public?

Noninstitutional programs have seldom confronted the issue head-on. It is time they did; more than that, I think they can appropriately take the lead. It happens that at this point in the dialog on juvenile corrections, the delinquent has a variety of articulate, highly-placed advocates in policy positions. Contemporaneously, the communities with the highest delinquency rates tend

to be unorganized and unheard on the issue. The community needs an advocate, to say clearly and explicity that its residents are not obligated to advance the cause of community-based corrections. A boy is in a community-based program on sufference of his neighbors, not because he has an inalienable right to be kept out of an institution. The noninstitutional program can say this to its participants perhaps more persuasively than anyone else. And they are certainly in the best position to enforce their words, by the simple expedient of considering that any apprehension for a nontrivial offense is grounds for expulsion from the program, or at least transfer to a residential service.

But to say that noninstitutional programs should be more protective of the community is not to say that they must at the same time abandon the delinquents they are trying to help. On the contrary, that notion has been one of the obstacles to a square look at the problem posed by the chronic delinquent. We have persistently characterized policies as being first "for" or "against" the youth, and then assessed the recidivism effects on a separate dimension. If the choice is to leave the youth untouched or to throw him into the traditional training school, the separation of issues might be warranted. But it is a false polarization of choices. Perhaps the major lession of a program like UDIS is that the two types of benefit—for the youth and for the community—can be reconciled. Federal policy over the past decade has worked steadily to implement half of the lesson, that what is good for the youth is not necessarily bad for the community. Perhaps now we can turn to the other half—that what is good for the community is not necessarily bad for the youth.

STATEMENT OF MICHAEL E. SMITH, DIRECTOR, VERA INSTITUTE OF JUSTICE

Thank you for inviting me to share with the Committee my views on what needs to be done to address serious juvenile crime. Perhaps I should first establish the perspective from which these views come. The Vera Institute of Justice, a private, not-for-profit organization, has played a role since 1961—primarily in the New York City criminal and juvenile justice systems—in planning, implementing and evaluating small pilot projects which, if successful, can be absorbed by the responsible agencies or left to stand alone in working alongside those agencies. From time to time these pilots lead to demonstrations which catch hold in New York and, sometimes, are replicated elsewhere. Vera is committed to an "action research" approach: empirical research serves as a basis for forming program hypotheses which are tested in a pilot; the pilot generates more and better data and research of those data help refine the program, lead to new hypotheses and new programs, or show us we were proceeding down a dead end.

While the causes and prevention of crime and the treatment of offenders of any age present complex issues, our own experience suggests that it is possible to make some progress towards improving the criminal and juvenile systems and reducing criminal and delinquent activity. We have also found that issues in our field tend to arrive, demanding solutions, without the lead time that is usually necessary for quality program development and for the research on which it depends. Serious juvenile delinquency has the hallmarks of such an issue.

It might be said, in a lighter vein, that preparation of this statement also suffers from insufficient lead time—there was not the opportunity to shift my focus from our rather narrow concerns (the step-by-step researching planning and testing of programs) to the broader concerns confronting you. My remarks, therefore, may leap with otherwise inexplicable abruptness from the specific to the general.

Our present interest in serious juvenile delinquency was provoked by the Ford Foundation, which asked Vera to examine the feasibility of identifying, replicating and testing model programs for the prevention and treatment of "violent" delinquency. Vera's attempt to meet this mandate revealed a paucity of information relevant to program and policy, a lack of statistical data and of program evaluations, and a lack of resources being focused on these problems.

We first undertook a study which included review of the available data about the extent and nature of violent delinquency, and review of the literature regarding its etiology, treatment and prevention. To supplement this study,

which frankly did not give us many useful leads, we collected data on the offense histories and juvenile justice dispositions of a random sample of delinquents petitioned in juvenile court, in 1974, in Manhattan and Westchester Counties, New York, and in Mercer County, New Jersey.

Our study indicated that arrest of juveniles for violent acts is relatively uncommon; the majority of juvenile arrests are for offenses against property or for minor offenses. While a significant number of juveniles brought to court have at some point committed a serious personal injury offense, the percentage that do so repeatedly is small; while 29 percent of our own sample had been charged at least once (including the current charge) with a serious violent crime (a crime against the person causing injury and requiring at least some medical attention), the proportion charged more than once with such offenses was much smaller—6 percent of those in the sample.

The empirical research was helpful in defining the extent of the problem, but our review of the literature indicated that there is little consensus on the etiology of juvenile violence. It appears that violent acts are for the most part occasional occurrences within a random pattern of delinquent behavior, rather than a speciality of a particular group of juveniles. Targeting on "violent" delinquents seems an impossible task when the results of self-reported delinquency research are taken into account to show that almost all juveniles engage in delinquent acts at some point.

It seems that efforts to reduce the incidence of juvenile violence, whether by prevention or by treatment, might best be achieved by focusing on the somewhat broader group for whom arrest and processing in the juvenile system is a recurring event. Various studies that preceded our own indicated that this group of juveniles, often referred to as "chronic" offenders, represents a relatively small proportion of the delinquent population but accounts for a large proportion of all offenses, including violent offenses. In *Delinquency in a Birth Cohort*, a study directed by Dr. Marvin Wolfgang, 18 percent of the delinquents in the cohort had five or more police contacts (his "chronic" delinquents), but this 18 percent accounted for 51 percent of all cohort police contacts, for 62 percent of cohort arrests for property index crimes and for 70 percent of cohort arrests for person index crimes. The Hartford Institute of Criminal and Social Justice found, in an examination of juveniles referrals to court, that juveniles with two previous referrals to juvenile court and whose present referral was for a felony represented 8.1 percent of all referrals to the court but accounted for 54 percent of the referrals on felony charges.

Our review of treatment approaches for violent delinquents indicated that data on program effectiveness is scarce. The paucity of information is in part a result of the exclusion from many of the treatment oriented programs of youths found delinquent for serious violent acts and youths whose delinquency is repetitive. In addition, programs which have accepted such youth for treatment have not often been evaluated and the few evaluations that have been conducted were not sufficiently rigorous to make their findings reliable or generalizable. However, we were able to develop some basic guidelines from review of the treatment literature: no one treatment approach has been shown singularly more effective than another; the major obstacle in developing treatment approaches is the lack of tested and agreed theory, regarding the causes of juvenile violence, to serve as the basis for designing and testing any particular approach; application of a single method of treatment is not likely to change the behavior of a repetitively delinquent youth, and combining treatments seems more promising because the problems that characterize them are multiple and various; and no treatment methods should be expected to bring about a complete change in a delinquent's behavior in a short period of time.

It is fair to say that we were disappointed in the harvest from our preliminary study—the effort produced little upon which program models could be built. It also suggested that serious attention needs to be given to approaches that do not rely on treatment effectiveness for crime control; data from our sampling tended to confirm our feeling that, in the juvenile as well as in the adult systems, better techniques are needed to apprehend, prosecute and exercise control over chronic offenders. But, having found that juvenile arrests for serious violent offenses are relatively rare, are rarely repeated, cannot be predicted, and seem to occur randomly in the overall pattern of a recidivist's delinquency, we concluded that "violent delinquency" is (for the present) not a

useful organizing concept for program planning. Our own program decision, and our advice to the Ford Foundation, is that a research and program development effort focused on the chronic juvenile offender is the most promising strategy for preparing ourselves and the system to deal competently with serious (or with the more rarefied "violent") delinquents who may be relatively few in number but who seem to cause a lot of damage and for whom we have surprisingly few rational program responses. Needless to say, the need for such responses and our failure to generate them will become increasingly visible as the welcome effort to deinstitutionalize status offenders proceeds. As we approach the day when the "virgins and boy scouts" have been leveraged out of incarceration into community-based treatment programs, we may be left with a small but very visible institutional population of chronic offenders for whom there are not only no realistic and well designed community-based treatment alternatives, but no after-care programs that effectively combine necessary supports and services with a capacity to control and monitor behavior in the community. Programs designed for the (far more numerous) less serious delinquents provide us with very little of the kind of data and experience necessary to meet this challenge.

Over the last decade, the juvenile justice system has come under substantial pressure. On the one hand, it is criticized for dealing in too harsh a manner with the majority of juvenile offenders and, on the other hand, it is criticized for dealing too leniently with serious offenders. The response to these conflicting pressures has been twofold: first, there is a movement toward deinstitutionalization and diversion of status and minor offenders; second, there is movement toward lowering the age of juvenile court jurisdiction, movement toward waiver of serious juvenile offenders into the adult criminal justice system, and movement toward mandating longer-term secure confinement for the serious offenders remaining under the jurisdiction of the juvenile court.

While this second set of responses can be understood, it seems likely to lead to a dead-end. Removing serious juvenile delinquents from the juvenile justice system may reduce the serious juvenile delinquency problem, but it adds to the serious adult crime problem. (And there is reason to think that the adult system is particularly ineffective in responding to serious offenders at the younger end of its jurisdiction.) Likewise, while removing the serious juvenile delinquents from the community may afford temporary protection from new offenses which might be committed by the particular juveniles who are incarcerated, there is little reason to expect that these juveniles, upon release, will have changed their patterns of behavior for the better; not only are they likely to have the same problems, but it is unlikely that any community program will be there to provide either assistance or a controlling influence.

Our sense of the field at the moment is that insufficient attention is being focused on understanding the extent to which serious juvenile delinquency is a problem, on understanding the factors associated with chronic delinquency, and on learning—by trial and error and by facing the tough issues—whether programs can be developed which address both the community's interest in protection and these juveniles' need for help. We must recognize that answers to these issues are difficult, that they will require time and expenditure of resources, and that, if the effort is a serious one, certain of the approaches tried will be failures.

Together with the Ford Foundation, Vera has now embarked on three projects that seem to us likely to be helpful, albeit unduly modest in light of the problems sketched above.

1. In order to understand what kinds of incidents come into the juvenile justice process and how that process disposes of them, we are studying a random sample of 3,000 delinquency and PINS cases that arrived at New York City's Family Court during a recent six-month period. Available data is so inadequate (in our jurisdiction, at least) that this "wide" sample will provide the first accurate picture of how and at what point in the process such cases reach what dispositions. From other research[1] we know that the formal labels given to cases are often more mystifying than revealing of the circumstances underlying an arrest or a PINS petition, so we will take a sub-sample of 500 cases and interview each of the persons who handled the case—the arresting officer, the probation intake officer, and any other probation officers who become involved, the

[1] *Felony Arrests: Their Prosecution and Disposition in New York City's Courts*, Vera Institute of Justice, 1977.

prosecuting and defending attorneys, the judges, the social workers, and (if possible) the intake workers at any agency or institution to which the juvenile is referred or placed.

From this effort we hope to learn, among other things, more than the presently available anecdotal and journalistic record reveals about how (and how well) the existing process distinguishes between the serious and the trivial, between the chronic and the one-time delinquent, and between the need for control and the need for services. (Although this kind of research can help, as well, to pinpoint process breakdowns and treatment gaps which can be filled by carefully thought-out pilots, it cannot tell us how the police might increase clearance rates for serious felonies—a problem that is by no means peculiar to the juvenile side of law enforcement.)

2. A member of the Institute staff is attempting to establish and maintain regular contact with those in other jurisdictions who are, by design or by chance, dealing in some programmatic way with chronic offenders. Our sense is that these efforts—whether oriented toward apprehension, prosecution, treatment or prevention—are scattered, are not limited to government or government-funded agencies, and do not always surface in the various digests and newsletters devoted to current juvenile justice programs. In a small way, we hope to play a role by collecting and communicating information about what approaches are being attempted and, possibly, by helping the individuals involved to develop basic data-collection systems and procedures for recording their experiences with the approaches and for identifying those that seem promising and those that do not.

3. We will try to confront head-on what seems to us to be the most important question in the area of program: is it possible to develop a nonincarcerative, nonresidential approach to treatment of chronic delinquents—or even to their after-care—that addresses the community's need for protection from further delinquency by the participants, while at the same time providing to them services that fit a plausible treatment hypothesis. My own view is that if such programs could be developed they might do more than anything we have now to interrupt repetitive delinquent patterns in which particularly serious crimes are likely to occur. The major difficulty is combining a helping, advocacy role with a controlling function. Vera intends to develop a pilot, along these lines, for implementation in New York, and to find two or three existing programs elsewhere that would agree to sufficient modification to provide a richer and more varied base for research of such efforts.

It must be hoped that Vera's project activity, whatever merit it may have, comes to constitute but a small part of a much broader national effort. In my view, the agenda for that effort should combine basic research with the generation of testable program hypothesis, the implementation and evaluation of pilot projects, and the evaluation of practices and procedures in the juvenile justice systems of various jurisdictions as they adapt to the current, conflicting pressures upon them. I would recommend, as a beginning, including the following on that agenda:

1. RESEARCH

A proper understanding of the extent and nature of serious juvenile crime requires development of a new knowledge base. Some areas where research is needed could produce useful information in a relatively short time frame and at a low cost; other areas would require more time and resources.

a. *Data Collection.* Basic descriptive information pertaining to the extent of serious juvenile crime and how serious offenders are presently handled by juvenile justice systems often is not available at all, or is fragmented.[1] Official and self-report delinquency studies are needed to address such issues as: (1) the extent to which serious juvenile crime is concentrated in particular sub-

[1] And basic descriptive data of this kind is usually not comparable across jurisdictions. Also, while cohort studies have examined the characteristics and patterns of serious juvenile crime and have provided some valuable information, they are now dated and are not amenable to application of some of the more refined measuring tools that help detect differences between subgroups of offenders. Further, the cohort studies have relied on official statistics, and thus do not indicate in what ways the juveniles studied—those coming into contact with the juvenile system—differ from those who may also be involved in serious juvenile crime but who escape detection. The majority of self-report delinquency studies are cross-sectional, and thus, unlike the cohort studies, do not provide information on changes in the extent and patterns of serious juvenile delinquency over time.

groups of juveniles; (2) the characteristics of the different subgroups of juveniles involved in serious crime; (3) the patterns of involvement among the subgroups; (4) the extent to which juveniles whose serious delinquent acts are undetected are different or similar to juveniles whose acts are detected; (5) changing patterns of serious juvenile crime over time; (6) the types of dispositions and services provided to serious juvenile offenders; and (7) the impact of these dispositions and services on both self-reported and officially reported delinquency.

b. *Theory Development.* Additional attention could usefully be focused on increasing our understanding of how and why some juveniles become chronic delinquents. The importance of the primary socializing institutions—the family, the school, the job—in insulating against delinquency has been noted by many. Yet we still know very little about how these institutions impact on the personality development and behavior of juveniles or how their impact is affected by the impact of the formal agencies of social control or the impact of illegitimate institutions such as gangs or organized crime. Among the questions begging for answers are these: Why do certain juveniles in a high delinquency area resist involvement in crime while others, sometimes from the same family, become chronic offenders? Why do juvenile delinquency rates vary between apparently similar communities? How do chronically delinquent juveniles begin their pattern of delinquency? Does organized crime play any role in launching or fueling these delinquent careers? Field studies at the community and neighborhood level, aimed at enhancing our knowledge in these areas, would need to inquire into the factors that appear to promote non-delinquent patterns as well as those that promote chronic delinquency.

The research agenda ought also to target the possible importance of organic factors. Among the psychological and environmental forces that shape delinquent behavior there may be significant and remediable biological determinants. Pediatric, neurological and psychiatric researchers are trying to relate health and diet to constitutional and developmental impairments, and to relate these in turn to anti-social behavior in family, school and community, both directly and through learning and perceptual disabilities. These lines of inquiry are suggested in part by what we already know about the demography of reported crime and of poverty. The delinquent behavior of poor urban youth can be seen primarily as reactive—a response to emotional deprivations, psychological stresses and capricious or non-existent guidance from adults and peers. But deficiencies of health, especially in connection with birth and nurture, are as typical of the lives of the poor as are the psychosocial stresses that are already counted among the causes of social pathology. Many of those deficiencies are known to impair children's mental and emotional development. Included among them are: prenatal and early childhood malnutrition; infections and injuries in pregnancy and birth as well as infancy and early childhood; gross uncorrected deficits in vision; hearing and dentition; undernutrition and episodic hunger; and heavy exposure to environmental toxins.

Research on such possible organic determinants of social pathology has been increasing, but has been of greater interest to psychologists, educators and research-oriented pediatricians than to the juvenile justice establishment. Studies that would confirm or deny the usefulness of considering organic factors in delinquent behavior will certainly require a greater commitment of federal funds. I understand that NIMH and LEAA have shown an interest that deserves every encouragement.

c. *Research on Deterrence.* Insufficient attention seems to have been forced, in the juvenile area, on the specific or general deterrent effects of formal sanctions. Deterrence theory suggests that individuals calculate the costs and rewards of involvement in crime. The deterrent capability of the juvenile justice system is thought to increase as the certainty of apprehension, prosecution and imprisonment increases. But much more could be known about: (1) the extent to which deterrence—for juveniles in particular—is a function of the objective certainty of sanctions or the subjective perception of the certainty of sanctions; (2) how information on objective risks of involvement in crime is transmitted to juveniles; (3) whether external sanctions have an effect which is separate from and independent of the normative prohibitions against involvement in crime, whether and how external sanctions become internalized; (4) how much sanctions have to be increased in order to result in a given reduction in juvenile crime; and (5) whether increasing sanctions can have a deterrent effect on juveniles who

do not have access to legitimate opportunities which might, if available, weigh heavily in the balance of costs and benefits of engaging in illegitimate conduct.

d. *Evaluation of the Impact of Legislation Aimed at the Serious Juvenile Offender.* The impact of lowering the age of juvenile court jurisdiction and of increasing waivers to adult court deserves examination. At a very basic level, we ought to know more about: (1) the types of sanctions imposed on juveniles who are waived into the adult court or who are placed there by a drop in the age for juvenile court jurisdiction (are the sanctions more severe or lenient than those of the juvenile court?) ; (2) the impact, on the juveniles who remain in the juvenile court, of increasing waiver and of lowering the age jurisdiction of that court (do the sanctions imposed on the juveniles left behind increase in severity? Is the net effect to bring more juveniles under formal control by the combined adult and juvenile justice systems?) ; (3) the impact of mixing with the population of adult institutions those juveniles now waived to, or removed as a class to, the adult criminal justice system (do they become more criminalized, through their contact and exposure to adult prisoners in general, and to adult gangs located in prisons, in particular?) ; and (4) the deterrent effects, if any, that can be shown to have resulted from these changes.

2. PROGRAM DEVELOPMENT

We are, I think, at a model-building rather than a model-replicating stage when it comes to treatment for chronic delinquents. At this point, attention need to be focused on the development, refinement, and testing of program ideas. Funds would be needed to support these developmental activities, but because dealing with chronic delinquents is difficult and the risk of failure higher than in programs for less serious delinquents, use of such funds would have to be clearly and effectively limited to the target group. There would need to be clear recognition that the effort is exploratory and that the guarantees of successes so often promised by action programs and anticipated by funding agencies would be inappropriate and likely to deflect the programs from their real but unusually challenging purpose. Outlined below are some program ideas:

a. *Continuous Case Management.* In Vera's *Violent Delinquents* study, we found that a major irrationality in the present handling of violent delinquents is the lack of continuity between the various agencies that pass along the system's responsibility for these juveniles. The lack of program continuity is compounded by, and in part a function of, the reluctance of most agencies and programs to accept such difficult charges. Juveniles with repeated involvement are likely to be shunted from the police, to detention, to court intake, through adjudication to an extended and unsuccessful effort to find a useful placement in a treatment program, to training schools, and back to the street. The relationships which can develop between the juvenile and the service providers, when there is continuity of attention to a juvenile, are quickly broken for the more serious juvenile delinquents (who may be in greater need of them) as they move from one point in the process to another and out to the street. A continuous case management approach might go some distance toward alleviating these problems and toward permitting the integration and delivery to this group of appropriate institutional and community-based services. A program pursuing these goals would identify early in a case a single locus of responsibility for: assessing the juvenile's treatment needs; developing a treatment plan; assuring that the services suggested in the treatment plan are delivered; maintaining regular contact with the juvenile during the treatment phase and monitoring the service providers to assure that the juvenile's needs are met; and helping the juvenile to reintegrate into his community if he was removed from it for treatment or incarceration.

b. *Intermediate and Multi-Purpose Approaches.* The juvenile justice systems seem to suffer from a lack of alternative dispositions, for serious offenders, between the irregular contact of probation and the overwhelming control of training schools. The lack of choice seems to undermine clarity in the purposes attributed to dispositions in these cases—there is little need to be clear, when the choice is so limited, whether the purpose is rehabilitation, punishment, protection of the community, or some combination. We need experiments with a variety of intermediate approaches which can serve multiple purposes. I have already outlined one approach, which Vera hopes to develop, that should attract wider efforts at actually *controlling* the behavior of chronic delinquents while

they are in a community-based program. The continuity and intensity of contact between the juvenile and the worker in any program seriously reaching for these goals would necessarily be great enough not only to reap any benefits there may be in the continuous case management concept but also, possibly, to provide security to the community at least as great as that of placement in training schools from which it is too often easy to run away.

But is it possible to concentrate a control function and a helping function in one person? At what point would the intensity of continuous involvement between the program worker and the juvenile become counterproductive? Could that point be anticipated and avoided? At what point, if at all, could the external control function embodied in the program worker be internalized by the youth? Could such an approach be made as secure, from the community's perspective, as institutional placement? What techniques of control work best, if any work? Could a program based on such a direct effort to prevent delinquent acts by its participants survive the commission of a serious crime by one of its charges? I think these questions do not have answers today and that we are going to need answers soon.

Removal of serious juvenile offenders from the community for short periods of time, to participate in wilderness trips, rural work projects, and similar programs, is another intermediate sanction which acknowledges the need for community protection and for offender rehabilitation. A recent evaluation of the Unified Delinquency Intervention Services program in Illinois (UDIS), conducted by the American Institute for Research, indicates that the greatest reduction in recidivism among chronic delinquents occurred for those who were placed in these types of programs.

c. *Approaches Permitting Variation in the Level of Intensity of Supervision.* The UDIS evaluation indicated that the effect of out-of-town placements was often lost upon the juvenile's return to his community. There have been similar findings from other wilderness approaches to the treatment of delinquency. Since juveniles may benefit more from particular approaches at certain times than at others, and since a particular approach may only have short-term value, it might be useful to test approaches that permit less restrictive program components to be alternated with more restrictive ones, in order to preserve and reinforce the value there may be in any one.

d. *Other Approaches.* The program ideas sketched above would serve only as a beginning for an agenda of program development in the area of serious juvenile delinquency. There are equally important and interesting questions deserving attention about what programs are suited to secure institutions, to group homes and—particularly if one tackles the difficult prevention issues—to schools. There is a need in this area, as in the criminal justice field generally, for a clearer understanding of specific and general deterrence and what programs might enhance deterrent effects. Is it more important, for example, to help the police to increase the apprehension rate for serious crime by juveniles (which is very low in many jurisdictions today) or to help the courts and the prosecuting authorities secure higher adjudication rates in cases where arrest is made?

I will end my shopping list, rather abruptly, at this point. There is enough in it, I think, to convey my feeling that our collective need for information and for a focused program development effort in this area is great. But development of a national agenda on serious juvenile delinquency, and its implementation, will require priorities to be set among the items I have mentioned as well as other and quite different ones that I have failed to mention, will require funds to be allocated, and will require that the right mechanism be geared up for implementation. This Committee will play an important role in these developments, and I am grateful to have had an opportunity to participate in these deliberations.

APPENDIX B: ADDITIONAL MATERIAL REQUESTED BY SENATOR JOHN C. CULVER FROM THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION
WASHINGTON, D.C. 20531

MAY 24 1978

Honorable John C. Culver
Chairman, Subcommittee to Investigate
Juvenile Delinquency
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

We are pleased to submit additional information, in part at your specific request, to be incorporated as a permanent part of the record of your April 12, 1978 Hearing on Violent Juvenile Offenders.

I indicated in the course of my oral testimony that we would submit comments on some of the statements made by others in their testimony in conjunction with these hearings. The point that I want to make is that the work on which the testimony of several of those appearing before your Subcommittee was based on projects supported by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) or other parts of LEAA.

Dr. Walter Miller's recent "Youth Gang Violence" research has been supported by OJJDP, through two grants (nos. 76-NI-99-0057 and 77-JN-99-0016--project no. 15 in the attached Table I). These total $105,797. The first phase of Dr. Miller's research was funded by NILECJ in 1974 (no. 74-NI-99-0047), in the amount of $48,890.

Dr. Charles Murray directed the initial evaluation of the Illinois Unified Delinquency Intervention Services (UDIS) program, under a contract from LEAA's Illinois State Planning Agency (the Illinois Law Enforcement Commission). OJJDP recently awarded a grant (No. 78-JN-AX-0014) to the American Institutes for Research for an expanded evaluation of the UDIS Program, which Dr. Murray is directing. This project is listed in Table II (attached--no. 2). Its cost is $110,372.

Dr. Albert Reiss, Jr., has been a member of the OJJDP National Advisory Committee (NAC) for the past three years. His three-year term expired in March 1978. In addition to his membership on the NAC, Dr. Reiss was Chairperson of the NAC Subcommittee for the National Institute for Juvenile Justice and Delinquency Prevention. His victimization research has been supported, in part, by the LEAA National Criminal Justice Information and Statistics Service.

Judge William S. White is currently President-Elect of the National Council of Juvenile and Family Court Judges (NCJFCJ). OJJDP has supported activities of NCJFCJ through several grants, including training for juvenile court judges and court-related personnel, development of automated juvenile court information systems, and the activities of NCJFCJ's research arm: the National Center for Juvenile Justice (NCJJ). Our support of NCJJ has included grants for its central office operations and information gathering.

In the course of our detailed assessment of the state-of-the-art in the serious offender area, we will examine more specifically the testimony given before your Subcommittee on April 10 and 12, 1978. The results of our assessment will be shared with you following its completion.

You asked that we submit for the record information regarding serious youth crime research projects funded through our Institute prior to FY 1978, including their dollar amount of and the proportion of the total OJJDP research budget that these projects constitute.

This information is presented in TABLE I (attached), entitled PREVIOUS OJJDP RESEARCH PROJECTS FOCUSED ON SERIOUS YOUTH CRIME - FY 75-77. Please note that, for each project, the estimated proportion of total project effort focused on serious juvenile crime is indicated, and that this estimated proportion is used to calculate project costs focused on serious youth crime. This procedure enabled us to make a conservative estimate of actual project costs in the serious crime area.

At the end of Table I, the actual costs of the several projects in the serious youth crime area are totaled and presented as the "Total Amount Obligated for Serious Juvenile-Related Research Projects--FY 1975-FY 1977 ($2,316,603). The "Total OJJDP Obligations for Research--FY 1975-FY 1977" is presented thereunder ($14,271,808).

Thus the "Percent of OJJDP Budget Obligations for Research Focused on Serious Youth Crime--FY 1975-FY 1977" is 16 percent. Please understand that this percentage was calculated using only the costs of the estimated proportion of total project effort focused on serious youth crime, rather than total project costs.

You also asked that we submit the same type of information for FY 1978, including projects that are underway and planned for FY 1978 funding.

This information is presented in TABLE II (attached), entitled FISCAL YEAR 1978 OJJDP RESEARCH PROJECTS FOCUSED ON SERIOUS YOUTH CRIME. Please note that projects underway and planned are presented separately but included in the total.

The same procedures were used in the FY 78 analysis as in the FY 75-77 examination (TABLE I). TABLE II shows that our Institute's FY 78 obligations in the serious juvenile crime area will total approximately $2,880,760; that the total OJJDP research budget for FY 78 is $11,406,000; and that about 25 percent of our Institute's FY 78 research obligations will be focused on serious juvenile crime.

I trust that this information meets your needs. We are preparing a submission regarding: (1) the activities of other parts of OJJDP and LEAA in the serious juvenile crime area, consistent with our policy direction authority provided in Section 527 of the Crime Control and JD Acts; and (2) a similar analysis of other Federal agencies. The latter effort will include the following agencies:

Department of Agriculture
Department of Commerce, Center for Census Use Studies
Department of Health, Education, and Welfare

- Office of the Assistant Secretary for Planning and Evaluation
- Office of Human Development
- Office of Child Development
- Rehabilitation Services Administration
- Center for Studies of Crime and Delinquency
- National Institute of Mental Health
- National Institute of Neurological and Communicative Disorders and Stroke
- National Institute of Child Health and Human Development
- Bureau of Community Health Services

National Institute on Alcohol Abuse and Alcoholism
National Institute on Drug Abuse
National Center for Education Statistics
Office of Education
National Institute of Education
Social and Rehabilitation Service
Youth Development Bureau
Department of Labor
ACTION

During your hearing on several occasions you said that the Restitution Project, Project New Pride and other cited programs were not aimed at serious offenders. As you recalled I disagreed. Additionally, you claimed that the Administration had made you "dizzy" in that I changed priorities after my confirmation. I have changed the focus of the Office, in fact, in specific response to the direction from the Senate Judiciary Committee Report on the 1977 Amendments.

You charged that I had scuttled a "serious offender" project. I attempted to explain that the project in question related solely to youth who were incarcerated. You then asked whether the Congress must amend the 1974 Act to get us to focus on serious juvenile crime. I then attempted to reiterate the scope of current relevant Office activities, and so it went.

In an effort to clarify your understanding of the Office and its purpose, I have enclosed a copy of several relevant documents. Regarding Project New Pride, enclosed is the assessment by Blew, McGillis and Bryant, my December 11, 1977 press release and a related article in the LEAA Newsletter (Vol. 7, No. 2) on the project. Regarding our Restitution project I have enclosed our program announcement "Restitution by Juvenile Offenders: An Alternative to Incarceration." Please note my introduction which stresses the significance of greater accountability on the part of convicted juveniles towards their victims and communities. Youth convicted of both serious and/or violent offenses are eligible. Additionally, the type of assistance to victims stressed by many of your witnesses is a major objective of this project, especially compensatory relief for elderly victims.

I have also enclosed a copy of the draft guidelines on the "Serious Juvenile Offender" project first mentioned to the Committee April 1977. Also included is a report entitled "Report of the Peer Panel: OJJDP's Serious Offender Program Guidelines," submitted to me by our contractor, the National Office for Social Responsibility. You will note that this panel found serious fault with the project concept and design. In any case, I hope that it is clearly understood that the proposed "Serious Offender" project was exclusively aimed at "transition and aftercare for institutionalized serious delinquents."

I hope you can agree that all the merits were not exclusively with those who wanted us to proceed with the so called Serious Offender Program. In any case, I found the following language from the Report, No. 95-165, of the Committee on the Judiciary, United States Senate on S 1021, May 14, 1977, entitled "Juvenile Justice Amendments of 1977," at p. 44 persuasive.

> The Office has also announced a program to prevent delinquency through strengthening the capacity of private nonprofit agencies serving youth. It is expected that 14 to 18 grants totaling $7.5 million will be awarded. A number of other special emphasis grants have been brought to the attention of the committee. The Office has indicated tentative plans for future initiatives dealing with serious juvenile offenders, youth gangs, neighborhood prevention, restitution, youth advocacy, alternative education, probation, standards, and alternatives to incarceration. While the committee acknowledges that all of these areas are important and may deserve extensive attention in the future, the Office should be cautious not to deviate too quickly from using its limited resources to support those related to the primary focuses of the 1974 Act, namely, alternatives to incarceration, youth advocacy, and restitution. Once the priority mandates have been fulfilled, then the Office should certainly explore the possibility of initiatives in other areas. Care must be taken, however, that the available resources not be diluted through programs in tangential areas at this early period of the Act's implementation. A targeted focus relative to the Act's primary thrust with fewer initiatives each year would serve to clearly state the priorities of the Office. The implementation of standards would, of course, be one vehicle to achieve these goals.

An area that I failed to stress in my remarks that I would urge the Subcommittee to explore is the relationship of the availability of handguns to youth violence, especially that which terrorizes the elderly. The Subcommittee's report, Challenge for the Third Century: Education in a Safe Environment, 1977, touches on the role of handguns in the school (p. 12, et al.) and the special significance in the area of youth gangs in its subchapter entitled "The Return of the Armies of the Street." Of course, early Subcommittee volumes touch on youth and handguns:

FIREARMS HEARINGS AND REPORTS

Handgun Crime Control--1975-76, Oversight of the 1968 Gun Control Act--The Escalating Rate of Handgun, Volume I and II, April 23, July 22 and October 28, 1975.
Black Powder (S. 1083), June 1973.
Saturday Night Special Handguns, S. 2507, September 13-14, October 5 and 27 and November 1, 1971.
Firearms Legislation, S. 100, S. 849, S. 977, S. 2433 and S. 2667, July 1969.
Report, S. 1083 (S. Rept. 93-274), June 1973.
Report, S. 2507 (S. Rept. 92-1004), July 1972.

Additionally, I have just received the GAO Report prepared for Representative John Conyers, Chairman of the House Subcommittee on Crime, House Judiciary Committee, entitled "Handgun Control: Effectiveness and Costs," February 6, 1978. I personally recommend its Chapters on the extent of Firearm use in violent crime, on the effect of Firearm availability on violent crime, on the effect of gun control or Firearm availability and on the effect of gun control laws on violent crimes.

Senator Edward M. Kennedy's landmark October 20, 1975 speech before the Chicago Crime Commission addressed the relationship of handgun availability and violent crime. I have enclosed a copy of the text as it appeared in the Congressional Record at S. 18967 on October 30, 1975.

We are fortunate in that several persons in our Office, including myself, have a good deal of concern about the role of handguns on youths violence. Joan Wolfle, for example, was the project director for the Police Foundation 1977 study "Firearms Abuse: A Research and Policy Report. We stand ready to assist the Subcommittee in hearings on this topic or by responding to any suggested research or action projects in an area so apparently relevant to violent youth crime as the availability of handguns.

Additional helpful materials which we submit are as follows:

A. LEAA Programs for Senior Citizens, February 1978, prepared for the Pepper Select Committee on Aging.

B. LEAA Family Violence Programs, March 1978, prepared for Senator Cranston.

C. Who is to be served? A dilemma between protecting the community and working effectively with the juvenile delinquent, by T. George Silcott, prepared for Conference on Determinate Sentencing for Juveniles, February 1978.

D. Crime and the Elderly, 1975, a hearing held by the House Select Committee on Aging, on August 13, 1975 in Hyattsville, Maryland.

E. An editorial, "An Urgent Need . . . Justice for Our Youth, LEAA Newsletter, Vol. 7, No. 4, May 1978.

In closing, I would like to mention that several members of the National Advisory Committee on Juvenile Justice and Delinquency Prevention have indicated to me that they would welcome an inquiry regarding the Committee's perspective on these important issues.

I look forward to working with the Subcommittee and thank the Chairman for the opportunity to submit additional relevant materials for the record. Lastly, I would like to stress as Marian Edelman has recently in her Children's Defense Fund National Legislative Agenda for Children, that we are pursuing policies and programs that:

Legislation and administrative efforts to encourage development of a differentiated juvenile justice system which both protects the community from the tiny minority of juvenile offenders who threaten its safety and serves all others with a full range of services in the least restrictive settings appropriate to their needs.

With warm regards,

John M. Rector

John M. Rector
Administrator
Office of Juvenile Justice
and Delinquency Prevention

Enclosures

TABLE I.

PREVIOUS OJJDP RESEARCH PROJECTS

FOCUSED ON SERIOUS YOUTH CRIME -- FY 75-77 *

Grant/Contract	No.	Total Project Costs	Estimated % of Total Effort Focused on Serious Youth Crime	Estimated Amt. of Total Project Costs Focused on Serious Youth Crime
1. University of Michigan (Nat'l Assessment of Juvenile Corrections)	76-JN-99-0001 75-NI-99-0010	$ 1,141,057	20%	$ 228,211
2. Robert Rubel -- Visiting Fellow (Historical Trends of School Crime and Violence)	76-NI-99-0077	42,065	80%	33,652
3. Rand Corporation (Survey of Intervention Techniques Appropriate for the Dangerous Juvenile Offender)	76-JN-99-0007	112,063	100%	112,063
4. Contract: Abt Associates (Assessment of the Camp Hill Project)	J-LEAA-029-76	23,163	100%	23,163
5. University of Minnesota (Assessment of Diversion and Alternatives to Incarceration)	75-NI-99-0081	306,178	15%	45,927
6. University of Chicago (Assessment of Detention of Juveniles and of Alternatives to Its Use)	75-NI-99-0112	157,385	10%	15,739
7. Harvard University (Cohort Analysis--Evaluation of the Mass. Community Based Experience)	76-NI-99-0131 76-JN-99-0003	549,578	75%	412,184

*Projects are included which had a minimum of 10% of their total effort focused on serious youth crime.

TABLE I. Contd.

Grant/Contract	No.	Total Project Costs	Estimated % of Total Effort Focused on Serious Youth Crime	Estimated Amt. of Total Project Costs Focused On Serious Youth Crime
8. University of Pennsylvania (Offender Careers and Restraint: Probabilities and Policy Implications)	77-NI-99-0089	$ 78,875	100%	$ 78,875
9. University of Pennsylvania (Delinquency in a Birth Cohort -- II)	77-NI-99-0006	400,986	60%	240,592
10. Institute for Juvenile Research (Delinquency in Illinois)	77-NI-99-0005 76-JN-99-0004 75-NI-99-0013	932,856	25%	233,214
11. Contract--Frank Zimring (Dealing with Youth Crime)	#5-1172-J-LEAA	9,740	70%	6,818
12. Ruth Horowitz--Visiting Fellow (Gang Delinquency)	77-JN-99-0066	7,251	100%	7,251
13. Social Action Research Center (Umbrella Evlauation for the School Crime Initiative)	77-NI-99-0012	525,320	33%	173,356
14. Institute of Policy Analysis (Juvenile Restitution Evaluation)	77-NI-99-0005	472,697	35%	165,444
15. Harvard University (Youth Gang Violence)	76-NI-99-0057 77-JN-99-0016	105,797	100%	105,797
16. American Justice Institute (Center for the Assessment of the Juvenile Justice System)	77-JN-99-0008 77-NI-99-0009	599,861	15%	89,979

Grant/Contract	No.	Total Project Costs	Estimated % of Total Effort Focused on Serious Youth Crime	Estimated Amt. of Total Project Costs Focused On Serious Youth Crime
17. Rutgers University (Comparison of Treatment of Serious and Non-Serious Offenders)	76-NI-99-0134	$ 193,753	50%	$ 96,877
18. Univeristy of Iowa (Predicting Adult Careers From Juvenile Behavior)	76-JN-99-0008 76-JN-99-1005	154,360	45%	69,462
19. Research for Better Schools, Inc. (Planning Technical Assistance to Reduce School Violence)	76-JN-99-0002	117,913	75%	88,435
20. Philadelphia Crime Prevention Association (Youth Services Center)	76-JN-99-0023	351,148	15%	52,672
21. University of Pennsylvania (Evaluation of Youth Services Center—Project No. 20 Above)	76-JN-99-0005 76-NI-99-0132	254,945	15%	36,892

Total Amount Obligated for Serious Juvenile-Related Research Projects --FY 1975-FY 1977 ..... $ 2,316,603

Total NIJJDP Obligations for Research--FY 1975-FY 1977 14,271,808

Percent of NIJJDP Budget Obligations for Research Focused on Serious Youth Crime--FY 1975-FY 1977 ..... 16%

TABLE II

FISCAL YEAR 1978 OJJDP

RESEARCH PROJECTS FOCUSED ON

SERIOUS YOUTH CRIME*

Projects Already Funded During FY 1978

Grant/Contract	No.	Total Project Costs	Estimate % of Total Effort Focused on Serious Youth Crime	Estimated Amt. of Total Project Costs Focused On Serious Youth Crime
Behavioral Research Inst. (Dynamics of Delinquency and Drug Use)	78-JN-AX-0003	$ 425,204	15%	$ 63,781
2. American Institute for Research (Deinstitutionalizing the Chronic Offender)	78-JN-AX-0014	110,372	100%	110,372
3. American University (Policy Implementation Re: Deinstitutionalization of Services for Delinquent Youth)	78-JN-AX-0007	155,760	35%	54,516
Stanford Research Institute (Design of a Study of the Impact of Income Maintenance on Delinquency)	78-JN-AX-0001	155,985	20%	31,197
5. Social Action Research Center (Umbrella Evaluation for the School Initiative--Phase II)	78-JN-AX-1016	1,372,756	33%	453,009

* This table excludes projects underway during FY 1978 which were funded prior to FY 1978. Projects are included which will have a minimum of 10% of their total effort focused on serious youth crime.

TABLE II Contd.

Projects Planned for FY 1978 Funding

1. Harvard University Center for Criminal Justice (The Problem of Secure Care in a Community Based Correctional System)	0759-99-JJ-78	$ 343,898	100%	$ 343,898

This will be a study of Massachusetts' and other States' treatment approaches for serious juvenile offenders while maintaining a community-based approach. It will be a research and program development effort which addresses several of the Vera Institute recommendations, the results of which will be disseminated through training.

2. Grantee/Contractor Not Yet Selected (Evaluation of LEAA Family Violence Program)	NA*	500,000 (est.)	100%	500,000

This project will constitute an overall evaluation of an action program on family violence funded by LEAA's Office of Criminal Justice Programs.

3. Notre Dame University Institute for Urban Studies (Youth Advocacy Program Development)	0811-99-JJ-78	295,974	50%	147,987

The purposes of this project are to assist OJJDP's youth advocacy action programs in their development and implementation, and to monitor their progress and results.

* Not Applicable--as formal grant application not yet submitted.

4. University of Pennsylvania (Delinquency in a Birth Cohort--II)	NA	$ 400,000 (est)	60%	$ 240,000

This will be a continuation grant for completion of the replication of the landmark Phila. Birth Cohort Study which began under grant no. 77-NI-99-0006 (no. 9, Table I).

5. Rutgers University (Comparison of Treatment Approaches Serving Serious and Non-Serious Offenders)	8-1129-3-NJ-JJ	200,000 (est)	50%	100,000

This will be a continuation grant for completion of the study of the effectiveness of correctional programs under two conditions: where serious and non-serious juvenile offenders are mixed in programs and where they are treated separately.

6. University of Chicago (Replication of the 1966 Pappenfort and Kilpatrick Survey of Juvenile Detention and Correctional Programs)	NA	800,000 (est)	40%	320,000

In addition to replicating the 1966 census, this effort will be broader and more detailed then the first study in that it will involve an in-depth examination of the full range of residential programs.

7. Tufts University (Sexual Abuse Research and Development Project)	NA	300,000 (est)	100%	300,000

This R&D effort will be focused on the development and assessment of an intervention approach to helping teenagers involved in inner-city prostitution and other forms of sexual abuse.

5. State Univ. of New York at Albany (Use of Victimization Survey Data to Assess the Nature and Extent of Delinquent Behavior)	086-99-JJ-78	$ 270,000 (est)	80%	$ 216,000

The major purpose of this project will be to analyze juvenile data gathered through LEAA's National Victimization Survey. The primary focus will be on patterns and trends in juvenile perpetration and victimization in the areas of burglary and robbery offenses.

$ 2,880,760

Total Amount Earmarked for Serious Juvenile-Related Research Projects in OJJDP FY 1978 Budget 2,880,760

Total OJJDP FY 1978 Research Budget 11,406,000*

Percentage of OJJDP FY 1978 Research Budget Earmarked for Serious Juvenile-Related Research Projects..... 25%

* Includes carryover funds from FY 1977

UNITED STATES DEPARTMENT OF JUSTICE

news release

LEAA
Law Enforcement Assistance Administration

Public Information Office
Telephone (202) 376-3820

Washington, D.C. 20531

ADVANCE FOR RELEASE AT 6:30 P.M. EST
SUNDAY, DECEMBER 11, 1977

An LEAA News Feature

Willy, a 17-year-old youth with a history of arrests for burglary, assault, and robbery, had just been rearrested. He was a school dropout and a heavy drinker. His parents, on welfare, were unable to discipline him.

Can anything be done to help Willy and thousands like him?

Denver has devised one answer -- Project New Pride, a community-based program to rehabilitate hard-core juvenile delinquents.

"New Pride" is aimed at persons 14 to 17 -- with at least one conviction for burglary, robbery, assault, or auto theft -- who are perhaps one step away from incarceration.

The concept cuts through the maze of specialized but usually fragmented, overlapping services that confront most juvenile offenders.

Willy, for example, was getting remedial treatment for a learning disability, taking courses for high school credit, being placed in a part-time job, receiving family counseling, and going through many new and sometimes unfathomable cultural experiences.

(MORE)

New Pride, which until recently was financed by the Law Enforcement Assistance Administration (LEAA), is designed to consolidate and structure these services so they have the greatest benefit.

The program has proved so successful that it was named an "Exemplary Project" by LEAA's research institute -- one of only 25 programs cited since 1973.

An Exemplary Project must identify efforts that reduce crime or improve criminal justice, be adaptable to other communities, and demonstrate objective evidence of achievement and cost savings.

"This is a program we recommend very strongly for a hard look by other communities," said John Rector, administrator of LEAA's Office of Juvenile Justice and Delinquency Prevention.

New Pride receives strong support from the Red Cross, Denver Volunteer Bureau, Junior League, Labor Council, business organizations, colleges and universities, and professionals in various fields. It is thus able to marshal the social services responsible for its success.

For the first three months, participants receive intensive counseling, job training and placement, and remedial training. This is followed by nine months of continued treatment, ranging from daily to weekly contact.

(MORE)

New Pride's services fall into four main categories:

--Education. Based on test results, participants are assigned to classes, either in New Pride's Alternative School, or the Learning Disabilities Center where one-to-one tutoring is provided.

--Counseling. Each counselor is involved in all aspects of a youth's life, maintaining contact with family, teachers, and social workers.

--Employment. Specialists try to develop vocational interests and appraise career ambitions and required skills. During the first month, a youth attends a job skills workshop, gets on-the-job training during the second and third months, and then moves into the working world for experience as well as much-needed income.

--Cultural education. Opportunities provided include live theater, ski trips, sports events, restaurant dinners, visiting a television studio, and an Outward Bound weekend.

Willy at first refused to cooperate and attended New Pride only sporadically. At times, he literally had to be dragged in by his counselors. Often, he broke the curfew.

But the counselors persisted. They saw native ability in Willy to become a carpenter. After several months of counseling and training, he landed a job with a construction firm. He also worked to overcome his drinking habit. At the same time, he got some support and encouragement from his family.

(MORE)

Willy, since leaving New Pride, has married, continues to hold down a job, and is the father of two.

New Pride's staff includes 11 at the central location, seven at the Learning Disabilities Center, and a psychologist, sociologist, and optometrist who give specialized service as needed. The diverse group of volunteers numbers from 20 to 25 at a time.

The youngsters, 95 percent of whom are male, are referred to New Pride through Denver's Juvenile Court Probation Placement Division. Currently, 30 youths enter the program every six months.

Local court and probation officials work closely with New Pride. Orrelle Weeks, presiding judge of the Denver Juvenile Court, said: "The project had proved itself to the court within six months and probation officers were eager to send a lot more kids."

New Pride's primary goals include a reduction of recidivism, job placement, school reintegration, and remedying academic and learning disabilities.

Success has been achieved in each area. Of the first 161 participants, (covering July 1, 1973, to July 1, 1976,), 89 percent have not been reincarcerated. Some 70 percent are being placed in full-time or part-time jobs.

(MORE)

About 40 percent of the first 161 returned to the Denver Public School System. By September, 1976, some 57 percent were back in the public school system and the figure rose to 73 percent by February, 1977.

New Pride was started in the early 1970s by the Denver Mile High Chapter of the Red Cross with experimental programs for a small number of pretrial and adjudicated youths from Denver's Juvenile Hall, a detention center.

When it realized its money could not support the overflow of youths responding to the initial programs, the Red Cross turned for money to the Denver Anti-Crime Council. The Council is the city's criminal justice planning agency, and in turn was financed by the LEAA.

LEAA financing and matching grants from local organizations for the first three years totalled $535,245.

After LEAA financing ended July 1, 1976, money has come from the Colorado Division of Youth Services with supplementary support from a variety of foundations and donors, including the Red Cross.

During its first three years, New Pride probably more than paid for itself, officials said. The cost of keeping a youth incarcerated was approximately $12,000 annually compared to about $4,000 per individual for New Pride, they said. The three-year savings was thus more than $1 million, the officials said.

(MORE)

New Pride's success is reflected in the honors it has won. It was selected as "Agency of the Year" by the Colorado Juvenile Council. Legislators, state planners, and judiciary officials from more than 20 states have studied New Pride for its adaptability to their home areas.

Single copies of the report, "An Exemplary Project: Project New Pride, Denver, Colorado,"[1] are available from the National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850. Multiple copies may be purchased from the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402, $2.75 prepaid. The stock number is 027-000-00544-6.

78-128

[1] NOTE.—Cited materials may be found in the files of the Subcommittee To Investigate Juvenile Delinquency, Committee on the Judiciary, United States Senate.

DOJ-1977-12

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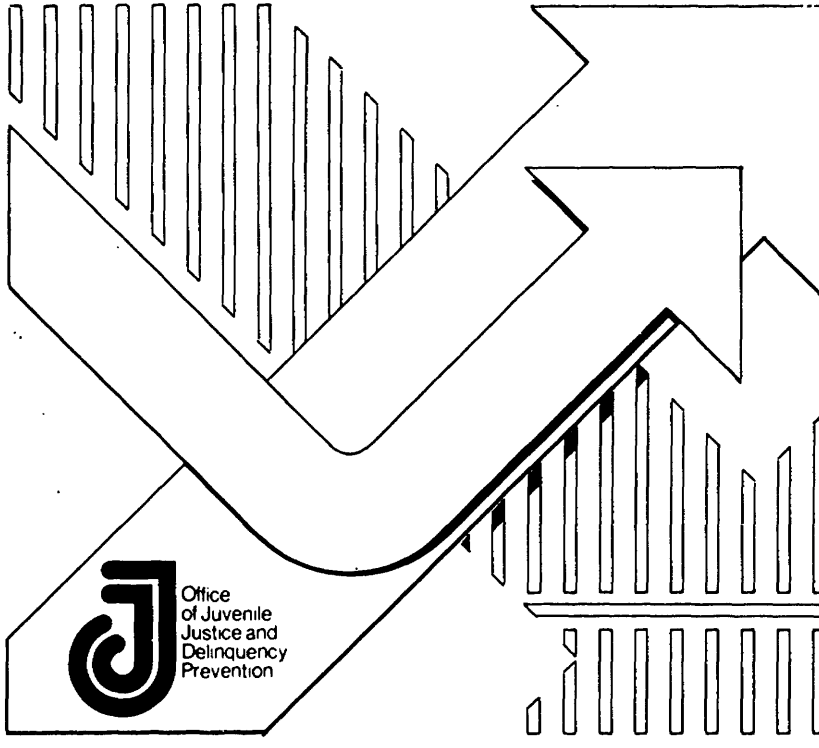
PROGRAM ANNOUNCEMENT

RESTITUTION BY JUVENILE OFFENDERS:

AN ALTERNATIVE TO INCARCERATION



Law Enforcement Assistance Administration, U.S. Department of Justice, Washington, D.C. 20531

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION
WASHINGTON, D.C. 20531

PROGRAM ANNOUNCEMENT

The Office of Juvenile Justice and Delinquency Prevention is pleased to announce a new discretionary grant program entitled Restitution by Juvenile Offenders. The aim of this program is to support sound cost-effective projects which will help assure greater accountability on the part of convicted juveniles towards their victims and communities. To meet this objective, projects funded will include those which provide compensation to victims, either through payments or work, as well as projects which require appropriate community service.

Thus, while helping to assure greater victim and community support for juvenile justice, additional alternatives to costly, indiscriminate incarceration of juvenile offenders will be established. The program is specifically authorized pursuant to Section 224(a)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

Because of your interest in justice for juveniles, we felt it important to notify you. Information for the development of both preliminary and full applications is included. Pre-applications should be sent to the Office of Juvenile Justice and Delinquency Prevention by April 21, 1978.

It is intended that this program provide meaningful sentencing alternatives which increase accountability for juvenile crime. Restitution will involve monetary payments by offenders to victims, or services to the victims or the community. It is expected that applicants coordinate with community service agencies and employment programs, such as the Department of Labor's Comprehensive Employment and Training Act (CETA) program.

Your participation is encouraged and welcomed.

John M Rector

John M. Rector
Administrator

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION
WASHINGTON, D.C. 20531

ANUNCIO de PROGRAMA

La Oficina de Justicia Juvenil y Prevención de la Delincuencia se complace en anunciar un nuevo programa discrecional denominado Programa Restitutivo para Jóvenes. El objetivo de este programa es el de subvencionar proyectos los cuales ayuden a asegurar una mayor responsabilidad de parte de jóvenes para con las víctimas de sus actos delictivos así como con la comunidad. Para alcanzar esta meta, proyectos los cuales podrán ser subvencionados incluirán aquellos que compensan a víctimas de actos delictivos, sea esta compensación mediante pagos en efectivo o trabajo, así como proyectos que requieren servicios en la comunidad.

De este modo, y mientras se ayuda a compensar a víctimas de ofensores jóvenes, y a la vez se aumenta el interés de la comunidad en lo que respecta a justicia juvenil, se establecen alternativas a la encarcelación indiscriminada y costosa de jovenes. El programa como tal se autoriza conforme a la sección 224(a)(3) de la Ley de Justicia Juvenil y Prevención de la Delincuencia de 1974 segun enmendada.

Ya que sabemos de su interés por los jóvenes creemos apropiado el informarle a usted sobre este programa. Información concerniente al desarrollo de solicitudes (preliminares y completas) de subvención está incluida en este anuncio. Solicitudes preliminares deberán ser enviadas en o antes del 21 de abril de 1978 a la oficina de Justicia Juvenil y Prevención de la Delincuencia.

Es nuestra intención que este programa provea diversas alternativas a jueces para bregar con ofensores jóvenes. Restitución por parte de los jóvenes incluirá pagos en efectivo o prestación de servicios a víctimas y/o a la comunidad, y por ende se espera que solicitantes coordinen sus esfuerzos con agencias que prestan servicios a la comunidad (incluyendo programas de empleos), como por ejemplo el programa del Departamento del Trabajo del gobierno federal denominado "Comprehensive Employment and Training Act."

Su participación en esta oportunidad es apreciada.

John M. Rector
Administrator
Office of Juvenile Justice and
Delinquency Prevention

UNITED STATES
DEPARTMENT OF JUSTICE

LAW ENFORCEMENT ASSISTANCE
ADMINISTRATION

Change

M 4500.1F CHG-1

February 15, 1978

Subject: GUIDE FOR DISCRETIONARY GRANT PROGRAMS

Cancellation
Date: AFTER FILING

1. PURPOSE. This Change transmits supplementary pages to CHAPTER 6, paragraph 61, entitled Restitution by Juvenile Offenders, of the Guide for Discretionary Grant Programs (M 4500.1F).

2. SCOPE. This Change is in the interest of all individuals who hold the Guide for Discretionary Grant Programs.

3. PAGE CHANGES. Page changes should be made in accordance with the chart below.

PAGE CONTROL CHART

Remove Pages	Dated	Insert Pages	Dated
Table of Contents		Table of Contents	
iv and v	12/21/77	iv	12/21/77
		v	2/15/78
101 and 102	12/21/77	101 thru 118	2/15/78

JAMES M.H. GREGG
Assistant Administrator
Office of Planning and Management

Distribution: Special By Initiator; includes State & local govt.'s, crim. justice planning & operating agencies; LEAA personnel

Initiated By: Office of Planning and Management

TABLE OF CONTENTS

CHAPTER 6. JUVENILE JUSTICE AND DELINQUENCY PREVENTION PROGRAMS

60. SCOPE OF CHAPTER - RESERVED.

61. RESTITUTION BY JUVENILE OFFENDERS.

a. The objective of this program is to design and implement action projects which develop effective means of providing for restitution by juvenile offenders at the adjudication stage of the juvenile justice process after a finding of delinquency.

b. Program Description. Restitution is a process whereby an adjudicated juvenile offender makes either monetary payment to the victim, provides direct service to a victim, or engages in a community service. The focus of this program is on establishing an alternative to incarceration for adjudicated juvenile offenders. Thus, restitution may be imposed as a sole sanction or as a condition of probation or a community based placement.

(1) Problem Addressed. The problem addressed by this initiative is the lack of meaningful dispositional alternatives to incarceration which result in youth being more accountable for their behavior.

(2) Target Population. The target population is youth who have committed misdemeanors and/or felony offenses and are adjudicated delinquent as a result of a formal fact-finding hearing or a counseled plea of guilty. It is expected that projects will include juvenile offenders with varying categories of misdemeanors and/or felony offenses, including property offenses and offenses against persons. This excludes victimless crimes and the crime of non-negligent homicide. Using data on the number of youth adjudicated in 1975 and 1976, each community will define the target population by precise criteria, and develop action projects which provide for restitution by offenders as described above in Paragraph b.

(3) Results Soughts.

(a) A reduction in the number of youth incarcerated.

(b) A reduction in recidivism of those youth involved in restitution programs.

(c) Provision for some redress or satisfaction with regard to the reasonable value of the damage or loss suffered by victims of juvenile offenses.

(d) Increased knowledge about the feasibility of restitution for juveniles in terms of cost effectiveness, impact on differing categories of youthful offenders, and the juvenile justice process.

(e) An increased sense of responsibility and accountability on the part of youthful offenders for their behavior.

(f) Greater community confidence in the juvenile justice process.

(4) Assumptions Underlying Program.

(a) Restitution programs are expected to expand the dispositional alternatives available to the juvenile justice system by providing a significant alternative to incarceration.

(b) Restitution programs are expected to cause participant youth to become aware of the consequences of their acts, making them more accountable and less likely to commit new offenses.

(c) Restitution should provide the victim of a youth offense with at least partial satisfaction for the damages suffered.

(d) Public opinion regarding the effectiveness of the juvenile justice process is likely to be improved by demonstrating that juvenile offenders are being held accountable for their behavior.

c. Program Strategy. Applications are invited which propose action programs to involve juvenile offenders in restitution programs after adjudication. Although program designs will vary in relation to the resources and characteristics of the jurisdiction, all programs must:

(1) Provide for legal safeguards to protect the rights of both juveniles and victims involved in the program. (See Appendix II of the Program Announcement, under separate cover, for a discussion of the legal issues.)

(2) Involve in program planning and implementation, community service organizations, relevant public and private youth-serving agencies, and youth and residents from neighborhoods where significant numbers of youthful offenders live.

(3) Provide for the supervision of youth in community service jobs and for their transportation and subsistence while on the job.

(4) Provide an independent monitoring mechanism that will assure fair application of restitution requirements to all youth within the target population regardless of race, sex, color, creed, or socioeconomic status.

(5) Include within the program strategy a means for involving and informing the public about the program's purposes and progress.

(6) Assure the fair and accurate procedures and criteria for determining monetary restitution orders or community service requirements.

d. Preapplication Requirements. The initial application will consist of a preliminary project design of 15 pages with supporting addenda. The preliminary application must include WRITTEN AGREEMENTS which spell out court, community services and employment agency commitments, i.e., the kinds of resources to be provided or the judicial procedures or practices to be modified. Where other data are not available in time for preapplication submission, there should be an indication as to when they can be obtained and from what sources. This document should include:

(1) Project Goals and Objectives. Outline the goals and objectives of the restitution project in clear and

measurable terms (see Paragraph 61e (1) of this Chapter).

(2) Problem Definition and Data Needs. Summarize in the addenda the data and information identified in Paragraph 61e (2) (c), (d), (e) and (g) of this Chapter.

(3) Program Methodology. Develop a project design which explains in outline form the nature and scope of the proposed restitution program. Provide in this description, in summary form, all the requirements for methodology set forth in Paragraph 61e (3) (a) - (h).

(4) Provide a skeletal work plan which relates project activities to objectives in specific time frames.

(5) Provide a summary budget which outlines costs by categories for the program costs over three years with a breakdown for each budget year. Describe plans for supplementing LEAA funding with other Federal or State funds.

(6) Evaluation Requirements. Provide assurance that if selected to participate in the national evaluation your project will cooperate fully with the national evaluation effort outlined in Paragraph 61j (1) of this Chapter; and that access can be secured to essential juvenile justice data. Identify the types of data routinely recorded by the police and juvenile court and/or probation and indicate whether it is computerized or manually stored.

e. Application Requirements. These requirements are to be used in lieu of Part IV - Program Narrative Instructions in the Standard Federal Assistance Form 424. In order to be considered for funding, applications must include the following:

(1) Project Goals and Objectives. Define program goals in terms of categories of youthful offenders who will be served by the program and expected numerical decrease in youth who will be incarcerated. Define objectives for meeting these goals in measurable terms, relating them to results sought (Paragraph 61b (3)).

(2) Problem Definition and Data Needs.

(a) A socioeconomic profile of the jurisdiction with such demographic data as are necessary to document crime rates, racial/ethnic population, adult and youth unemployment, population density, school enrollment, and dropout rates.

(b) A description of the juvenile justice system and a flow chart reflecting official processing by the juvenile justice system agencies.

(c) Statistical documentation of the juveniles who were adjudicated for criminal offenses during 1975 and 1976, along with their ages, offenses, socioeconomic characteristics, and dispositions by the processing agency.

(d) A description of the statutory rules, codes, and ordinances governing juvenile behavior, including statutes which make provision for restitution and a description of administrative procedures, including formal and informal policies, which regulate or prescribe methods for responding to juvenile behavior at the adjudication stage of the juvenile justice process.

(e) A description of existing programs within the juvenile justice system or outside it, which focuses on employment, training, job counseling, community resources development, and any others that might be essential to the operation of an effective restitution program.

(f) Identification of gaps in availability of these programs, anticipated need for modification in scope or thrust of existing programs, along with an explanation of anticipated problems associated with making these changes.

(g) Describe any existing juvenile restitution programs and any current judicial use of restitution. Indicate how these will relate to this project.

(3) Program Methodology. Based upon the information provided in this Paragraph, develop a project design which provides a clear description of the following:

(a) The selection criteria for juveniles who will participate in the restitution process.

(b) The range of restitution alternatives that will be available and how they will be operationalized in an equitable and fair manner so as to provide the restitution alternative to all potential participants, regardless of race, sex, color, creed or socioeconomic status.

(c) The manner in which public service jobs or other employment opportunities for youth will be developed. Provide evidence, by WRITTEN AGREEMENT, that community service jobs and employment slots exist and that juveniles making restitution will not displace employed workers.

(d) The kind of mediation or arbitration models that will be utilized to determine the restitution requirement.

(e) The safeguards that will be developed to protect the legal rights of juveniles at the different stages of the restitution process, where there is a danger of abrogation of such rights. Minimally, such safeguards must provide legal counsel at the point where an admission or finding of guilt is made and the youth is being considered for entry into the restitution program. Provision must be made for counsel at hearings where a youth may be involuntarily terminated from the program. For a discussion of other legal issues related to restitution, see the Legal Issues Section, Appendix II of the Program Announcement, under separate cover.

(f) The required organizational structure and personnel to support the proposed restitution program. This should be spelled out in detail, specifying the tasks of each person. The applicant should make clear the extent to which the personnel needs are met by new recruits, transfers from other parts of the agency, or personnel already employed by restitution programs.

(g) The educational and public relations activities that are required to gain and maintain public understanding and support for the program.

(h) Describe how restitution will be implemented and in doing this, address each of the following:

(1) The manner in which victims and offenders will be involved in the restitution process.

(2) Procedures for terminating restitution on completion of the contract or for failure to complete the contract, and the impact of either on court jurisdiction.

(3) The effect of the completion of the restitution requirement on employment or job training undertaken as a part of the restitution order.

(4) Assistance available to support transportation, meals and equipment, and costs for youth in community service jobs where wages are not being paid.

(5) The procedures and criteria for determining the amount of money or service to be given to victims, or the kind and amount of community services.

(6) The manner in which youth, neighborhood residents, public and private youth-serving agencies, the business sector, and public and private community service organizations

will be involved in the development and implementation of the program.

(4) Work Plan. Prepare a detailed work schedule which describes specific program objectives in relation to milestones, activities, and time frames for accomplishing the objectives.

(5) Budget. Prepare a budget of the total costs to be incurred in carrying out the proposed project over three years with a breakdown for each budget year. Describe any plans for supplementing LEAA funds with other Federal, State, or private funds as well as plans for sustaining project components beyond the three-year funding period. Local, public, and private funding sources should be explored as part of this effort in order to assure that the goals of the project are consistent with the jurisdiction's overall thrust. Although, OJJDP funds may be used to support employment, projects are expected to seek and obtain funds to support employment from other sources.

f. Dollar Range and Duration of Grants. The grant period for this program is three years, but awards will be made for two years. Continuation awards are anticipated for a third year based upon satisfactory grantee performance in achieving stated objectives in the previous program year(s) and compliance with the terms and conditions of the grants. Grants will range upward from $125,000 per site per year, with the size of the grant based on the number of juveniles served, complexity of the problems addressed, and the capacity of the jurisdiction to absorb the program after this funding terminates. A 10% cash match will be required of all applicants except those selected to participate in the national evaluation. See subparagraph j(1) of this paragraph for details. However, the requirement of cash match may not be passed on to a private not-for-profit agency where it is the subgrantee or subcontractor for implementation.

g. Eligibility to Receive Grants. Preapplications are invited from courts, prosecutors, probation, intake, or public agencies who serve adjudicated juvenile offenders at the local, regional, or State level. Applicants may apply on behalf of one or more sites. Applicants are encouraged to subgrant for the implementation of program components

with public or private not-for-profit agencies engaged in planning or support of judicial operations where this will facilitate implementation of the project. In instances where the applicant agency is not the juvenile court, A WRITTEN AGREEMENT WITH THE COURT AND ALL JUDGES WHO MAY HAVE JURISDICTION OVER JUVENILE MATTERS MUST BE INCLUDED IN THE PREAPPLICATION. It should indicate that the court will utilize the project by referring adjudicated youth in lieu of incarceration. The agreement must also indicate the numbers of youth projected for referral over the life of the grant.

h. Submission Requirements.

(1) Preapplication.

(a) All applicants will submit the original preapplication and two copies to the Office of Juvenile Justice and Delinquency Prevention, LEAA, Room 442, 633 Indiana Avenue, N.W., Washington, D.C. 20531. One copy should also be sent to the appropriate Clearinghouses and SPA. The addresses of Clearinghouses are listed in the Appendix VI of the Program Announcement.

(b) Upon receipt, the Office of Juvenile Justice and Delinquency Prevention will review the preapplications in relationship to the degree to which applicants meet the full range of selection criteria and select those preapplications judged to meet criteria at the highest level. Prior to final selection, site visits may be made by OJJDP staff.

(c) Applicants determined to have elements most essential to successful program development will be invited to develop full applications. Unsuccessful applicants will be notified.

(d) Preapplications must be mailed or hand delivered to OJJDP by April 21, 1978.

(1) Preapplications sent by mail will be considered to be received on time by OJJDP if sent by registered or certified mail no later than April 21, 1978, as evidenced by the U.S. Postal Service postmark on the original receipt from the U.S. Postal Service.

(2) Hand delivered preapplications must be taken to the Office of Juvenile Justice and Delinquency Prevention of LEAA, Room 442, 633 Indiana Avenue, N.W., Washington, D.C., between the hours of 9:00 a.m. and 5:30 p.m., except Saturdays, Sundays, or Federal holidays, not later than April 21, 1978.

(2) Applications.

(a) The Restitution Program has been determined to be of national impact and awards will be made directly to successful applicants by OJJDP. Applications should be submitted to OJJDP in accordance with the format outlined in Appendix 2, Section 2, Paragraph 5 of Guideline Manual M 4500.1F, issued on December 21, 1977. The provisions of Paragraph 4b of Appendix 2, and Paragraph 5, Appendix 3, regarding State Planning Agency participation, do not apply to this program.

(b) Guideline Manual M 4500.1F will be forwarded to those applicants invited to develop full applications.

(c) Those applicants selected to submit final applications will be notified of the required submission date in their notification of selection.

(d) Technical assistance will be provided to those applicants who are selected to submit final applications to assist them in developing and refining their restitution models.

i. Criteria for Selection of Projects. Applicants will be selected with regard to the extent to which they meet the following criteria. In making final selections, consideration will be given to geographic distribution of projects, and a mix of jurisdictional sizes and types.

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(1) The overall technical plausibility of the methodology and work plan of the proposal.

(2) The extent to which the program design provides for equal access to restitution components for all eligible youth regardless of race, color, creed, sex, ethnic group, or socioeconomic status.

(3) The extent to which the restitution program has a well-defined approach to either monetary payments, community services, or a combination of these.

(4) The extent to which the program provides an alternative to traditional juvenile dispositions, and reduces incarceration.

(5) The extent to which the program seeks to involve the victim in the process and the extent to which the victim actually benefits from the restitution process.

(6) The extent to which the public is informed of the program's purposes and methods.

(7) The extent to which the program provides legal safeguards for the youth involved.

(8) The extent to which completion of the restitution order or contract terminates the jurisdiction of the court or correctional agencies over the juvenile.

(9) The extent to which the juvenile offender participates in shaping the restitution contract or order.

(10) The extent to which youth, community residents, private nonprofit agencies, labor, business, industry, and community service organizations are involved in the development and implementation of the program.

(11) The extent to which there is use of new public or private funds beyond the required 10 percent cash match.

(12) The degree to which private not-for-profit agencies are used as subgrantees or subcontractors for program implementation.

j. Evaluation Requirements.

This program will be subject to an evaluation which will be fulfilled in one of two ways:

(1) Some of the action projects will be selected to participate in a national evaluation prior to the full application submission. In making this selection, consideration will be given to including a mixture of program approaches in the national evaluation. All of the projects that are selected for the national evaluation must provide assurances that they will cooperate with the national evaluation and agree to adopt random assignment procedures. Those applicants which are selected for the national evaluation and agree to participate will be required to provide a five percent match of Federal funds rather than a ten percent match. The major objectives of this evaluation will be to determine:

(a) The impact of restitution in terms of the offender's attitude towards his/her offense and in terms of offender recidivism.

(b) The extent to which restitution gave the victim a sense of redress and increased satisfaction with the juvenile justice system.

(c) The impact of the program on dispositional patterns of the juvenile justice system, and the impact on further penetration of juvenile offenders into the juvenile justice system.

(d) The impact of the program on the public's view of the responsiveness and effectiveness of the juvenile justice system.

(e) The comparative cost of restitution to alternative forms of disposition at the adjudication stage.

(2) All grantees not selected for the national evaluation have the option of developing their own evaluation plan or of not doing an evaluation. If an evaluation plan is developed, it must be submitted with the final application, and at a minimum addresse the following:

(a) The program planning process, i.e., how the goals, objectives and methodologies were selected.

(b) The number and types of youths participating in the restitution program.

(c) The role of the victim in the restitution program.

(d) How the amount and form of restitution is determined.

(e) The organizational structure and management practices of the program.

(f) The role of the youth-serving agencies, juvenile justice agencies and other community groups in the program.

(g) The impact of restitution in terms of the offender's attitude towards his/her offense, and in terms of offender recidivism (using official records).

(h) The impact of restitution upon administrative practices/procedures and policies of the juvenile justice system.

(i) The impact of the program on the public's view of the responsiveness and effectiveness of the juvenile justice system.

(j) The comparative cost of restitution to alternative forms of disposition at the adjudication stage.

(3) To support the local evaluation, add up to 15% of total project costs. The Request for Evaluation Proposals must be included in the final application.

k. Special Requirements.

(1) Assurances must be provided that access can be secured to essential juvenile justice system data (police and court records) in the form of written agreements. Data routinely collected by the police and juvenile court must be identified and labelled as computerized or manually stored.

(2) To support coordination and information exchange among projects, funds will be budgeted in applications to cover the cost of four meetings during the course of the three-year project. The first meeting will be held shortly after the grant is awarded.

(3) Section 524(a) and (c) of the Crime Control Act of 1968, as amended, provides that records used or gathered as part of the evaluation or statistical component of the program must be kept confidential. Information gathered under funds from this program, identifiable to a specific private person, can only be used for the purpose for which obtained and may not be used as a part of any administrative or judicial proceeding without the written consent of the child and/or his parent or legal representatives.

(4) Section 229 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, expands the confidentiality requirements to all program records. Thus, "except as authorized by law, program records containing the identity of individual juveniles gathered for the purposes pursuant to this title may not be disclosed except with the consent of the service recipient or legally authorized representatives or as may be necessary to perform the functions required by

this title." Under no circumstances may project reports or findings available for public dissemination contain the actual names of service recipients.

(5) The project must assure that information on offense(s) will be kept confidential and not be made available to an employer or community service agency.

1. Definitions.

(1) Restitution: is defined as payments by the offender in cash to the victim or service to either the victim or the general community, when these payments are made within the jurisdiction of the juvenile and criminal justice process.

(2) Adjudication: is the process of determining guilt or innocence in juvenile court proceedings by either a counseled plea of guilty or a formal fact-finding hearing.

(3) Disposition: is that procedure in the juvenile court process which results in the imposition of a sentence, e.g., probation or commitment.

(4) Victim Service: involves the juvenile offender providing the victim of the offense with assistance to either repair the damage done or some other comparable activity which assists the victim in accomplishing tasks at his home or place of business, e.g., repair a broken window or door, assist with stocking a victim's shelves, or cleaning work areas.

(5) Community Service: means that in lieu of monetary payment or victim service, the offender may work for a designated period for a public or private not-for-profit organization which provides human services to that community, e.g., day care facilities, mental health facilities, recreational programs, etc.

(6) Delinquency: is the behavior of a juvenile that is in violation of a statute or ordinance in a jurisdiction which would constitute a crime if committed by an adult.

(7) Jurisdiction: is any unit of general local government such as a city, county, township, borough, parish, village, or combination of such units.

(8) Juvenile: is a child or youth, defined as such by state or local law, who by such definition is subject to the jurisdiction of the juvenile court.

(9) Juvenile Justice System: refers to official structures, agencies, and institutions with which juveniles may become involved including, but not limited to, juvenile courts, law enforcement agencies, probation, aftercare, detention facilities, and correctional institutions.

(10) Law Enforcement Agency: is any police structure or agency with legal responsibility for enforcing a criminal code, including, but not limited to, police and sheriffs' departments.

(11) Private Youth-Serving Agency: is any agency, organization, or institution with two years experience in dealing with youth, designated tax exempt by the Internal Revenue Service under Section 501(c) of the Internal Revenue Code.

(12) Program: refers to the national initiative to establish restitution programs supported by OJJDP and the overall activities related to implementing the restitution program.

(13) Project: refers to the specific set of activities at given site(s) designed to achieve the overall goal of reducing delinquent behavior through the use of restitution.

(14) Public Youth-Serving Agency: is any agency, organization, or institution with two years experience, which functions as part of a unit of government, and is thereby supported by public revenue for purposes of providing services to youth.

62-70. RESERVED.

71. TECHNICAL ASSISTANCE IN JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

a. Capacity Building and Concentration of Federal Effort. Arthur D. Little, Inc., and its subcontractor, the Center for Action Research, Inc., are responsible for providing technical assistance to Juvenile Justice formula grantees. Their primary area of focus is capacity building and Concentration of Federal Effort. In addition, Arthur D. Little conducts an assessment of needs for all juvenile justice technical assistance regardless of which contractor will respond. The purpose is to provide technical assistance to OJJDP, to state and local governments, to public and private agencies, and interested groups and individuals, related to the attainment of the objectives of the formula grants program. A primary feature of the technical assistance provided is that it addresses programs delivered at the state and local level as well as the delivery system, i.e., OJJDP, the SPAs and RPUs, and related or parallel delivery systems.

b. Separation of Adults and Juveniles. The National Clearinghouse for Criminal Justice Planning and Architecture provides technical assistance to formula grantees around the issue of separation of adults and juveniles. The Clearinghouse also responds to requests relating to the programming of juvenile facilities. In addition, they provide technical assistance relating to the monitoring requirements of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

c. Deinstitutionalization and Diversion. The National Office for Social Responsibility provides assistance to Special Emphasis grantees for deinstitutionalization of status offenders and diversion. NOSR also responds to technical assistance needs of formula grantees in the areas of deinstitutionalization of status offenders and diversion. The objectives of this contract include:

(1) Provide technical assistance to 20 to 26 local grantees of OJJDP's deinstitutionalization and diversion programs that will be in operation over the next three years;

(2) Managing the provision of technical resources by a range of technical assistance providers to be identified by OJJDP and the contractor:

(3) Provision of technical resources through the contractor's own staff;

(4) TA support to relevant and interested organizations in the area of deinstitutionalization and diversion (other than special emphasis grantees).

d. For Information About Juvenile Justice Technical Assistance, contact, Office of Juvenile Justice and Delinquency and Delinquency Prevention, Law Enforcement Assistance Administration, Washington, D.C. 20531, (202) 376-3622.

72. TRAINING IN JUVENILE JUSTICE AND DELINQUENCY PREVENTION. RESERVED.

APPENDIX I

JUVENILE RESTITUTION

INTRODUCTION

This paper reviews current knowledge of restitution programs and their results in the juvenile justice system. The concept is viewed herein as a positive sanction, with particular reference to juvenile justice offenders. Although restitution is far from being a new or an innovative concept, it is currently receiving renewed interest and attention. The contemporary focus on restitution arises in part from a greater concern for the victims of offenses and also as a consequence of the increasing importance attached to establishing a much closer link between the offense and the sanction. This paper outlines the meaning of restitution within the criminal and juvenile justice process, and briefly discusses its historical development. It also sets forth the rationale for restitution programs, and reviews both their evaluations and problems of implementation.

1. STATEMENT OF THE PROBLEM

(a) Definition and Scope

Restitution may be defined as payments by an offender in cash (to the victim) or service (either to the victim or the general community), when such payments are made within the jurisdiction of the juvenile and criminal justice process. By this definition the victim of the offense is not necessarily the recipient of the payment, although under narrower definitions that would usually be the case. The definition restricts restitution to actions taken within the jurisdiction of the juvenile and criminal justice process, thereby excluding private settlements reached between parties involved in an offense.

Restitution should be distinguished from victim compensation. One observer has written that compensation is "an indication of the responsibility of society to the victim, whereas restitution, while restoring the victim, is also therapeutic and aids in the rehabilitation of the criminal." (Laster, 1970:80). It should be noted that restitution is penal in nature with correctional goals while compensation represents the state's attempt to offset the victim's losses. The connections that may exist between restitution and compensation schemes are discussed below, but conceptually they should be viewed as separate and distinct. (For a further discussion of victim compensation schemes see: Edelhertz and Geis, 1974.)

(b) Historical development

The origins of restitution can be traced to penal law of the Middle Ages which was more a law of torts than of crimes. Many historians now believe that the utility of restitution was that it provided a more rational means of dispute settlement among parties than did traditional retaliation, violence, and vengeance. A scholar of the history of restitution has noted that as the state control over compensation* gradually increased, together with its share in the compensation, there occurred a "slow separation of the rights of the victim from the penal law, and compensation became a special field of civil law." (Schafer, 1974:608). Some observers argue that renewed interest in the role of the victim in the criminal process has fostered a similar upsurge of interest in restitution. Others have been skeptical of the notion that the recent interest in restitution represents a turning of the full historical circle in terms of the victim's role in criminal proceedings, and have argued that both ancient and modern rationales for restitution have rested more with the interests of society (and indeed the offender) than with the victims of crime (Edelhertz, et al., 1975:14). The contemporary movement from an individualized model of sentencing to an emphasis on matching penalties to the severity of the offense (von Hirsch, 1976) is probably giving further impetus to the revival of interest in restitution. Although the impact of this movement is greatest in the criminal justice process its effect on juvenile justice is by no means negligible, as evidenced by decisions reached by the Commission members of the Juvenile Justice Standards Project during 1975 - 1976. They recommend restitution as one viable dispositional alternative.

(c) Stages in juvenile justice at which restitution might occur

There are several stages following the commission of an offense when decisions concerning restitution might be made. These stages, reviewed in some detail by Laster (1970:83-98), can be usefully located between the point of commission of the offense and the dispositional decisions made after adjudication.

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*Blacks Law Dictionary (4th Edition) defines the term compensation as applied in ancient law as follows: Among the Franks, Goths, Burgundians, and other barbarous peoples, this was the name given to a sum of money paid, as satisfaction for a wrong or personal injury, to the person harmed, or to his family if he died, by the aggressor. It was originally made by mutual agreement of the parties, but afterwards established by law, and took the place of private physical vengeance.

(i) Pre-administrative stage. Restitution can occur prior to police intervention. Although intervention at this stage happens outside the justice process, it appears to do so frequently. It includes, for instance, payment of restitution by parents to store owners to avoid prosecution of their children. No systematic appraisal appears to have been made of the extent or outcomes of these quasi-judicial measures.

(ii) Administrative stage. Restitution at this stage results from the mainly informal decisions made by officials of the justice process, such as police, intake officers, and prosecutors. It occurs within the context of the very considerable discretion held by such officials. At this stage restitution can also be an important component of a diversion process. Pre-administrative decisions on restitution are characteristically made without the structure of formal, written guidelines. They almost never involve the possibility of further review. Restitution as a diversion strategy is in fairly widespread use by police (Laster, 1970:85; Edelhertz et al., 1975:30) and probation officials (Larom, 1976). There are, however, serious legal issues involved with this approach (see the following section).

The problems associated with restitution decisions at this stage reflect those that characterize the diversion process. Decision-making tends to be generally unstructured and is open to unfair administration. Restitution arrangements, therefore, in many instances do not carry legal force.

(iii) Adjudication stage. Restitution is probably most often located at this stage, after a finding of involvement or guilt. It generally takes the form of a condition of probation (Best and Burzon, 1963:809; Chesney, 1975). Statutory provision also specifically authorizes the court in some jurisdictions to order restitution directly as part of a final disposition (Levin and Sarri, 1970:88-99). A recent study of court ordered restitution in 87 Minnesota counties found that it was used as a condition of probation in 19 percent of all juvenile probation cases (Chesney, 1975:150). As with the pre-adjudication stage, a wide variety of programs exist, providing for both monetary and community-service restitution.

(iv) Post-adjudication stage. Restitution decisions may also be made after the adjudication stage, with the initiative being taken by the corrections agency or paroling authority. There has been some experience with restitution programs for adults at this stage (Fogel, Galaway, and Hudson, 1972; Read, 1975) but apparently not for juveniles. Adult programs such as the Minnesota Restitution scheme (Fogel, Galaway, and Hudson, 1972) have usually made the restitution agreement a condition of parole from prison.

Given contemporary concerns regarding the negative aspects of many parole conditions (e.g., Kassebaum, Ward and Wilner, 1971) it is questionable whether it is a sound practice to locate restitution decisions at this stage.

In recent survey of juvenile restitution projects, conducted in conjunction with the development of this paper (Bryson, 1976)*, it was found that each juvenile program was confined to one stage. This was not the case in a recent survey of adult and juvenile programs in the United States and Canada, with twelve of nineteen programs located at more than one stage (Hudson, 1976:2-3). It should also be noted that most programs address either adults or juveniles, but not both. The eleven programs surveyed by Bryson were exclusively for juvenile offenders (Bryson, 1976), whereas three of the nineteen programs in Hudson's survey admitted both adults and juveniles (Hudson, 1976:2).

(d) Offense and offender types

Restitution is primarily used in connection with offenses against property (Hudson, 1976; 6). There is, however, no research evidence on which types of offenders or offenses are most appropriate for restitution programs. Most judicial and programmatic decisions have been based on ad hoc determinations that offer no evidence of differential effectiveness (Edelhertz et al, 1975:77).

One important issue regarding offender types is the extent to which the offender's perceived ability to pay (socio-economic status) is an important factor in ordering restitution. In this regard, observers have noted that some restitution programs are not operated in a manner fair to all segments of the community due to failure to develop provisions for community service restitution or for jobs that would permit offenders to fulfill monetary restitution requirements.

(e) Victim types

One premise of restitution programs is that the victims of crime should not be ignored, and selection of the target population is likely to have important implications in this regard. Contemporary perspectives of the

*The survey included a telephone interview of twelve juvenile restitution projects identified by American Institutes for Research through consultation with researchers and practitioners. Basic information on program operations and the population served was requested.

the criminal and juvenile justice processes strongly reflect the view that the victims of crimes have been all but forgotten. A particularly significant aspect of restitution is its potential for offsetting the problems created by an undue focus on offender-oriented programs which rarely take into account the circumstances and needs of victims.

2. RATIONALE FOR JUVENILE RESTITUTION PROGRAMS

The rationale for juvenile restitution programs is discussed in this section under four headings: the juvenile offender, the victim of juvenile offenses, the general community, and the juvenile justice process.

(a) Impact on the juvenile offender

Much of the rationale for restitution programs has been based on their intended impact upon the offender. Schafer has argued that through involvement in restitution the offender can be made to recognize his responsibility to the victim (Schafer, 1965:249-250); and Eglash concluded that restitution provides "a form of psychological exercise, building the muscles of the self, developing a healthy ego" (Eglash, 1958:622). It has been argued that restitution "protects the essential dignity (of the offender) by supporting a view of him as an individual capable of making decisions" (Fry, 1957). In two recent surveys of restitution programs, staff persons generally gave priority to the beneficial impact of their programs on the offender. Hudson, for example, found that in ten out of nineteen programs staff indicated that rehabilitation of the offender was the primary purpose (Hudson, 1976:3-4; see also, Bryson, 1976:11-14).

(b) Provision of victim redress

Restitution is less efficient than compensation schemes for providing victim redress. It does, however, allow for the provision of monetary reimbursement or other forms of satisfaction to the victim. In addition, restitution programs may compensate victims for burdens placed on them by the criminal justice system itself such as court time and emotional stress related to confronting an alleged offender. It has been suggested that restitution should go beyond tangible payments and reinforce the victim's sense of vindication (Goldfarb and Singer, 1973:141).

The restitution is not always made to the victim directly; many programs provide for "symbolic" restitution through community service or other work programs. Some observers feel that the more successful programs are those that inform the victims about symbolic restitution, thus allaying

some of the dissatisfaction that is likely to occur when victims are not the recipients of the restitution. A recent survey of juvenile restitution programs found that most victims had no knowledge of the symbolic restitution (Bryson, 1976:11-14).

(c) Enhancement of the public's sense of justice

Restitution programs can also make the juvenile justice process more visible to the general community and as a result may serve to increase public confidence in its administration. Meeting these objectives requires informing and involving the public. In Rapid City, South Dakota, the victim assistance officer acts as an advocate for both the offender and the victim. Additionally, victims are provided with information describing their rights, the juvenile justice process, and civil remedies as a recourse if restitution is unsuccessful (Bryson, 1976:5).

(d) Increasing the effectiveness of the juvenile justice process

Restitution programs may also serve to increase the effectiveness of the juvenile justice process. At the pre-adjudication stage restitution provides a means of diverting juveniles from the justice process, allowing the adjudicatory stage to be focused on more serious offenders. At the post-adjudication stage it serves as an alternative to incarceration, thereby reducing the number of youths confined in training schools. Sensing that this purpose may not be served, the Committee for the Study of Incarceration has warned: "Once criminal sanctions are given a semblance of beneficence they have a tendency to escalate: if, in punishing, one is supposedly doing good, why not do more?" (von Hirsch, 1976:121). Likewise, a report by the National Assessment of Juvenile Corrections has added: "One of the most provocative questions surrounding the general movement toward community corrections is whether the states that develop community programs use them to replace training schools or use them in addition to training schools" (Sarri and Selo, 1975:14). Similar concerns are also appropriate when considering restitution as a diversion device. An unanticipated consequence may be the widening rather than the reduction of the juvenile justice network of control (See generally, Lerman, 1975).

(e) Potential cost savings

Restitution programs may represent a cost savings to the criminal justice system. This would include savings which result from a reduction in the number of youths who would have been incarcerated or placed with community agencies, as well as a reduction in probation costs.

On the other hand, such programs may increase costs in terms of staff time required to determine the amount of restitution and to supervise the youth assigned to make restitution.

3. EVALUATION OF RESTITUTION PROGRAMS

Previous research and evaluations of juvenile restitution programs have been so limited and inconclusive that virtually no scientific knowledge exists concerning the impact of restitution on the offender, victim, community, or costs of the criminal justice system.

Three of the better-known juvenile restitution programs (Seattle, Maryland, and Las Vegas) have had relatively sophisticated evaluations. The Seattle program consists of three community accountability boards operating in certain sections of the city. Each board includes persons from the neighborhood who develop a restitution plan for the youths. Evaluations of the three Seattle components indicated that two of them almost certainly have reduced juvenile recidivism and lowered the overall crime rate in the program areas compared with the rest of the city. The Seattle studies, however, were not able to distinguish conclusively the impact of restitution from the impact of other "treatments" received simultaneously by the youths. Preliminary evidence suggests that those youths in the programs which dealt strictly with restitution would do better than youths in any of the other available programs.

The Maryland program involves an arbitration officer who negotiates a restitution agreement between the juvenile and the victim. Comparisons of the arbitration program with pre-program youths and with a concurrent group of juveniles handled through normal intake procedures show no difference in recidivism rates. The study, however, did not examine costs and there is no way to determine whether any one approach could be judged "superior" due to lower costs without any increase in recidivism. The evaluation of the Maryland program indicated that victim involvement generally had no negative impact except that victims tended to view the offender and the offender's family in a somewhat more negative perspective after the arbitration hearing.

An evaluation of the Las Vegas restitution program focused on characteristics of youths who were most likely to make restitution payments. A similar study was made of the Minnesota restitution program which included some juveniles as well as adults (Chesney, 1975). In addition, there have been several studies examining characteristics of juveniles who are most likely to be "successful" in paying court-ordered fines. (Although simply paying a fine is quite different from the restitution concept, the difference may not be particularly marked for the juvenile especially if he is required to perform community service in order to pay the fine.) The Las Vegas study suggests that a positive self-image, parents who view the youth as essentially "good", and prior employment of the youth are the three most important factors in determining whether the youth will be able

to complete the restitution program. The Minnesota study identified five factors of importance to successful restitution: older age, higher socio-economic status, smaller amounts to pay, not having a probation officer as the intermediary for payment, and a payment period that corresponds to the full length of probation. One study suggests that youths who perform community work in order to pay fines will work more hours if a contingency contract is negotiated with them. Youths who were able to "purchase" special activities each week with hours of work put in more time than youths who were able to "purchase" time off of probation. Juveniles who could earn special activities and time off probation worked more hours than either of the two other groups. (Fitzgerald, 1974).

Studies of the impact on juvenile recidivism of fines vs. probation are inconclusive. Some suggest that fines are more effective in reducing recidivism; others argue for probation. Many studies agree, however, that fines are more effective than probation in reducing recidivism among first offenders.

The studies generally focused on only one type of restitution program, operating in only one way, and therefore provide very little information that is useful as a guide for program managers attempting to structure and implement restitution programs. In addition, the studies have not determined whether restitution is effective in relation to juvenile recidivism or victim attitudes; or if it is a less costly yet equally effective type of treatment.

The purpose of conducting an intensive evaluation for the restitution programs funded under this initiative is to provide information that will be useful to program managers and funding agencies concerning the characteristics and impact of different types of restitution programs. More specifically, the major objectives of the evaluation are to determine whether restitution is more effective than other types of treatment or court procedures and/or whether it is equally effective but less costly. Effectiveness is to be measured in terms of juvenile recidivism, juvenile and victim attitudes toward the system, and the sense of "justice" held by major participants in the system.

4. PROGRAMMATIC ISSUES AND PROBLEMS

A number of important programmatic issues arise in the implementation of the restitution concept.

(a) Monetary versus service restitution

Restitution, as we have defined it, can be made in money, service, or a combination of the two, either directly to the victim or to the community in general. The choice, and the mechanisms for its administration, must address special problems when juveniles are to be the providers. What part should be played by parents in financial restitution ordered against

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their children? How is employment for juveniles to be secured and adequate supervision of work tasks to be provided? How can the work be scheduled around school commitments? How is transportation to and from work sites to be arranged?

A variety of alternatives have been tried. Some unpaid community service projects have developed because of the difficulties in securing paid openings for juveniles (Bryson, 1976:8). Ann Arundel County, Maryland's Community Arbitration program has been successful in combining volunteer work assignments with minimal utilization of monetary restitution. Other projects, such as the one in Multnomah County, Oregon, have attempted to place juveniles in volunteer agencies where tasks may be related to the offense (e.g., vandals repair damaged property).

When restitution is used as a condition of probation it generally takes the form of monetary payments to the victim, with the probation officer acting as the intermediary (Chesney, 1975:153). Current efforts apparently place more emphasis on monetary restitution than upon restitution in the form of services to either the victim or the community, although several of the projects reported that both forms were ordered in many cases. When service restitution was ordered it was more often directed at the community than at the victim. (Hudson, 1976:4,5). A survey of juvenile restitution programs found a varied picture ranging from direct monetary restitution to the victim to work programs in which the offender was allowed to retain some of the money earned. (Bryson, 1976:8).

A study of monetary restitution in Minnesota indicated that its use by juvenile courts favored white, middle class offenders. The author commented: "It is clear that the most important determinant of whether an otherwise eligible defendant was ordered to make restitution was his presumed 'ability to pay'.... Clearly, a large group of offenders, in whom the courts had little faith that restitution would be completed, were not ordered to make restitution." (Chesney, 1976:28). This finding points to the more equitable possibilities for restitution through service programs in those situations where it is not possible to extend monetary restitution to all offenders. Service and monetary programs may sometimes be closely integrated. The program may facilitate earning opportunities for the juvenile so that the victim might receive monetary restitution. Alternatively the earnings of offenders in such programs might be used to supplement the cost of a victim's compensation scheme.

(b) Full or partial restitution

Restitution may involve full or partial payment (in money or in kind) by the offender. Arguments for partial restitution have been voiced by the President's Commission on Law Enforcement and Administration of Justice, which recommended: "Perhaps the best approach is for the probation officer to include in his pre-sentence report an analysis of the financial situation

of the defendant, an estimate of a full amount of the restitution for the victim, and a recommended plan for payment" (Task Force on Corrections, 1967:35). The American Bar Association (Standards Relating to Probation, 1970:49) has urged that "restitution... should not go beyond the probationer's ability to pay."

However, Galaway and Hudson have countered that: "Full restitution would seem preferable to partial or symbolic payment. Since restitution provides the offender with an opportunity to undo, to some extent, the wrong he has done, the more complete the restitution, the more complete the sense of accomplishment the offender gains" (Galaway and Hudson, 1972:405).

A survey of juvenile restitution programs found that something less than full restitution was generally required (Bryson, 1976:7). In a recent survey of nineteen programs, most of which involved adults, it was found that thirteen stated that full restitution was obligated for over 80 percent of the cases. The author noted that this was somewhat surprising given the national policy statements in favor of partial restitution tailored to the offender's ability to pay (Hudson, 1976:6).

(c) The need for guidelines and procedures to structure discretion

In many instances, considerable discretion is exercised by officials at the various stages of the juvenile justice process where restitution decisions are made. One observer has noted: "The disadvantages of restitution at the police level pertain to the entire system of criminal justice. Allowing a policeman to mediate a dispute places too much discretion in untrained hands. There are no criteria to guide the policeman in determining when or what kind of restitution should be ordered, nor is there an adversary proceeding to determine the exact amount of the victim's loss" (Laster, 1970:85).

Although this problem is especially acute at the pre-adjudication stage, it is of importance also at the adjudication stage, where guidelines concerning its use are required if fairness is to prevail. An issue that may arise, depending upon program design, is the possibility of veto power by the victim over the offender's participation. Hudson found this to be a possibility in six out of nineteen programs surveyed (Hudson, 1976:8).

(d) Relationship of the victim to restitution programs.

The victim of the offense is not necessarily the recipient of the restitution payment. As stated earlier, restitution may take the form of community service resulting in no direct benefit to the victim.

When the victim is the recipient of restitution, several considerations arise:

(i) Identification of the victim. This is not always a simple task.

In many cases the victim is not an individual but a corporate entity (AIR, 1976:6). A further complication arises when the victim was covered by insurance and has already collected. A recent survey of mainly adult programs found that the usual pattern was for third-party victims to be recompensed in the same manner as direct victims (Hudson, 1976:8).

(ii) Involvement of the victim in determination of the restitution. Victim involvement at this stage of the process takes several forms. Some pre-adjudication programs have involved the victim in an arbitration hearing which took place in lieu of a juvenile court adjudication. Direct offender-victim contact, however, is unusual, possibly because of victim anxiety. Five of the adult programs surveyed directly and personally involved the victim and offender in most cases; in nine cases, this happened infrequently; in the remaining five programs, such involvement never occurred (Hudson, 1976:6).

One concern expressed by program personnel is that victims sometimes over-estimate the loss suffered in the offense or the extent of the damage incurred (Bryson, 1976:7,6). One program director commented on another problem: "... Some victims reacted negatively when the juvenile was not directed to make monetary restitution. By virtue of the fact that they were interviewed regarding their losses or damages, they assumed that they would be reimbursed. When monetary restitution was not considered or ordered, they became aggravated. Therefore, careful attention had to be given to a clear understanding on the part of the victim regarding what could be expected from the juvenile and the court" (Bryson, 1976:17).

(iii) Nature of the victim-offender relationship during the restitution process

There is no ready agreement in the literature as to the extent that the victim-offender relationship should be personalized and the two parties brought into direct contact with each other. On one side, Eglash has stated: "Reconciliation with the victim of an offense creates a healthy, giving relationship" (Eglash, 1958:620); while it has also been argued that: "It seems questionable whether a victim should be twice penalized; first by the crime and then by being asked to assume a burden because he has already been wronged. In addition, however, it may force the victim into a situation which is uncomfortable, or even fear-producing" (Edelhertz et al., 1975:79).

Galaway and Hudson, who were involved in the Minnesota Restitution Center (for adult offenders), which did attempt to achieve victim-offender interaction, have cautioned that for the present, an open mind should be kept with regard to the issue (Galaway and Hudson, 1972:409). In the AIR survey it was found that victim participation was limited to some involvement in the determination of the restitution due; no programs involved victims in the later stages of the restitution process (Bryson, 1976:7). In another survey it was reported that when written agreements are enter-

ed into by the offender, the victim is rarely involved (Hudson, 1976:6).

There may be cases where the victim does not wish to be involved in any aspect of the restitution process; others where the victim desires no involvement beyond the receiving of restitution through a third party. The personal views of the victim should be an important determinant in the shaping of restitution programs. Chesney, in his study of the use of restitution as a probation condition in Minnesota, reported: "It is (also) recommended that victims be offered greater involvement with the process of restitution. Victims who have been involved with the determination of whether restitution should be ordered or in the determination of its amount and form were more likely to be satisfied with the restitution as ordered by the court. The victims who were least satisfied with the restitution as ordered, regardless of whether it had been completed, were those who were not notified whether restitution was ordered, and those who felt that the police, court, or probation officer had not adequately communicated with them... Victim involvement was also positively associated with the successful completion of restitution." (Chesney, 1976:29; emphasis in orginal).

(e) Informing the public of the work of restitution programs

In addition to informing the victim, it is also important that the public be informed as to the operation of restitution programs. In the AIR survey, at least one program acknowledged that not enough was done in this regard (Bryson, 1976:13). One study of a pre-adjudication arbitration scheme (which has a large restitution component) found that police administrators were generally unaware of how the program worked and were left with the impression "that absolutely nothing is done to a youth besides a simple warning in a majority of cases" (Morash, 1976:10).

(f) Level of offender involvement in shaping the restitution program

To the extent that restitution has a rehabilitative purpose, the issue of juvenile involvement in the shaping of the program is important. Eglash appears to assume that the offender voluntarily enters into "creative restitution" arrangements. He comments: "Although restitution is a voluntary act, an offender needs guidance.... A man, who, as a result of guidance, finds the zestful satisfaction which comes from creative restitution, will continue this process" (Eglash, 1968:621). Entering into a restitution arrangement within the criminal justice process is, however, not likely to be a totally voluntary act on the part of the offender. Even at the pre-adjudication stage when the program may be without formal sanctions, the offender will usually be influenced by the alternative courses of action that may be taken. In the AIR survey, one program located at the pre-adjudication stage reported that it relied heavily on "bluffing" juveniles into participation (Bryson, 1976:11).

The most appropriate course is probably to make explicit the coercive

aspect of the restitution arrangement, and thereafter to maximize offender involvement in the shaping of the actual program. This approach is consistent with the extensive literature which holds on both ethical and pragmatic grounds that offender participation in rehabilitation programs should be voluntary. (See e.g., American Friends Service Committee, 1971:98-99; von Hirsch, 1976:11-18.) In addition, it should be noted that restitution planning which does not involve the offender may further embitter and alienate him, rather than provide for his rehabilitation (Edelhertz and Geis, 1974:6).

In Hudson's survey of nineteen programs, it was reproted that in fourteen there was some degree of choice in being referred or admitted to the program. Hudson notes, however, that choice in this context is substantively meaningless (Hudson, 1976:7). The AIR survey found that the offender had little say in the development of the restitution plan in any of the programs (Bryson, 1976:8).

(g) Administration of restitution and manpower problems

A number of problems arise in the administration of restitution programs. Many of these surface in relation to the utilization of service programs: the finding of jobs relative to the skills of the people involved, maintaining the employment situation, and supervision of the work program (Hudson, 1976:9; Bryson, 1976:9). The survey of juvenile programs found that seven of the eleven programs reported the use of volunteers (both to offset manpower shortages and to enhance community involvement and awareness of the program). The recruitment and training of volunteers makes demands on the time of the professional staff, and at least one program reported that the regular probation staff resented the extra work demands created by the restitution program (Bryson, 1976:11-14).

The program announcement attaches importance to program designs taking into account the danger of over-extension of available resources in the establishment of restitution programs. Both surveys reported that the expectations of victims can be raised to an unrealistic degree, and that victim dissatisfaction can result (Hudson, 1976:9; Bryson, 1976:10). One juvenile program provided this advice in its response to the survey: "If social service for the victims of juvenile offenses is to be the focus of a planned victim assistance program, then a detailed analysis of anticipated volume, priorities for limiting that volume, and sufficient staff to render the proposed service should be made. Further, the staff should have a good working knowledge of community resources and needs" (Bryson, 1976:15).

(h) Scope of Restitution

Determining the scope of restitution raises several important questions, not the least of which is, should the amount of restitution be limited to the specific petitioned offense or should it include other petitioned or unpetitioned offenses?

Under Federal law, 18 U.S.C. 3651, restitution is limited, when applied as a condition of probation, to "actual damage or loss caused by the offense for which the conviction was had." In addition, Federal appeals courts have usually required that a probation condition calling for restitution be related to the offense and limited to the actual amount suffered (Laster, 1970: 90-96; Best and Burzon, 1963: 809; Fisher, 1975: 68-69). Moreover "most formal and informal programs privide restitution only for actual damages, and not for common-law damages such as pain and suffering." (Edelhertz, 76:65)

Once a determination is made on how to relate the amount of restitution required to the offense, it then becomes necessary to determine the amount of damage associated with the offense. Attaching monetary or in-kind (e.g., community service) value to criminal offense events poses problems but these are no more complex than those addressed when determing civil damages. In most instances the concepts and procedures for establishing out-of-pocket civil damages can serve as a guide for determining the value of damages related to criminal offenses. Projects should be aware that in many instances victims tend to overstate damages and offenders tend to understate them (Hudson, Galaway, Chesney, 77: 316). It is important to develop clear criteria for establishing damages that are fair to both parties. Failure to do so may lead to victim dissatisfaction and offender disillusionment with the program (Hudson, 77: 316).

Some of the issues that may be encountered in arriving at the amount of damages are:

(i) Insurance coverage, damages sought in civil court, or the decisions of a victim's compensation scheme;

(ii) Relative amount of restitution due when more than one offender was involved in the offense;

(iii) Findings against co-defendants when dealt with by another court;

(iv) Degree to which the offense was precipitated by the victim (see Fooner, 1966). Hudson found that only two out of nineteen programs attempted to take this consideration into account (Hudson, 1976:7).

(v) Any awards made under workmen's compensation schemes.

(i) The Combination of Restitution and Other penalties

Restitution may be imposed as a sole sanction or in combination with other measures. Schafer has written: "While it appears reasonable to use correctional restitution as one method of dealing with criminals, if it were the only punishment available for crime, it could weaken the sense of wrong-doing attached to the crime -- besides reducing the deterrent effect

and potential. The social and penal value of correctional restitution might be destroyed if individuals were permitted to compromise crimes by making restitution: thus punishment should not be replaced by restitution." (Schafer, 1974:634-35).

It has also been suggested that restitution adds a "constructive aspect" when used as part of the probation process (Cohen, 1944) and provides a rational for work programs within the correctional institution (Jacob, 1970:164-65). A recent survey of courts by the Institute for Policy Analysis revealed that 95 percent of the 114 courts that responded use restitution in conjunction with probation (Institute of Policy Analysis, 1977)*.

Moreover, in the survey of nineteen restitution programs it was found that ten programs required offenders to also be involved in various forms of individual or group counseling (Hudson, 1976:8). The impact of these additional requirements is unclear at this time and should be a focus of further study.

(j) Enforcement Issues

Restitution orders or agreements are generally bolstered by the threat of a further sanction should the individual default, e.g. probation may be revoked. The previously cited survey by IPA where 114 courts reported they used some form of restitution, indicates that 39 percent (42) of the cases are handled by probation officers in an informal manner; 24 percent (26) were handled by the court. Twenty-five percent of the restitution probationers had their probation revoked; 20 percent (21) had their probation extended and 10 percent (11) were incarcerated (I.P.A. 1977).

In the survey conducted by Bryson for AIR, three of six programs located at the adjudication stage reported difficulties related to enforcement and sanctions (Bryson:9). Respondents indicated that there were insufficient sanctions for noncompliance and in some instances probation officers resisted initiating revocation proceedings because of the additional workload (Bryson:9). To avoid some of the enforcement issues, it is important to set forth precisely what the restitution contract or order involves so that the offender and other parties involved are certain as to what is required and what the consequences are for failure to complete the restitution.

When sanctions are applied for failure to complete restitution, such as revocation of probation, it is important to recognize that there is

*Two hundred juvenile courts were randomly selected from the total number of juvenile courts to receive mailed questionnaires. One hundred thirty six responses were received, of which 114 indicated they use some restitution. Basic descriptive information and limited attitudinal data were collected.

need for due process protections. This has been underlined by case law developments with regard to revocation proceedings. (See Gagnon v. Scarpelli, 411 U.S. 778 (1973)).

(k) Termination of the restitution process

Restitution programs vary as to whether the time span of the restitution arrangements is carefully prescribed at the outset, or whether the offender is able to carry it out at his own pace. When the restitution process is one of several program components the duration of the offender's involvement may well be determined by these other considerations (Mowatt, 1975:207). It has been forcefully argued by some observers that the sanction be terminated on completion of the payment or the work program (Smith, 1965:48-49). In Hudson's survey it was reported that in ten of the nineteen programs the offender was sometimes discharged from the program on completion of the restitution obligation. In seven programs such discharge was universal and automatic. Seven programs indicated that it was highly important for restitution to be completed for the offender to be discharged (Hudson, 1976:8). The survey of eleven juvenile restitution programs found a varied pattern in terms of termination. In one program the amount of restitution was divided by the number of months of probation to determine monthly payments due. It was found that in some programs scheduling and transportation problems affected the length of time in the restitution program (Bryson, 1976:9).

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APPENDIX II

EDITOR'S NOTE

The following paper is intended to be a general discussion of legal issues involved in the implementation of a restitution program for juvenile offenders, and not specific legal advice for a program in a given jurisdiction. For such legal advice consult with counsel for your agency.

LEGAL ISSUES IN THE OPERATION OF RESTITUTION PROGRAMS

Introduction

In recent years there has been a growing trend toward the adoption of restitution programs as a means of sanctioning criminal offenders and providing relief for their victims. A number of researchers and professionals in criminal justice have dealt with the varying definitions of restitution and the purposes of different types of programs.[1] In addition, there exist descriptions of restitution programs that have been implemented on an experimental basis.[2]

This paper examines the logical and constitutional problems posed by different methods of ordering restitution, and discusses the numerous legal issues that arise in the operation and design of restitution programs. In addition, guidelines will be suggested for the implementation and operation of new restitution programs, with emphasis given to the unique problems presented by ordering restitution in a juvenile court setting.

It should be emphasized that in those states which already have case law on the subject of restitution, persons planning restitution programs should consult that case law first. This paper will explore how states have resolved particular restitution issues and suggest alternative methods for resolving such issues.

Design and Implementation of Restitution Programs

One of the first questions raised in the design and implementation of a restitution program is determining at what stage of the proceedings restitution is to be ordered. Many persons argue that the juvenile court is most effective if it treats youths in an informal setting with a minimum of formal court procedures.[3] On the other hand, there are many supporters of the proposition that juveniles can be better treated through a system with more formalized judicial procedures.[4] There is no consensus at this time as to which approach is the more effective treatment.

An informal stage of the juvenile court process is generally considered to be one which does not involve a judicial officer. For example, a youth may be referred to juvenile court for a particular offense, meet with a probation worker to discuss his offense, and then agree to meet with that worker for treatment purposes. This would be considered an informal procedure, since no judicial officer was involved.

On the other hand, formal procedures involve a judge or other judicial officer. The adjudication and dispositional phases are often separated. At the adjudication phase the court makes a finding as to whether a youth within the court's jurisdiction. Generally a petition is filed alleging that a youth is within the jurisdiction of the juvenile court because of acts allegedly committed. The state then has the burden of proving that the youth committed those acts. The youth can be found within the court's jurisdiction either by admitting the allegations of the petition filed, which is analogous to a guilty plea in adult court, or by the state proving the allegation true at a fact-finding hearing. It is considered a formal court procedure if a judge approves the guilty plea or presides over the fact-finding hearing.

Aside from the merits from a treatment point of view of handling youths informally or formally, where restitution is concerned close attention must be paid to the constitutional rights of the juvenile. A juvenile required to pay restitution is denied his property in that he must pay monies to crime victims or some other third party, and is denied liberty in that the juvenile is required to perform certain acts he otherwise would not have to perform in order to meet the restitution requirement. The Fifth and Fourteenth Amendments of the U.S. Constitution provide that persons can not be denied property or liberty by the Government without due process of law. It seems clear that due process requires a judicial determination of a youth's responsibility for committing certain acts, before that youth is required to meet a restitution requirement. Thus, it may raise serious constitutional problems to require restitution during an informal stage of the proceedings.

Further, questions of involuntary servitude may be raised when a youth is required to work in order to comply with a restitution requirement before there has been a judicial determination of that youth's responsibility for committing an offense. The Thirteenth Amendment to the U.S. Constitution provides:

> Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

The argument could be made that the Thirteenth Amendment prohibits labor ordered as part of restitution when the youth has not been convicted of a crime or found to be legally responsible for committing an offense. However, if restitution is ordered at a post-adjudication stage, this problem should be eliminated, since at that point the youth would be considered to be a ward of the court. In Maurier v. State[5] the Georgia Court of Appeals held that an order of restitution was not invalidated

under the Thirteenth Amendment since the defendant had already been convicted of a crime. In order to avoid any Thirteenth Amendment challenges, the restitution program should focus on rehabilitating offenders or compensating victims rather than on obtaining a cheap source of labor.

The next question is the extent of judicial involvement necessary to meet constitutional requirements of due process. Clearly it is desirable for a neutral and detached judge to be involved at some stage of the proceedings, before a juvenile is required to comply with a restitution requirement. Where restitution is to be ordered, the court, in the interests of efficient administration, may wish to have the probation department do much of the preliminary investigation concerning the amount, type, and method of restitution payment. How much of this responsibility may a court delegate to the probation department before the rights of the juvenile are violated? The New Jersey Supreme Court, in In the Interest of D.G.W.,[6] held that the juvenile court judge has ultimate responsibility for ordering the amount and terms of restitution and it cannot delegate this responsibility to the probation department of the court. Prior to this court ruling, the practice in New Jersey was to allow the probation department to investigate the nature and extent of personal and property damage caused by the juvenile acts, prepare a final report, and then make the final decision on the amount of the restitution. The New Jersey Supreme Court stated that it was proper for the trial court to allow the probation department to investigate the situation and make a recommendation for restitution, but improper for the court to delegate its responsibility for making the final order of restitution to the probation department.

Summary

Juvenile court proceedings are generally divided into an adjudicatory or guilt-determining stage whereby a youth is found to be within the court's jurisdiction and a dispositional stage which is analogous to the sentencing phase of adult court. Programs, to be safe from legal attack, should require a finding by a neutral and detached judicial officer that a youth has committed the acts he is alleged to have committed before he is eligible for a court-sponsored restitution program. This finding may either be after a counselled admission of responsibility by the youth or after a fact-finding hearing.

In addition, the court should be the one to make the final order as to the amount, type, and method of meeting the restitution requirement. The court, however, may delegate to the probation department the authority to investigate the circumstances of the juvenile's acts, and the type and amount of damage caused by these acts.

Due Process Rights Which Must Be Afforded at the Stage of Proceedings Where Restitution is Ordered

Once it is determined by whom restitution is to be ordered, the question arises as to what procedures must be followed to assure that a person's constitutional rights are not violated. This analysis is a two-step process: Does the right of due process apply at this proceeding and if so, what procedures must be followed to safeguard these rights?

The Supreme Court has held that rights to due process apply at sentencing proceedings,[7] as well as at proceedings to revoke probation[8] or parole.[9]

It is clear that restitution involves a youth's right to property in monies to be paid to comply with the restitution order and his right to liberty in freedom from probationary requirements. Thus the first question, whether the right of due process applies at this stage of the proceedings, must be answered affirmatively.

The next question, what procedures should be followed so that these rights are safeguarded, is more complex. In recent years the courts have held that due process rights apply to a wide variety of proceedings. In each of these cases the Supreme Court has avoided stating specifically what procedures must be followed in order for due process requirements to be met. The general approach in these cases is to balance the state's interest in orderly and efficient administration of justice with the individual's interest in protection of rights to property and liberty.

The New Jersey court, in In the Interest of D.G.W., held that a juvenile and/or the juvenile's attorney are entitled to examine the probation department's restitution report and recommendation. In addition, the juvenile is entitled to present evidence at the sentencing in his own behalf, and may object to statements contained in the probation department's report.

Summary

A restitution order affects an offender's right to property in the monies he will be required to pay to the victim and the offender's right to liberty in his freedom from "probationary" conditions. It seems clear that the youth's rights to due process and right to counsel apply at a stage of the proceedings where a restitution order may be entered.

The extent of rights which must be afforded a juvenile are flexible and involve balancing the state's interest in an orderly restitution program with the offender's interest in protection of his rights. Rights to

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which courts have suggested that juveniles are entitled include the right to examine the probation department's report recommending restitution and to object to statements in that report, and the right to present evidence at the hearing at which restitution is ordered.

Method of Determining Amount of Restitution

This section will discuss the factors which courts have suggested should be considered before the amount of restitution is determined. The next section will deal with the complicated question of the amount of victim loss for which the criminal offender should be held responsible.

The restitution award should be determined with consideration for both the offender and the victim. The primary purpose of restitution, however, is to rehabilitate the offender. Thus, the primary consideration in entering a restitution order should be the impact that order will have on the offender. The theory often suggested to support the notion that restitution is a rehabilitative tool is that an offender will be rehabilitated if he is made aware of the loss his criminal acts have caused and if he is made to feel some responsibility for remedying the loss. In People v. Richards[10] the California court suggested that a trial court should consider the following factors when making the restitution order: the offender's characteristics, his prior offenses (if any), the offender's state of mind when the offense was committed, and the extent and nature of loss caused by the offender's acts.

One of the most easily discernable client characteristics is the offender's ability to pay any potential restitution order. Should the ability to pay be considered by a court when it is considering entering a restitution order? States answer this question differently, but the majority say yes.[11]

The states in the majority reason that it would be improper for a court to revoke probation merely because the offender is unable to pay restitution, since that would be similar to imprisoning a person for inability to pay a fine which is constitutionally impermissable.[12] Thus these states hold that a trial court must determine, after making findings of fact, whether or not an offender can or will pay the amount of restitution ordered.[13]

Other courts have held that the only requirement for a condition of probation is that it be fair and reasonable. If restitution as a condition of probation is otherwise fair and reasonable, the mere inability of the offender to pay will not in and of itself make it unfair and

unreasonable. This question will be discussed further in the section dealing with methods of enforcing the restitution.

Summary

In determining the amount of restitution the court should consider the following factors: the nature of the loss caused by the offender, the prior offenses, if any, of the offender, and whether or not the offender was acting with malice at the time of the offense.

In setting the amount of restitution, the court should consider the offender's ability to pay, because the order may later be subject to attack if there was no finding of fact concerning the offender's ability to pay and subsequently there is an attempt to revoke the offender's probation on these grounds.

Scope and Amount of Restitution Order

By far the most complex issue in the area of restitution and the one which has generated the most litigation is the question of how to determine the scope of the offender's liability for injuries which may have resulted from his criminal activities. The cause of the problem is that restitution affords a civil remedy, i.e., compensation for injuries suffered by victims of crimes, in what is otherwise a criminal proceeding. Crime is traditionally defined as an offense against the public at large for which the state on behalf of the public institutes a proceeding. The purpose of the criminal prosecution is to vindicate the state's interest by proving that a particular defendant is responsible for certain acts. Once that person is convicted, the criminal justice system attempts to punish and/or rehabilitate the offender. A civil personal injury proceeding, on the other hand, is commenced by an injured party and maintained by that party in order to seek compensation for his injuries from the party or parties that caused the injury. If the injured party is successful, he obtains a judgment against the wrongdoer which he may enforce and collect compensation from the defendant.

The theory of restitution is that once a person is convicted of an offense, that person will be rehabilitated or reformed if he is made aware of the loss caused by his criminal acts and if he is held responsible for remedying these acts. In addition, restitution serves to compensate victims of crime. However, a finding by a criminal or juvenile court that a person is guilty of a certain offense is not the same as a civil finding that that person is liable to the person who was injured by those acts. In a civil proceeding, due process requires that a defendant be given notice of the complaint brought against him by the

injured party and the amount of damages the injured party seeks to recover. The defendant in a civil proceeding may assert the defense of contributory negligence; that is, that the plaintiff's acts contributed to his own injury and therefore the defendant is not liable or only partially liable for the plaintiff's injuries.

The issue at a criminal trial is not whether the defendant is responsible for the victim's injuries but rather whether the defendant has committed an offense against the state. If, for instance, a defendant is charged with theft of a car and the car belonged to the victim, the scope and amount of restitution is relatively easy to determine--the court would require the defendant to return the victim's car. If, on the other hand, the defendant is charged with negligent homicide in the death of a woman and her child, what is the appropriate amount of restitution the defendant should be required to pay to the husband who is the survivor of the accident?[14]

An initial problem in determining the scope of a restitution order is to decide whether a defendant should be required to pay restitution only for the direct consequences of the particular crime he has committed, or whether the defendant may be held responsible for indirect consequences of his crime or for injuries caused by other crimes he has not yet been tried for. The state courts have not answered this question with any uniformity. Some state courts hold that a defendant may be required by a restitution order to pay for losses which exceed the losses caused by the crime for which he was convicted.[15] These courts reason that the primary purpose of restitution is to rehabilitate the defendant. Thus the purpose of entering a restitution order is not to determine the defendant's liability in a civil sense, but rather to set conditions of probation which are likely to reform the offender. A restitution order in these states would be upheld on appeal if it were shown that the restitution requirement was likely to rehabilitate the offender even if the amount of restitution exceeded the losses caused by the crime for which the defendant was convicted. In People v. Miller[16] the defendant was convicted of fraudulently obtaining $821. The defendant was placed on probation upon the condition that the victim be repaid the $821. Subsequently, the trial court modified the restitution order to include losses suffered by other victims of the defendant's fraudulent acts which were not related to the crime for which the defendant was convicted. This modification was upheld on appeal. The appeals court held that a restitution order which exceeds the losses caused by the crime the defendant was convicted of is valid if it is shown that that order is likely to rehabilitate the defendant. The California courts do not pretend to assess the offender's civil liability to the victim, but determine the amount of restitution according to whether the amount requested is likely to rehabilitate the

offender. Most courts, however, do not take the California approach and limit the offender's restitution order to losses which are direct consequences of the criminal acts for which he has been convicted.[17] These courts reason that it is inappropriate for a restitution order to exceed the losses directly caused by the defendant.

Another question concerns the appropriate victim entitled to restitution. Generally, any person or entity injured by a criminal act is entitled to restitution.[18] If the victim is insured against the loss the financially injured party is the insurance company, and most states permit the insurance company to recover restitution from the offender. However, a recent Oregon case, State v. Getsinger,[19] concluded that insurance companies are not eligible to recover restitution payments. The Oregon court reasoned that the state statute only permitted direct victims of a crime to receive restitution, and held that the insurance company was not a direct victim since it suffered loss only because the injured party, the insured, did.

If a person suffers injuries which are a direct consequence of the offender's crime and that person is considered to be the immediate victim, how extensive should the restitution order be? In People v. Miller[20] the first victim who was defrauded of $821 is clearly entitled to recover that amount as restitution. What if that victim contends that in addition to the direct loss of $821 he was injured further by the pain and suffering he was made to endure as a result of the defendant's criminal acts? Pain and suffering, loss of wages, etc., are all compensible losses in civil proceedings. Should they be included in a restitution order as well? Most courts in examining this question have ruled that a victim is entitled to restitution only for losses that have a direct and easily measurable dollar value.[21] These courts reason that the defendant is not given the benefit of a civil trial on the issue of damages and thus a determination of unliquidated damages (damages without easily measurable dollar values) would involve mere guesswork on the part of trial courts. Although courts have indicated an unwillingness to determine unliquidated damages in assessing restitution, they still have had difficulty in determining the value of the victim's loss. For example, if a window is broken and a house burglarized and several items in the house taken, how is a court to determine the amount of loss suffered by the victim? The courts have suggested several methods which should be considered in determining value, among which are the cost to repair or replace the items damaged or taken, the market value of the item taken or destroyed, the difference in value or property before and after the crime took place, etc.[22]

Another question which arises is how to assess responsibility for a loss caused by multiple offenders. Again, the states have not uniformly resolved this question. Some courts state that multiple offenders are jointly and individually liable for all injuries which result from their criminal activities.[23] Thus each offender is individually liable for the entire amount of loss and all offenders are jointly liable for the entire loss. Other states have decided that when there are multiple offenders, each offender should be required to pay his pro rata share of the losses.[24] Thus, if there are four offenders, each offender would be required to pay one-fourth of the victim's loss. Still other states have indicated that where there are multiple offenders it is appropriate for the trial court to conduct a fact-finding hearing to determine the degree of responsibility each of the offenders must bear for purposes of the restitution order.

The most logical approach is for the trial court to presume that where there are multiple offenders, they are proportionately liable for the losses caused by their criminal acts. This presumption could be rebutted, however, by a showing that one of the offenders was more responsible for the victim's loss than any other offender.

Summary

Many issues are raised when considering the scope and amount of restitution orders. From an examination of the case law it appears that the states have failed to resolve these issues uniformly. In considering this question, it is important to realize the difference between restitution and an award of civil damages. A criminal court determines whether an offender has committed certain acts which violate the public interest. Once an offender is convicted, the court may order restitution in an effort to rehabilitate an offender by making the offender aware of the loss his acts have caused and making the offender feel a sense of responsibility for remedying those acts. This order also serves the function of compensating the victim of the crime for losses he has suffered. However, by ordering restitution the criminal court is not determining the civil liability of the offender to the victim of his crime. That is not the issue of the criminal trial and that is not the purpose of a criminal proceeding.

When a state has case law on the appropriate scope of a restitution order, it would be presumptuous to suggest that a new restitution program adopt regulations other than those required by its state law. The following guidelines are suggested for restitution programs in states with no case law on the subject.

A defendant should only be required to pay restitution for losses which are a direct consequence of his criminal acts. Serious due process problems are raised when a defendant is ordered to pay restitution for losses caused by acts for which he has never been convicted.

A victim who has suffered loss as a result of the defendant's acts should be entitled to restitution if those acts were a direct cause of his loss. When a victim is insured for a loss, the insurance company is the party who actually bears the loss, and thus should be entitled to recover restitution. Restitution serves the purpose of making the offender aware of the loss his acts have caused whether the victim is a person or an insurance company.

Unliquidated damages, e.g., pain and suffering, should not be an appropriate basis of a restitution order unless the defendant admits his liability for this amount. For liquidated damages, i.e., those with a measurable monetary value, any method of valuation of loss commonly used in civil proceedings would be appropriate for determining the amount of restitution, e.g., cost to repair or replace an item which has been broken or stolen.

As far as injured victims are concerned, the best means to recover their losses are in civil rather than criminal proceedings. In civil court, the injured party can obtain a judgment against the offender which then may be enforced by the appropriate civil procedures. When an offender is ordered to pay restitution to a victim by a criminal court, the method of enforcement is to revoke the offender's probation. However, the victim must remember that if the offender is placed on probation with the requirement of restitution, the victim is likely to recover some compensation for his injury. If, on the other hand, the offender is incarcerated, the victim may be able to obtain a judgement in a civil court, but the judgement will be unenforceable at least for the period of time that the offender is incarcerated.

Method and Enforcement of the Order of Restitution

The criminal court generally has the power to revoke probation if it is shown that a probationer has not met any of the conditions of his probation. In Gagnon v. Scarpelli[25] the Supreme Court held that a person is entitled to due process at probation revocation proceedings. The requirements necessary to comply with due process at this stage of the proceedings are flexible, requiring a balance of the state's and the individual's interests. The court in Gagnon suggested that the defendant be afforded the following rights: written notice of the alleged probation violations, disclosure of the evidence the state

has against him, an opportunity to be heard in person and to present evidence on his own behalf, the right to confront and cross-examine witnesses, a neutral and detached hearing body, and a written statement of facts stating the evidence relied upon in reaching the decision.[26]

In addition to the question of procedural due process, there are questions of substantive due process and equal protection when a person's probation is revoked and he is incarcerated on the basis of his inability to pay restitution. The Supreme Court has held that it is unconstitutional to incarcerate an indigent because of his inability to pay a fine.[27] The question then is whether it is constitutional to incarcerate a defendant for not meeting a restitution requirement, since there was no showing that the defendant would be able to meet that requirement. In People v. Kay,[28] the court held that it was improper to incarcerate a defendant for not meeting a restitution requirement since there was no showing prior to the entry of the order that the defendant would be able to meet the restitution requirement. The court reasoned that ordering restitution when a defendant is unable to meet the requirement, and is likely not to be able to meet it in the future, is the same as imposing a fine, and that it is therefore improper to incarcerate that defendant because of his inability to pay the restitution. Other courts have held that an offender might be incarcerated for failure to comply with a restitution requirement provided that the restitution order can be shown to be fair and reasonable.[29]

Summary

A defendant's right to liberty is at stake at any probation revocation proceeding, and thus he is entitled to minimal requirements of due process.

In addition, to avoid many of the problems associated with noncompliance with court ordered restitution, courts should consider the offender's ability to pay. Where it is clear that an offender is indigent at the time the order is entered and has no prospects of obtaining employment and funds to meet the restitution requirement it would be unconstitutional for the court to incarcerate that individual because of his inability to pay restitution.[30] On the other hand, where the court makes every reasonable effort to accommodate the offender who has the ability to pay restitution, but who fails to do so, the court may constitutionally incarcerate this individual.

FOOTNOTES

1 See Burton Galaway, "Issues in the Use of Restitution as a Sanction for Crime," paper presented at the National Institute on Crime and Delinquency, Minneapolis, Minnesota, June 1975.

2 See, for example, Joe Hudson (ed.), Restitution in Criminal Justice. Based on papers presented at the First International Symposium on Restitution.

3 See Fox, Juvenile Justice Reform: An Historical Perspective, 22, Stanford Law Review, 1187 (1970).

4 F. Allen, The Borderland of Criminal Justice, 16 (1964).

5 112 Ga. App. 297, 144 SE 2d. 918 (1965).

6 70 N.J. 488, 361 A 2d. 513 (1976).

7 Memnpa v. Rhay, 389 U.S. 128 (1968).

8 Gagnon v. Scarpelli, 411 U.S. 778, 93 S.Ct. 1756 (1973).

9 Morrissey v. Brewer, 408 U.S. 471, 92 S.Ct. 2593 (1972).

10 131 Cal. Rptr. 537.

11 See text pp. 6-7. Illinois and Michigan do not require that a restitution order be predicated upon the offender's ability to pay. People v. Tidwell, 338 N.E. 2d. 13 (Ill. 1975), People v. Gallagher, 223 N.W. 2d. 92. (Mich. 1974). On the other hand, New York and Vermont hold that the order requiring restitution must consider the offender's ability to pay. People v. Olftus, 356 N.Y.S. 2d. 791 (1974); State v. Benoit, 313 A 2d. 387 (Vt. 1973).

12 See Tate v. Short, 401 U.S. 395 (1971).

13 State v. Benoit, Supra note 11.

14 The question of unliquidated damage is discussed in the text at page 11. For further discussion see Dobbs, Remedies, p. 544.

15 California is the most noticeable of the states, see People v. Lent, 541 P 2d. 545, 124 Cal. Rptr. 905 (1975), People v. Miller, 64 Cal. Rptr. 20 (1967). See also, People v. Good 282 N.W. 920 (1928).

16 64 Cal. Rptr. 20 (1967).

17 People v. Becker, 349 Mich. 476, 84 N.W. 2d. 833 (1957); State v. Scherr, 552 P 2d. 829 (1976).

18 See New Jersey Statute Annotated 2A: 168-1; California Penal Code Section 1203.1.

19 556 P 2d. 147 (1976).

20 Supra, note 15.

21 People v. Becker, 349 Mich. 476, 84 N.W. 2d. 833 (1957); People v. Mahle, 312 N.E. 2d. 367 (Ill. 1974).

22 People v. Gallagher, 223 N.W. 2d. (1974); People v. Tidwell, 338 N.E. 2d. 113 (Ill. 1975).

23 People v. Kay, Cal. Rptr. 894 (1973); People v. Flores, 17 Cal. Rptr. 382 (1961); People v. Peterson, 233 N.W. 2d. 250 (1975).

24 In the Interest of D.G.W., 361 A 2d. 513 (1976).

25 Supra, note 5.

26 Gagnon v. Scarpelli, supra note 5, In the Interest of D.G.W., note 23.

27

27 Tate v. Short, 401 U.S. 395 (1971); Williams v. Illinois, 399 U.S. 325 (1967).

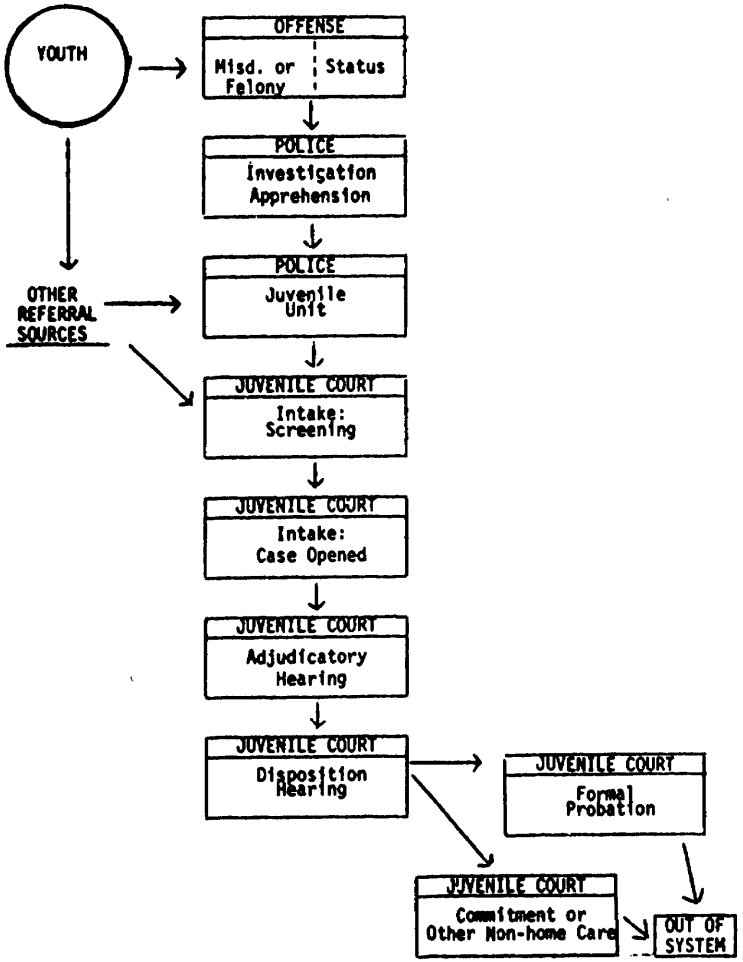
28 People v. Kay, 111 Cal. Rptr. 894 (1973), See also State v. Benoit, supra note 11.

29 People v. Tidwell, 338 N.E. 2nd 113 (1975).

30 Tate v. Short and Williams v. Illinois, supra note 27.

APPENDIX III

JUVENILE JUSTICE SYSTEM: SIMPLIFIED FLOWCHART



OMB Approval No 29-R0218

FEDERAL ASSISTANCE

SECTION I—APPLICANT/RECIPIENT DATA

1. TYPE OF ACTION (Mark appropriate box) ☐ PREAPPLICATION ☐ APPLICATION ☐ NOTIFICATION OF INTENT (Opt.) ☐ REPORT OF FEDERAL ACTION

2. APPLICANT'S APPLICATION — a. NUMBER; b. DATE Year month day 19

3. STATE APPLICATION IDENTIFIER — a. NUMBER; b. DATE ASSIGNED Year month day 19

Leave Blank

4. LEGAL APPLICANT/RECIPIENT
a Applicant Name :
b Organization Unit :
c Street/P O. Box :
d City : e County :
f State : g. ZIP Code
h Contact Person (Name & telephone No.) :

5. FEDERAL EMPLOYER IDENTIFICATION NO

6. PROGRAM (From Federal Catalog) — a. NUMBER; b TITLE

7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT

8. TYPE OF APPLICANT/RECIPIENT
A-State H-Community Action Agency
B-Interstate I- Higher Educational Institution
C-Substate J- Indian Tribe
District K-Other (Specify):
D-County
E-City
F-School District
G-Special Purpose District
Enter appropriate letter ☐

9. TYPE OF ASSISTANCE
A-Basic Grant D-Insurance
B-Supplemental Grant E-Other
C-Loan
Enter appropriate letter(s) ☐☐

10. AREA OF PROJECT IMPACT (Names of cities, counties, States, etc.)

11. ESTIMATED NUMBER OF PERSONS BENEFITING

12. TYPE OF APPLICATION
A-New C-Revision E-Augmentation
B-Renewal D-Continuation
Enter appropriate letter ☐

13. PROPOSED FUNDING

a FEDERAL	$ 00
b APPLICANT	00
c STATE	00
d LOCAL	00
e OTHER	00
f TOTAL	$ 00

14. CONGRESSIONAL DISTRICTS OF — a. APPLICANT; b. PROJECT

15. TYPE OF CHANGE (For 12c or 12e)
A-Increase Dollars F-Other (Specify):
B-Decrease Dollars
C-Increase Duration
D-Decrease Duration
E-Cancellation
Enter appropriate letter(s) ☐☐☐

16. PROJECT START DATE Year month day 19

17. PROJECT DURATION Months

18. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY ▶ Year month day 19

19. EXISTING FEDERAL IDENTIFICATION NUMBER

20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code)

21. REMARKS ADDED ☐ Yes ☐ No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT ▶
a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.
b. If required by OMB Circular A-95 this application was submitted pursuant to its instructions therein, to appropriate clearinghouses and all responses are attached
(1)
(2)
(3)
No response ☐☐☐ Response attached ☐☐☐

23. CERTIFYING REPRESENTATIVE — a. TYPED NAME AND TITLE; b. SIGNATURE; c. DATE SIGNED Year month day 19

SECTION III—FEDERAL AGENCY ACTION

24. AGENCY NAME

25. APPLICATION RECEIVED Year month day 19

26. ORGANIZATIONAL UNIT

27. ADMINISTRATIVE OFFICE

28. FEDERAL APPLICATION IDENTIFICATION

29. ADDRESS

30. FEDERAL GRANT IDENTIFICATION

31. ACTION TAKEN
☐ a. AWARDED
☐ b. REJECTED
☐ c. RETURNED FOR AMENDMENT
☐ d. DEFERRED
☐ e. WITHDRAWN

32. FUNDING

a FEDERAL	$ .00
b APPLICANT	.00
c. STATE	.00
d. LOCAL	.00
e. OTHER	.00
f. TOTAL	$ .00

33. ACTION DATE ▶ Year month day 19

34. STARTING DATE Year month day 19

35. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

36. ENDING DATE Year month day 19

37. REMARKS ADDED ☐ Yes ☐ No

38. FEDERAL AGENCY A-95 ACTION
a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part 1, OMB Circular A-95, it has been or is being made.
b. FEDERAL AGENCY A-95 OFFICIAL (Name and telephone no.)

424-101

STANDARD FORM 424 PAGE 1 (10-75)
Prescribed by GSA, Federal Management Circular 74-7

SECTION IV–REMARKS *(Please reference the proper item number from Sections I, II or III, if applicable)*

GENERAL INSTRUCTIONS

This is a multi-purpose standard form. First, it will be used by applicants as a required facesheet for pre-applications and applications submitted in accordance with Federal Management Circular 74–7. Second, it will be used by Federal agencies to report to Clearinghouses on major actions taken on applications reviewed by clearinghouses in accordance with OMB Circular A–95. Third, it will be used by Federal agencies to notify States of grants-in-aid awarded in accordance with Treasury Circular 1082. Fourth, it may be used, on an optional basis, as a notification of intent from applicants to clearinghouses, as an early initial notice that Federal assistance is to be applied for (clearinghouse procedures will govern).

APPLICANT PROCEDURES FOR SECTION I

Applicant will complete all items in Section I. If an item is not applicable, write "NA". If additional space is needed, insert an asterisk "*", and use the remarks section on the back of the form. An explanation follows for each item:

Item

1. Mark appropriate box. Pre-application and application guidance is in FMC 74–7 and Federal agency program instructions. Notification of intent guidance is in Circular A–95 and procedures from clearinghouse. Applicant will not use "Report of Federal Action" box.

2a. Applicant's own control number, if desired.

2b. Date Section I is prepared.

3a. Number assigned by State clearinghouse, or if delegated by State, by areawide clearinghouse. All requests to Federal agencies must contain this identifier if the program is covered by Circular A–95 and required by applicable State/areawide clearinghouse procedures. If in doubt, consult your clearinghouse.

3b. Date applicant notified of clearinghouse identifier.

4a–4h. Legal name of applicant/recipient, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, and name and telephone number of person who can provide further information about this request.

5. Employer identification number of applicant as assigned by Internal Revenue Service.

6a. Use Catalog of Federal Domestic Assistance number assigned to program under which assistance is requested. If more than one program (e.g., joint-funding) write "multiple" and explain in remarks. If unknown, cite Public Law or U.S. Code.

6b. Program title from Federal Catalog. Abbreviate if necessary.

7. Brief title and appropriate description of project. For notification of intent, continue in remarks section if necessary to convey proper description.

8. Mostly self-explanatory. "City" includes town, township or other municipality.

9. Check the type(s) of assistance requested. The definitions of the terms are:

   A. Basic Grant. An original request for Federal funds. This would not include any contribution provided under a supplemental grant.

   B. Supplemental Grant. A request to increase a basic grant in certain cases where the eligible applicant cannot supply the required matching share of the basic Federal program (e.g., grants awarded by the Appalachian Regional Commission to provide the applicant a matching share).

   C. Loan. Self explanatory.

Item

   D. Insurance. Self explanatory.

   E. Other. Explain on remarks page.

10. Governmental unit where significant and meaningful impact could be observed. List only largest unit or units affected, such as State, county, or city. If entire unit affected, list it rather than subunits.

11. Estimated number of persons directly benefiting from project.

12. Use appropriate code letter. Definitions are:

   A. New. A submittal for the first time for a new project.

   B. Renewal. An extension for an additional funding/budget period for a project having no projected completion date, but for which Federal support must be renewed each year.

   C. Revision. A modification to project nature or scope which may result in funding change (increase or decrease).

   D. Continuation. An extension for an additional funding/budget period for a project the agency initially agreed to fund for a definite number of years.

   E. Augmentation. A requirement for additional funds for a project previously awarded funds in the same funding/budget period. Project nature and scope unchanged.

13. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of the change. For decreases enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 13a, amount requested from Federal Government; 13b, amount applicant will contribute; 13c, amount from State, if applicant is not a State; 13d, amount from local government, if applicant is not a local government; 13e, amount from any other sources, explain in remarks.

14a Self explanatory.

14b. The district(s) where most of actual work will be accomplished. If city wide or State wide, covering several districts, write "city wide" or "State-wide."

15. Complete only for revisions (item 12c), or augmentations (item 12e).

Item	
16.	Approximate date project expected to begin (usually associated with estimated date of availability of funding).
17.	Estimated number of months to complete project after Federal funds are available.
18.	Estimated date preapplication/application will be submitted to Federal agency if this project requires clearinghouse review. If review not required, this date would usually be same as date in item 2b.
19.	Existing Federal identification number if this is not a new request and directly relates to a previous Federal action. Otherwise write "NA".
20.	Indicate Federal agency to which this request is addressed. Street address not required, but do use ZIP.
21.	Check appropriate box as to whether Section IV of form contains remarks and/or additional remarks are attached.

APPLICANT PROCEDURES FOR SECTION II

Applicants will always complete items 23a, 23b, and 23c. If clearinghouse review is required, item 22b must be fully completed. An explanation follows for each item:

Item	
22b.	List clearinghouses to which submitted and show in appropriate blocks the status of their responses. For more than three clearinghouses, continue in remarks section. All written comments submitted by or through clearinghouses must be attached.
23a.	Name and title of authorized representative of legal applicant.
23b.	Self explanatory.
23c.	Self explanatory.
Note:	Applicant completes only Sections I and II. Section III is completed by Federal agencies.

FEDERAL AGENCY PROCEDURES FOR SECTION III

If applicant-supplied information in Sections I and II needs no updating or adjustment to fit the final Federal action, the Federal agency will complete Section III only. An explanation for each item follows:

Item	
24.	Executive Department or independent agency having program administration responsibility.
25.	Self explanatory.
26.	Primary organizational unit below department level having direct program management responsibility.
27.	Office directly monitoring the program.
28.	Use to identify non-award actions where Federal grant identifier in item 30 is not applicable or will not suffice.
29.	Complete address of administering office shown in item 26.
30.	Use to identify award actions where different from Federal application identifier in item 28.
31.	Self explanatory. Use remarks section to amplify where appropriate.
32.	Amount to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 32a, amount awarded by Federal Government; 32b, amount applicant will contribute; 32c, amount from State, if applicant is not a State; 32d, amount from local government if applicant is not a local government; 32e, amount from any other sources, explain in remarks.
33.	Date action was taken on this request.
34.	Date funds will become available.
35.	Name and telephone no. of agency person who can provide more information regarding this assistance.
36.	Date after which funds will no longer be available.
37.	Check appropriate box as to whether Section IV of form contains Federal remarks and/or attachment of additional remarks.
38.	For use with A-95 action notices only. Name and telephone of person who can assure that appropriate A-95 action has been taken—If same as person shown in item 35, write "same". If not applicable, write "NA".

Federal Agency Procedures—special considerations

A. *Treasury Circular 1082 compliance.* Federal agency will assure proper completion of Sections I and III. If Section I is being completed by Federal agency, all applicable items must be filled in. Addresses of State Information Reception Agencies (SCIRA's) are provided by Treasury Department to each agency. This form replaces SF 240, which will no longer be used.

B. *OMB Circular A-95 compliance.* Federal agency will assure proper completion of Sections I, II, and III. This form is required for notifying all reviewing clearinghouses of major actions on all programs reviewed under A-95. Addresses of State and areawide clearinghouses are provided by OMB to each agency. Substantive differences between applicant's request and/or clearinghouse recommendations, and the project as finally awarded will be explained in A-95 notifications to clearinghouses

C. *Special note.* In most, but not all States, the A-95 State clearinghouse and the (TC 1082) SCIRA are the same office. In such cases, the A-95 award notice to the State clearinghouse will fulfill the TC 1082 award notice requirement to the State SCIRA. Duplicate notification should be avoided.

270-101 NSN 7 GPO

PART II

FORM APPROVED
OMB NO. 43-R0528

PROJECT APPROVAL INFORMATION

Item 1.
Does this assistance request require State, local, regional, or other priority rating?
_____ Yes _____ No

Name of Governing Body _____
Priority Rating _____

Item 2.
Does this assistance request require State, or local advisory, educational or health clearances?
_____ Yes _____ No

Name of Agency or Board _____
(Attach Documentation)

Item 3.
Does this assistance request require clearinghouse review in accordance with OMB Circular A-95?
_____ Yes _____ No

(Attach Comments)

Item 4.
Does this assistance request require State, local, regional or other planning approval?
_____ Yes _____ No

Name of Approving Agency _____
Date _____

Item 5.
Is the proposed project covered by an approved comprehensive plan?
_____ Yes _____ No

Check one State ☐
Local ☐
Regional ☐
Location of Plan _____

Item 6.
Will the assistance requested serve a Federal installation?
_____ Yes _____ No

Name of Federal Installation _____
Federal Population benefiting from Project _____

Item 7.
Will the assistance requested be on Federal land or installation?
_____ Yes _____ No

Name of Federal Installation _____
Location of Federal Land _____
Percent of Project _____

Item 8.
Will the assistance requested have an impact or effect on the environment?
_____ Yes _____ No

See instructions for additional information to be provided.

Item 9.
Will the assistance requested cause the displacement of individuals, families, businesses, or farms?
_____ Yes _____ No

Number of
Individuals _____
Families _____
Businesses _____
Farms _____

Item 10.
Is there other related assistance on this project previous, pending, or anticipated?
_____ Yes _____ No

See instructions for additional information to be provided.

LEAA FORM 4000/3 (Rev. 5-76)
Attachment to SF-424

(LEAA FORM 4000/3 (Rev. 8-74) is obsolete.)

INSTRUCTIONS

PART II

Negative answers will not require an explanation unless the Federal agency requests more information at a later date Provide supplementary data for all "Yes" answers in the space provided in accordance with the following instructions

Item 1 – Provide the name of the governing body establishing the priority system and the priority rating assigned to this project.

Item 2 – Provide the name of the agency or board which issued the clearance and attach the documentation of status or approval

Item 3 – Attach the clearinghouse comments for the application in accordance with the instructions contained in Office of Management and Budget Circular No A 95 If comments were submitted previously with a preapplication, do not submit them again but any additional comments received from the clearinghouse should be submitted with this application.

Item 4 – Furnish the name of the approving agency and the approval date

Item 5 – Show whether the approved comprehensive plan is State, local or regional, or if none of these, explain the scope of the plan. Give the location where the aproved plan is available for examination and state whether this project is in conformance with the plan.

Item 6 – Show the population residing or working on the Federal installation who will benefit from thisproject

Item 7 – Show the percentage of the projec work that will be conducted on federally-owned or leesel land Give the name of the Federal installation and its loc/tion.

Item 8 – Describe briefly the possible beneficial and harmful impact on the environment of the poposed project If an adverse environmental impact is anticipated, explain what action will be taken to minimize the impact Federal agencies will provide separate instructions if additional data is needed.

Item 9 – State the number of individuals, families, businesses, or farms this project will displace Federal agencies will provide separate instructions if additional data is needed

Item 10 – Show the Federal Domestic Assstance Catalog number, the program name, the type of assistance, the status and the amount of each poject where there is related previous, pending or anticipatd assistance. Use additional sheets, if needed

No grant may be awarded unless a completed application form has been received.
(Sec. 501, P.L. 93-83)

30-978 O - 79 - 15

L&AA FORM 4000/3 (Rev. 5-76)
Attachment to SF-424

PART III - BUDGET INFORMATION

SECTION A - BUDGET SUMMARY

Grant Program, Function or Activity (a)	Federal Catalog No (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1		$	$	$	$	$
2						
3.						
4						
5 TOTALS		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6 Object Class Categories	Grant Program, Function or Activity				Total
	(1)	(2)	(3)	(4)	(5)
a Personnel	$	$	$	$	$
b Fringe Benefits					
c Travel					
d Equipment					
e Supplies					
f Contractual					
g Construction					
h Other					
i Total Direct Charges					
j Indirect Charges					
k TOTALS	$	$	$	$	$
7 Program Income	$	$	$	$	$

INSTRUCTIONS

PART III

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may not require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b).

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to *multiple* programs where *none* of the programs *require* a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period *only* if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should *not* equal the sum of amounts in Columns (e) and (f).

Line 5 – Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets were prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-h – Show the estimated amount for each direct cost budget (object class) category for each column with program, function or activity heading.

Line 6i – Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost. Refer to FMC 74-4.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5. When additional sheets were prepared, the last two sentences apply only to the first page with summary totals.

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

LEAA FORM 4000/3 (Rev. 5-76)
Attachment to SF-424

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) APPLICANT	(c) STATE	(d) OTHER SOURCES	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (YEARS)			
	(b) FIRST	(c) SECOND	(d) THIRD	(e) FOURTH
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges

22. Indirect Charges

23. Remarks

INSTRUCTIONS

PART III
(continued)

Section C. Source of Non-Federal Resources

Line 8-11 – Enter amounts of non Federal resources that will be used on the grant. If in kind contributions are included, provide a brief explanation on a separate sheet (See Attachment F, FMC 74-7.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the amount of cash and in-kind contributions to be made by the applicant as shown in Section A. (See also Attachment F, FMC 74-7.

Column (c) – Enter the State contribution if the applicant is *not* a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 – Enter the total for each of Columns (b) (e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuing grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This Section need not be completed for amendments, changes, or supplements to funds for the current year of existing grants.

If more than four lines are needed to list the program titles submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b) (e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F – Other Budget Information.

Line 21 – Use this space to explain amounts for individual direct object cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations required herein or any other comments deemed necessary.

LEAA Instructions

Applicants must provide on a separate sheet(s) a budget narrative which will detail by budget category, the federal and nonfederal (in-kind and cash) share. The grantee cash contribution should be identified as to its source, i.e., funds appropriated by a state or local unit of government or donation from a private source. The narrative should relate the items budgeted to project activities and should provide a justification and explanation for the budgeted items including the criteria and data used to arrive at the estimates for each budget category.

INSTRUCTIONS

PART IV
PROGRAM NARRATIVE

Prepare the program narrative statement in accordance with the following instructions for all new grant programs. Requests for continuation or refunding and changes on an approved project should respond to item 5b only. Requests for supplemental assistance should respond to question 5c only.

1. OBJECTIVES AND NEED FOR THIS ASSISTANCE.

Pinpoint any relevant physical, economic, social, financial, institutional, or other problems requiring a solution. Demonstrate the need for assistance and state the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used. Any relevant data based on planning studies should be included or footnoted.

2. RESULTS OR BENEFITS EXPECTED.

Identify results and benefits to be derived. For example, when applying for a grant to establish a neighborhood health center provide a description of who will occupy the facility, how the facility will be used, and how the facility will benefit the general public.

3. APPROACH.

a. Outline a plan of action pertaining to the scope and detail of how the proposed work will be accomplished for each grant program, function or activity, provided in the budget. Cite factors which might accelerate or decelerate the work and your reason for taking this approach as opposed to others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

b. Provide for each grant program, function or activity, quantitative monthly or quarterly projections of the accomplishments to be achieved in such terms as the number of jobs created, the number of people served, and the number of patients treated. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

c. Identify the kinds of data to be collected and maintained and discuss the criteria to be used to evaluate the results and successes of the project. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified in item 2 are being achieved.

d. List organizations, cooperators, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

4. GEOGRAPHIC LOCATION.

Give a precise location of the project or area to be served by the proposed project. Maps or other graphic aids may be attached.

5. IF APPLICABLE, PROVIDE THE FOLLOWING INFORMATION:

a. For research or demonstration assistance requests, present a biographical sketch of the program director with the following information, name, address, phone number, background, and other qualifying experience for the project. Also, list the name, training and background for other key personnel engaged in the project.

b. Discuss accomplishments to date and list in chronological order a schedule of accomplishments, progress or milestones anticipated with the new funding request. If there have been significant changes in the project objectives, location approach, or time delays, explain and justify. For other requests for changes or amendments, explain the reason for the change(s). If the scope or objectives have changed or an extension of time is necessary, explain the circumstances and justify. If the total budget has been exceeded, or if individual budget items have changed more than the prescribed limits contained in Attachment K to FMC 74-7, explain and justify the change and its effect on the project.

c. For supplemental assistance requests, explain the reason for the request and justify the need for additional funding.

PART V

ASSURANCES

The Applicant hereby assures and certifies that he will comply with the regulations, policies, guidelines, and requirements, including OMB Circular No. A-95 and FMCs 74-4 and 74-7, as they relate to the application, acceptance and use of Federal funds for this federally assisted project. Also the Applicant assures and certifies with respect to the grant that

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

2. It will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement.

3a. It will comply with the provisions of 28 C.F.R. 42.101 et seq. prohibiting discrimination based on race, color or national origin by or through its contractual arrangements. If the grantee is an institution or a governmental agency, office or unit then this assurance of nondiscrimination by race, color or national origin extends to discrimination anywhere in the institution or governmental agency, office, or unit.

3b. If the grantee is a unit of state or local government, state planning agency or law enforcement agency, it will comply with Title VII of the Civil Rights Act of 1964, as amended, and 28 C.F.R. 42.201 et seq. prohibiting discrimination in employment practices based on race, color, creed, sex or national origin. Additionally, it will obtain assurances from all subgrantees, contractors and subcontractors that they will not discriminate in employment practices based on race, color, creed, sex or national origin.

3c. It will comply with and will insure compliance by its subgrantees and contractors with Title I of the Crime Control Act of 1973, Title VI of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to regulations of the Department of Justice (28 C.F.R. Part 42) such that no person, on the basis of race, color, sex or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by LEAA.

4. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally-assisted programs.

5. It will comply with the provisions of the Hatch Act which limit the political activity of employees.

6. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

7. It will give the grantor agency or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant.

8. It will comply with all requirements imposed by the Federal grantor agency concerning special requirements of law, program requirements, and other administrative requirements approved in accordance with FMC 74-7.

9. It will comply with the provision of 28 CFR Part 20 regulating the privacy and security of criminal history information systems.

10. All published material and written reports submitted under this grant or in conjunction with the third party agreements under this grant will be originally developed material unless otherwise specifically provided for in the grant document. Material not originally developed included in reports will have the source identified either in the body of the report or in a footnote, whether the material is in a verbatim or extensive paraphrase format. All published material and written reports shall give notice that funds were provided under an LEAA grant.

11. Requests for proposal or invitations for bid issued by the grantee or a subgrantee to implement the grant or subgrant project will provide notice to prospective bidders that the LEAA organizational conflict of interest provision is applicable in that contractors that develop or draft specifications, requirements, statements of work and/or RFP's for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement.

APPENDIX V ADDRESSES OF STATE PLANNING AGENCIES

ALABAMA
Robert G. Davis, Director
Alabama Law Enforcement Planning Agency
2853 Fairlane Drive
Building F, Suite 49
Executive Park
Montgomery, AL 36116
205/277-5440 FTS 534-7700

ALASKA
Charles G. Adams, Jr., Executive Director
Office of Criminal Justice Planning
Pouch AJ
Juneau, AK 99801
907/465-3535 FTS 399-0150
Thru Seattle FTS 206/442-0150

AMERICAN SAMOA
Judith A. O'Connor, Director
Territorial Criminal Justice Planning Agency
Office of the Attorney General
Government of American Samoa
Box 7
Pago Pago, American Samoa 96799
633-5222 (Overseas Operator)

ARIZONA
Ernesto G. Munoz, Executive Director
Arizona State Justice Planning Agency
Continental Plaza Building, Suite M
5119 North 19th Avenue
Phoenix, AZ 85015
602/271-5466 FTS 765-5466

ARKANSAS
Gerald W. Johnson, Executive Director
Arkansas Crime Commission
1515 Building
Suite 700
Little Rock, AR 72202
501/371-1305 FTS 740-5011

CALIFORNIA
Douglas R. Cunningham, Executive Director
Office of Criminal Justice Planning
7171 Bowling Drive
Sacramento, CA 95823
916/445-9156 FT. 465-9156

COLORADO
Paul C. Quinn, Executive Director
Division of Criminal Justice
Department of Legal Affairs
1313 Sherman Street, Room 419
Denver, CO 80203
303/839-3331 FTS 327-0111

CONNECTICUT
William H. Carbone, Executive Director
Connecticut Justice Commission
75 Elm Street
Hartford, CT 06115
203/566-3020

DELAWARE
Christine Harker, Executive Director
Governor's Commission on Criminal Justice
1228 North Scott Street
Wilmington, DE 19806
302/571-3431

DISTRICT OF COLUMBIA
Arthur Jefferson, Executive Director
Office of Criminal Justice Plans and Analysis
Munsey Building, Room 200
1329 E Street, NW
Washington, DC 20004
202/629-5063

FLORIDA
Charles R. Davoli, Bureau Chief
Bureau of Criminal Justice Planning and Assistance
620 S. Meridian Street
Tallahassee, FL 32301
904/488-6001 FTS 946-2011
(Auto. Tel. 487-1125)

GEORGIA
Jim Higdon, Administrator
Office of the State Crime Commission
3400 Peachtree Road, NE, Suite 625
Atlanta, GA 30326
404/894-7410 FTS 285-0111

GUAM
Alfred F. Sablan, Director
Territorial Crime Commission
Office of the Governor
Soledad Drive
Amistad Bldg., Room 4, 2nd Floor
Agana, GU 96910
472-8781 (Overseas Operator)

HAWAII
Irwin Tanaka, Director
State Law Enforcement and Juvenile Delinquency
Planning Agency
1010 Richards Street
Kamamalu Building, Room 412
Honolulu, HI 96813
808/548-3800 FTS 556-0220

IDAHO
Kenneth N. Green, Bureau Chief
Law Enforcement Planning Commission
700 West State Street
Boise, ID 83720
208/384-2364 FTS 554-2364

ILLINOIS
James B. Zagel, Executive Director
Illinois Law Enforcement Commission
120 South Riverside Plaza, 10th Floor
Chicago, IL 60606
312/454-1560

APPENDIX V (CONT'D)

INDIANA
Frank A. Jessup, Executive Director
Indiana Criminal Justice Planning Agency
215 North Senate
Indianapolis, IN 46202
317/633-4773 FTS 336-4773

IOWA
Allen Robert Way, Executive Director
Iowa Crime Commission
Lucas State Office Building
Des Moines, IA 50319
515/281-3241 FTS 863-3241

KANSAS
Thomas E. Kelly, Executive Director
Governor's Committee on Criminal Administration
503 Kansas Avenue, 2nd Floor
Topeka, KS 66603
913/296-3066 FTS 757-3066

KENTUCKY
Ronald J. McQueen, Executive Director
Executive Office of Staff Services
Kentucky Department of Justice
State Office Building Annex, 2nd Floor
Frankfort, KY 40601
502/564-3251 FTS 352-5011

LOUISIANA
Wingate M. White, Director
Louisiana Commission on Law Enforcement
and Administration of Criminal Justice
1885 Wooddale Boulevard, Room 615
Baton Rouge, LA 70806
504/389-7515

MAINE
Ted T. Trott, Executive Director
Maine Criminal Justice Planning
and Assistance Agency
11 Parkwood Drive
Augusta, ME 04330
207/289-3361

MARYLAND
Richard C. Wertz, Executive Director
Governor's Commission on Law Enforcement
and Administration of Justice
Executive Plaza One, Suite 302
Cockeysville, MD 21030
301/666-9610

MASSACHUSETTS
Robert J. Kane, Executive Director
Committee on Criminal Justice
110 Tremont Street, 4th Floor
Boston, MA 02108
617/727-5497

MICHIGAN
Noel Bufe, Administrator
Office of Criminal Justice Programs
Lewis Cass Building, 2nd Floor
Lansing, MI 48913
517/373-6655 FTS 253-3992

MINNESOTA
Jacqueline Reis, Executive Director
Crime Control Planning Board
444 Lafayette Road, 6th Floor
St. Paul, MN 55101
612/296-3133 FTS 776-3133

MISSISSIPPI
Latrelle Ashley, Executive Director
Miss. Criminal Justice Planning Division
Suite 400, 723 North President Street
Jackson, MS 39202
601/354-4111 FTS: 490-4211

MISSOURI
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Missouri Council on Criminal Justice
P.O. Box 1041
Jefferson City, MO 65101
314/751-3432 FTS 276-3711

MONTANA
Michael A. Lavin, Administrator
Board of Crime Control
1336 Helena Avenue
Helena, MT 59601
406/449-3604 FTS 587-3604

NEBRASKA
Harris R. Owens, Executive Director
Nebraska Commission on Law Enforcement
and Criminal Justice
State Capitol Building
Lincoln, NE 68509
402/471-2194 FTS 867-2194

NEVADA
James A. Barrett, Director
Commission on Crime, Delinquency
and Corrections
430 Jeanell - Capitol Complex
Carson City, NV 89710
702/885-4404

NEW HAMPSHIRE
Roger J. Crowley, Jr., Director
Governor's Commission on Crime
and Delinquency
169 Manchester Street
Concord, NH 03301
603/271-3601

NEW JERSEY
John J. Mullaney, Executive Director
State Law Enforcement Planning Agency
3535 Quaker Bridge Road
Trenton, NJ 08625
609/477-5670

NEW MEXICO
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Governor's Council on Criminal
Justice Planning
425 Old Santa Fe Trail
Santa Fe, NM 87501
505/827-5222 FTS 476-5222

APPENDIX V (CONT'D)

NEW YORK
William T. Bonacum, Director
Division of Criminal Justice Services
80 Centre St.
New York, NY 10013
212/488-3896

NORTH CAROLINA
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N.C Dept. of Crime Control and Public Safety
P.O. Box 27687
Raleigh, NC 27611
919/733-7974 FTS 672-4020

NORTH DAKOTA
Oliver Thomas, Director
North Dakota Combined Law Enforcement Council
Box B
Bismark, ND 58505
701/224-2594 FTS 783-4011

OHIO
Bennett J. Cooper, Deputy Director
Ohio Dept. of Economic and Community Development
Administration of Justice
30 East Broad Street, 26th Floor
Columbus, OH 43215
612/466-7610 FTS 942-7610

OKLAHOMA
O. Ben Wiggins, Acting Executive Director
Oklahoma Crime Commission
3033 North Walnut
Oklahoma City, OK 73105
405/521-2821 FTS 736-4011

OREGON
Keith Stubblefield, Administrator
Law Enforcement Council
2001 Front Street, NE
Salem, OR 97303
503/378-4347 FTS 530-4347

PENNSYLVANIA
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Governor's Justice Commission
Department of Justice
P.O. Box 1167
Federal Square Station
Harrisburg, PA 17108
717/787-2040

PUERTO RICO
Flavia Alfaro de Quevedo, Executive Director
Puerto Rico Crime Commission
G.P.O. Box 1256
Hato Rey, PR 00936
809/783-0398

RHODE ISLAND
Patrici J. Fingliss, Executive Director
Governor's Justice Commission
197 Taunton Avenue
E. Providence, RI 02914
401/277-2620

SOUTH CAROLINA
John S. Tarton, Acting Executive Director
Office of Criminal Justice Programs
Edgar A. Brown State Office Building
1205 Pendleton Street
Columbia, SC 29201
803/758-3573 FTS 677-5011
(Manual Tel. 758-8940)

SOUTH DAKOTA
Elliott Nelson, Director
Division of Law Enforcement Assistance
200 West Pleasant Drive
Pierre, SD 57501
605/224-3665 FTS 782-7000

TENNESSEE
Harry D. Mansfield, Executive Director
Tennessee Law Enforcement Planning Agency
4950 Linbar Drive
The Browning-Scott Building
Nashville, TN 37211
615/741-3521 FTS 852-5022

TEXAS
Robert C. Flowers, Executive Director
Criminal Justice Division
Office of the Governor
411 West 13th Street
Austin, TX 78701
512/475-4444 FTS 734-5011

TRUST TERRITORIES OF THE PACIFIC ISLANDS
Dennis Lund, Administrator
Office of the High Commissioner
Justice Improvement Commission
Saipan, Mariana Islands 96950

UTAH
Robert B. Andersen, Director
Utah Council on Criminal Justice
Administration
255 South 3rd Street - East
Salt Lake City, UT 84111
801/533-5731 FTS 588-5500

VERMONT
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Governor's Commission on the Administration
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149 State Street
Montpelier, VT 05602
802/832-2351

VIRGINIA
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8501 Mayland Drive
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Richmond, VA 23229
804/786-7421

APPENDIX V (CONT'D)

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Virgin Islands Law Enforcement Planning Commission
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Law and Justice Planning Office
Office of Community Development
General Administration Bldg., Rm. 206
Olympia, WA 98504
206/753-2235 FTS 434-2235

WEST VIRGINIA
Ray W. Joens, Director
Criminal Justice and Highway Safety Division
Morris Square, Suite 321
1212 Lewis Street
Charleston, WV 25301
304/348-8814

WISCONSIN
Charles H. Hill, Sr., Executive Director
Wis. Council on Criminal Justice
122 West Washington
Madison, WI 53702
608/266-3323 FTS 366-3323

WYOMING
William Penn, Administrator
Governor's Planning Committee on
Criminal Administration
Barrett Building, 4th Floor
Cheyenne, WY 82002
307/777-7716 FTS 328-9716

APPENDIX VI

DIRECTORY OF STATE CLEARINGHOUSES AND STATE CENTRAL INFORMATION RECEPTION AGENCIES (For A-95/TC-1082 use)

The following addressees should be sent federal assistance action notices in compliance with Circular TC-1082, for State Central Information Reception Agencies (SCIRAs). Note that in 44 states the address of the State Clearinghouses and SCIRA is the same and a single notification will suffice when both A-95 and TC-1082 compliance (at state level) is required. Appropriate area-wide clearinghouse addressees must also be informed as applicable under A-95. At this writing, the State Clearinghouse and the SCIRA are different addressees in the States of Vermont, New Jersey, Illinois, Colorado, Nevada and Hawaii. This list will be updated periodically.

ALABAMA
Alabama Development Office
State Office Building
Montgomery, Alabama 36104

ALASKA
Planning and Research Div.
Office of the Governor
Pouch AD, State Capitol
Juneau, Alaska 99801

ARIZONA
Dept. of Economic Planning
and Development
Arizona State Clearinghouse
1624 West Adams Street
Phoenix, Arizona 85007

ARKANSAS
Department of Planning
400 Train Station Square
Little Rock, Arkansas 72201

CALIFORNIA
Office of the Governor
Office of Planning and Research
1400 Tenth Street
Sacramento, California 95814

COLORADO (2)
(1) State Clearinghouse:
Division of Planning
Department of Local Affairs
1845 Sherman Street
Denver, Colorado 80203

(2) SCIRA:
Office of State Planning and
Budgeting
Non-State Funds Section
617 State Services Building
Denver, Colorado 80203

CONNECTICUT
Office of Intergovernmental Programs
340 Capitol Avenue
Hartford, Connecticut 06115

DELAWARE
State Planning Office
Thomas Collins Building
530 S. Dupont Highway
Dover, Delaware 19901

INDIANA
State Budget Agency
212 State House
Indianapolis, Indiana 46204

IOWA
Office of Planning and
Programming
523 East 12th Street
Des Moines, Iowa 50319

KANSAS
Division of Planning and
Research
Department of Administration
State Office Building
Topeka, Kansas 66612

FLORIDA
Bureau of Intergovernmental Relations
Division of State Planning
660 Apalachee Parkway
Tallahassee, Florida 32304

GEORGIA
Office of Planning and Budget
Attention: Clearinghouse
270 Washington Street, S.W.
Atlanta, Georgia 30334

HAWAII (2)
(1) State Clearinghouse:
Department of Planning and Economic Development
P.O. Box 2359
Honolulu, Hawaii 96804

(2) SCIRA:
State of Hawaii
Department of Budget and Finance
P.O. Box 150
Honolulu, Hawaii 96810

KENTUCKY
State Clearinghouse
Office for Local Government
Capitol Annex, Room 327
Frankfort, Kentucky 40601

IDAHO
Division of Budget, Policy Planning and Coordination
State House
Boise, Idaho 83720

ILLINOIS (2)
(1) State Clearinghouse:
State Clearinghouse
Bureau of the Budget
103 State House
Springfield, Illinois 62706

(2) SCIRA:
State of Illinois
Commission of Intergovernmental Cooperation
217 S. First Street
Springfield, Illinois 62706

MINNESOTA
State Clearinghouse
State Planning Agency
Capitol Square Building, Room 101
St. Paul, Minnesota 55101

MISSISSIPPI
Coordinator Federal-State Programs
Office of the Governor
400 Watkins Building
510 George Street
Jackson, Mississippi 39201

MISSOURI
Office of Administration
State Planning and Analysis Division
P.O. Box 809
State Capitol Building
Jefferson City, Missouri 65101

LOUISIANA
Office of Intergovernmental Relations
P.O. Box 44455
Baton Rouge, Louisiana 70804

MAINE
Executive Department
Main State Clearinghouse
184 State Street
Augusta, Maine 04333

MARYLAND
Department of State Planning
301 W. Preston Street
Baltimore, Maryland 21202

MASSACHUSETTS
Office of State Planning
John Mc Cormack Building
1 Ashburton Place
Boston, Massachusetts 02108

MICHIGAN
Department of Management and Budget
Office of Intergovernmental Relations
Federal Aid Management Division
Lewis Cass Building
Lansing, Michigan 48913

NEW HAMPSHIRE
Coordinator of Federal Funds
State House
Concord, New Hampshire 03301

NEW JERSEY (2)
(1) State Clearinghouse:
Bureau of State and Regional Planning
Department of Community Affairs
329 W. State Street
P.O. Box 2768
Trenton, New Jersey 08625

(2) SCIRA:
Department of Treasury
Bureau of the Budget
State House
Trenton, New Jersey 08625

MONTANA
Research and Information Systems Division
Department of Community Affairs
1424 9th Avenue
Helena, Montana 59601

NEBRASKA
Office of Planning and Programming
Box 94001, State Capitol
Lincoln, Nebraska 68509

NEVADA (2)
(1) State Clearinghouse:
State Planning Coordinator
State Capitol Building
Carson City, Nevada 89701

(2) SCIRA:
State Department of Administration
Blasdale Building, Room 205
Carson City, Nevada 89701

OREGON
Federal Aid Coordinator
Intergovernmental Relations Division
240 Cottage Street
Salem, Oregon 97310

PENNSYLVANIA
State Clearinghouse
Intergovernmental Relations Division
Governor's Office of Budget
P.O. Box 1323
Harrisburg, Pennsylvania 17120

RHODE ISLAND
Statewide Planning Program
Dept. of Administration, Rm. 201
265 Melrose Street
Providence, Rhode Island 02907

NEW MEXICO
State Planning Office
State Capitol
Santa Fe, New Mexico 87501

NEW YORK
State Division of the Budget
State Capitol
Albany, New York 12224

NORTH CAROLINA
Office of Intergovernmental Relations
116 W. Jones Street
Raleigh, North Carolina 27603

NORTH DAKOTA
State Planning Agency
State Capitol
Bismarck, North Dakota 58501

OHIO
Office of Governor
State Clearinghouse
State Office Tower
30 E. Broad Street
Columbus, Ohio 43215

OKLAHOMA
State Grant-in-Aid Clearinghouse
5500 N. Western
Oklahoma City, Oklahoma 73118

VERMONT (2)
(1) State Clearinghouse:
State Planning Office
Pavilion Office Building
Montpelier, Vermont 05602

(2) SCIRA:
Department of Budget and Management
Pavilion Office Building
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Transition and Aftercare for the Institutionalized Serious Delinquent Par. 31.

a. *Program Objective.*—The objective of this program is to establish *innovative* demonstration projects which facilitate the successful transition and reintegration of serious juvenile offenders back into the community.

b. *Project Description.*—This initiative is designed to focus on the needs of the serious juvenile defender who is about to experience the transition from the institution to the community, to facilitate the process by providing various services which are initiated while the youth is in the institution and continued while the youth is in aftercare with special emphasis on intensive services for the first ninety-days after release.

Projects are expected to be implemented by state juvenile correctional or after care agencies in conjunction with public and private not-for-profit youth serving agencies.

Serious juvenile offenders for the purposes of this initiative are those youth who commit Part I offenses against the person or have extensive records of Part II offenses or offenses against property or extensive record of recidivism.

(1) *Problem Addressed.*—The problem addressed by this initiative is the institutionalized serious juvenile offender and the transition, the post release problems these youth must face as they are released from juvenile institutions and the high recidivism rates for these youth in the early stages of their release.

(2) *Program Target.*—The Program Target is youth who have been adjudicated delinquent for serious juvenile offenses (Part I FBI Index) or juvenile offenders who have extensive records of less serious offenses (5 or more arrests convictions) and who have been committed for extended periods of time to the most restrictive institutions with the jurisdiction.

(3) *Results Sought*—

(a) A reduction in the number of new offenses committed by the youth involved in the program after they are released from the institution.

(b) More consistent school and/or job attendance by youth in the program.

(c) Reduced contacts with law enforcement authorities.

(d) Fewer revocations of aftercare status and thus fewer recommitments.

(e) Increased knowledge about various transition or reintegration programs for serious juvenile offenders in terms of feasibility, effectiveness, impact on differing categories of offenders, and cost effectiveness.

(4) *Assumption Underlying Program.*—

(a) Serious juvenile offenders released from institutions face a difficult period of transition during which there is a high likelihood that new offenses will be committed and that the youth will be returned to the institution.

(b) A transition and post release process which enhances the juvenile offender's self-directed life choices and alternatives have the potential of facilitating more normal maturation and reduces the likelihood that this youth will be returned to the institution.

(c) Facilation of muturance, education (learning) and financial support (employment) by community control agents and "significant others" during the last six months of institutionalization and in the first ninety days after release has the potential of mitigating the stressful and difficult transition period for serious juvenile offenders youth who are being released from institutions and thereby, creates a greater opportunity for the juvenile offenders to succeed in the community.

c. *Program Strategy.*—Applications are invited which propose action projects designed to develop and test innovative multiple strategies to strengthen or initiate community contacts with institutionalized serious juvenile offenders and to strengthen or initiate aftercare programs which provide comprehensive support services for the serious juvenile offenders and his family.

Although, program designs will vary in relation to the resources and characteristics of the jurisdiction, all programs must meet the following performance standards.

(1) Provide for legal safeguards to protect the rights of juvenile offenders.

(2) Utilize both public and not-for-profit agencies and community residents in the development and implementation of the program.

(3) Provide for youth involvement in the planning development and implementation of the project.

(4) Utilize other resources within the jurisdiction to expand opportunities for education, work training, employment and leisure activities by involving the private sector labor union, and other government funding agencies.

(d) *Application Requirements.*—These requirements are to be used in lieu of Part IV-Program Narrative Instructions. In order to be considered for funding, applications must include the following:

(1) *Project Goals and Objectives:* Define program activities in terms of the categories of serious juvenile offenders who will be served by the program, the nature quality and expected increase in community contacts for institutional youth, the new or expanded services available to youth who are released from the institution and the reduction in recidivism and recommitment of youth served by the program.

(2) *Problem Definition and Data Needs:*

(a) A socio-economic profile of the jurisdiction with such demographic data as are necessary to document crime rates, racial/ethnic population, adult and youth unemployment population density, school enrollment, and dropout rates.

(b) A system description and flow chart of official processing by the juvenile justice system agencies, prosecutor, courts and correctional institutions, parole or aftercare.

(c) Statistical documentation of the juveniles who were adjudicated for criminal offenses over the past year (1975) along with their ages, offenses, socio-economic characteristics, and disposition by the processing agency as indicated in the model flow chart provided Supplement.

(d) A description of the statutory rules, codes and ordinances governing juvenile behavior, a description of administrative procedure including formal policies which regulate or prescribe methods of esponding to juvenile behavior at the correctional stage the juvenile justice process.

(e) A description of existing programs which focus on community contact with institutionalized youth and a description of existing aftercare programs.

(f) Identification of gaps in availability of these programs; anticipated needs for modification in scope or thrust of existing programs along with an explanation of anticipated problems in closing gaps or in achieving modifications considered necessary to support an effective transition and aftercare process.

(3) *Program Methodology.*—Based on the information provided in this paragraph, develop a project design which provides a clear description of the following:

(a) Criteria for selecting those youth who will participate in the program.

(b) The range of alternative community contacts that will be developed and the range of new or expanded aftercare services that will be available to youth who are selected for participations in the program.

(c) The safeguards that will be developed to protect the legal rights of juveniles at the different stages of institutional and aftercare process. Minimally, such safeguards must assure that a youth is represented at any hearing which may result in termination of his aftercare status and recommitment to the institution.

(d) The required organizational structure and personnel to support the proposed transition and aftercare program. The applicant should make clear the extent to which the personnel needs are met by new recruits, transfers from other parts of the agency or personnel already employed by juvenile corrections or aftercare.

(e) The educational and public relations activities that are required to gain and maintain public understanding and support for the program.

(f) Describe how the transition aftercare program will be implemented. Description of the following is essential to the application:

(1) A description of current community contacts and how they will be expanded or what new contacts will be established for juvenile offenders who are institutionalized.

(2) A description of the case management process for each institution and a discussion of the system of accountability for determining service provision to the youth while he/she is in the institution and after release.

(3) A clear and concise description of the services available to the youth during institutionalization and subsequent to his/her release.

(4) For remote institutions describe the measures that will be instituted to make them more accessible to home community "significant others."

(5) A description of the processes which will be employed to assure that each youth is able to exercise life choices and the perameters for this process.

(6) Describe the post release services and how they will be altered and enhanced. In this connection, describe what criteria will be used to determine the placement for youth, i.e., whether the youth should return to his home, or receive and alternative placement. For each placement describe the kind of support services that will be available to the youth and/or his family to facilitate the youth reintegration.

(7) Describe the roles of control agents such as schools, family, police aftercare workers, e.g. how will aftercare involve the schools in the reintegration process.

(8) The manner in which other public and private youth serving agencies will be involved in the planning and development of the project.

f. *Eligibility to Receive Grants.*—Applications are invited from state juvenile correction or aftercare agencies on behalf of one or more juvenile institutions which house serious juvenile offenders.

i. *Criteria for Selection of Projects.*—Applicants will be rated and selected with regard to the following criteria. In making final selections, LEAA will consider geographic distribution and will seek to provide for a mix of jurisdictional sizes.

(1) The overall technical plausibility of the methodology and work plan of the proposal.

(2) The extent to which the project significantly *enhances* or increases community contacts for youth who are institutionalized.

(3) The extent to which there is a coordinated and consistent approach to the transition and aftercare process.

(4) The extent to which the project enhances the offenders choice.

(5) The extent to which the project focuses on normal maturation experiences for the youth in both the pre-release and post-release process.

8. The extent to which the project develops a variety of innovative approaches to facilitating community contacts for serious offenders in the institution, and for supporting the youth in the post release process.

9. The extent to which the project provides legal safeguards for the youth involved.

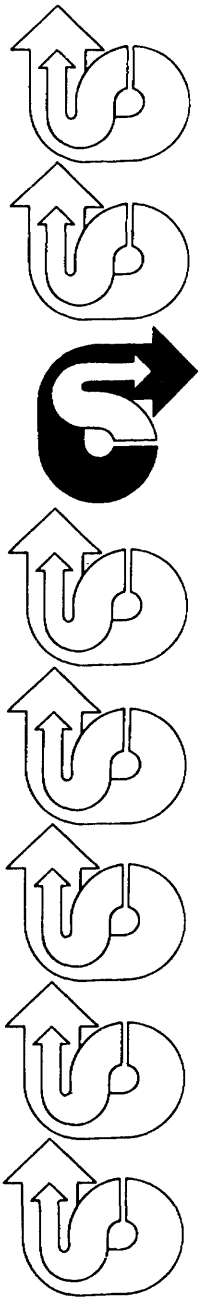
10. The extent to which the public is informed of the program's purposes and methods.

11. The extent to which public and private non-profit agencies, labor business, industry and community service organizations are involved in the planning and implementation of the program.

12. The extent to which the program allows for an experimental evaluation approach with randomization.

13. The extent to which there is use of new public or private funds beyond the required 10 percent cash match.

14. The extent there is interest in continuing the program or effective elements of the program after termination of this grant.



REPORT OF THE PEER PANEL:

OJJDP'S SERIOUS OFFENDER

PROGRAM GUIDELINES

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INTRODUCTION

This is the report of recommendations of the Peer Review Panel assembled over June 22nd and 23rd, 1977 to critique preliminary guidelines for OJJDP/LEAA's Special Emphasis Program for Serious Juvenile Offenders. This initiative is to fund projects demonstrating innovative means to reintegrate these youth into the community. OJJDP convened the Peer Review Panel to get advice from prominent national experts in the corrections professions, specialists in after-care services, research and evaluation experts, and ex-offenders to incorporate into the final guidelines.

The eight members of the panel were:

Mr. W. T. Adams
Pacific Institute for Research and Evaluation

Dr. Alan Brown
Arizona State University

Dr. J. Douglas Grant
Social Action Research Center

Dr. Edward Lester
Governor's State University, Illinois

Mr. Pat Mack
Minnesota Department of Corrections

Dr. Alden Miller
Center for Criminal Justice, Harvard University

Mr. Sam Sublett
Administration of Justice Division, Illinois

Dr. Ray A. Tennyson
University of Maryland

The NOSR was priveledged to perform staff work for the panel.

THE KEY ISSUES

The panel identified eight key issues which incorporated all of the concerns of the panel and about which, in each case, the panel arrived at a consensus recommendation to the OJJDP. The panel's list of key issues included:

1) Definition of the Target Population;
2) Linking Community Resources;
3) Youth Participation;
4) Staff Development;
5) Youth Employment;
6) Prime Applicants;
7) Defining Transition;
8) Evaluation.

ORGANIZATION OF THE REPORT

This report is organized simply. Under each key issue, each relevant recommendation of the panel is listed and a brief discussion of the panel's reasoning for that position is presented. In the few cases where some panel members held reservations on the group's recommendation, their concerns are appended to the discussion.

DEFINING THE TARGET POPULATION

Recommendation 1: Serious offenders should be defined in these guidelines by the [redacted]

Discussion: The panel recognized that confusion frequently arises out of inconsistency in common useages of the term "serious offender". It is variously applied as equivalent to crimes of violence against persons, repeditive criminal behavior, or to inmates in the "deep-end" of institutions. The option of the OJJDP including all of these in the definition in its guidelines was considered ill-advised by the panel since it could have several negative effects for the program:

- Virtually all institutionalized youth would be classified as serious offenders if both the violence of the act and chronicity were incorporated independently in a broad definition;
- A broad definition of this kind could encourage development of projects into which only the least serious institutionalized youth would be referred; while
- Conversely, too flexible a definition would permit institutions to use the projects as a dumping ground for their trouble-makers from the deep-end, many of whom may be cases who have demonstrated uncooperative and disruptive behavior while confined, though committed for minor offenses. Since these projects' efforts will be especially vulnerable to public and institutional assaults, it would be particularly unwise to allow the deck to be stacked against them by filling them with an exclusively difficult to manage clientele.

The panel concluded that a strict and specific definition on the basis of offense could have the benefits of:

- Automatically encouraging more innovative release practices; thereby
- Assuring appropriate opportunites for demonstrations of communities' capabilities to reintegrate presumably dangerous youth without compromising public security.

Specifically, the panel recommended the following definition of the target population:

> . . . youth institutionalized for: violent offenses against the person, homicide, rape, aggravated assault, mayhem, armed robbery, forceable sodomy; dangerous offenses against property, arson, armed burglary; or youth institutionalized for felonies with records of three or more adjudications for felonious offenses.

RECOMMENDATION 2: Special consideration should be given to applicants who define particular sub-populations toward whom the project will be oriented theoretically.

Discussion: Projects addressing the needs of the proposed target group may apply an individualized social casework orientation availing themselves of a wide array of services as needed on a case by case basis. But, it was concluded by the panel that some specific intervention strategies ought to be tied to selection of

particular sub-populations as project targets. The example was provided of a leadership training and career development model which would motivate and support achievement of conventional personal success goals among a group of "poor losers" who have not yet accepted the role of the societal loser but manifest special leadership roles in the delinquent culture both inside the institution and "on the street". Such a project would capitalize on this populations' achievement orientation by attempting to redirect it toward conventional goals. Other models that would connect provision of services and program design to groups within the target population in some theoretically consistant fashion should also receive extra consideration.

It was also suggested that all the projects ought specifically but not exclusively address the special needs of racial, ethnic, and sexual sub-populations of the target group. It is thought particularly in the case of females that inadequate after-care services may account partially for their longer average stays in institutions.

RECOMMENDATION 3: Provision for procedures by which youth who are bound-over to adult court and corrections agencies will be accessed into the projects should be a requirement of applicants' eligibility.

Frequently, the "most serious" juvenile offenders are bound-over to adult court. In some states, these youth may be transferred

back to the authority of juvenile corrections agencies after adjudication. But, in most, they are confined within adult institutions or within youth reformatories managed by the adult corrections agency. The panel felt that specific provisions that assure bound-over offenders' participation in the projects should be made a requirement of applicants' eligibility. This will require negotiation of agreements with adult paroling authorities.

LINKING COMMUNITY SERVICES

Recommendation 4: Special consideration should be given to projects which will effectively mobilize other available resources such as CETA and ESEA in a coordinated effort to provide re-entry services.

Discussion: The panel recognized that however much funding is supplied by the OJJDP, projects that demonstrate how funds already available to other communities can be used in this effort will have better replicability. Such projects will also have improved survival potential beyond the period of the OJJDP's funding.

YOUTH PARTICIPATION

Recommendation 5: It should be required that project's plans include strategies for generating involvement of youth from the target population in the planning, development, conduct, administration, monitoring, and evaluation of the project's activities.

Discussion: The panel strongly believed that youth participation must go beyond tokenism to engender the project's credibility among the clients it seeks to serve. Some examples offered included roles for youth assisting with the overall planning of re-entry services, providing orientation information to youth in articulating re-entry plans, serving as assistant managers over identified program components, e.g., employment, education, counseling, recreation, housing, transportation, or as program monitors. A number of the full-time staff should be youth who are "graduates" of the programs. Their salaries could be supplemented through monies obtained from sources other than the OJJDP, e.g., CETA or Vocational Rehabilitation.

STAFF DEVELOPMENT

Recommendation 6: The principle staff of each project should be required to participate in a staff development process designed by the OJJDP.

Discussion: Since the projects will implement service delivery models that are not yet widely practiced, it is unlikely that enough sufficiently skilled staff can be located. It will be necessary to train staff in appropriate strategies. The panel recommended that the OJJDP develop the capacity for delivering this training and make participation a requirement of the grantee award. Otherwise, the subtle methodological distinctions upon which effective approaches are based will be diluted and obscurred to the pursuit of more conventional and easily obtainable objectives.

YOUTH EMPLOYMENT

Recommendation 7: Components that strengthen participants' employability potential and that create employment opportunities should be required in each project's design.

Discussion: The panel recognized that obstacles to employment are the main impediment to successful reintegration of institutionalized youth with the community. Both skills development and advocacy efforts that break down barriers to meaningful employment for this target population must be undertaken. Put simply, the panel's recommendation was "a meaningful job for every participant". All existing public and private resources should be exploited to this end.

It was also noted that training for work supervisors will be a critical component of success.

PRIME APPLICANTS

Recommendation 8: ~~Prime~~ applicant eligibility should be limited to ~~state~~ authorities with responsibility for youth corrections and institutions.

Discussion: Cooperation of state youth corrections and institutions authorities will be indispensable in successful efforts. Projects should be funded that have the best opportunities to demonstrate that successful reintegration is possible. It would be extremely unfortunate if these efforts became stymied in the

midst of negotiations with recalcitrant state authorities. Participation of local and private agencies should therefore be limited to subcontractual roles.

Reservations: Some members of the panel felt that institutionally based projects also incorporated the greatest risk of perpetuating traditional practices. It was felt that many private agencies are better positioned to assume advocacy roles for the youth as well as gaining more credibility among the target population.

Funding only state corrections and institutions authorities as prime applicants could also channel the effort toward those states that already tend to most innovation and away from those conservative agencies where change is most needed.

DEFINING TRANSITION

Recommendation 9: Transition should be defined as a process that begins upon entry to institutions and culminates in reintegration with the community.

Discussion: Upon entry to institutions a plan should be required for each youth's preparation for release. The projects should be constructed so the role of institutions is reorganized from an isolating and alienating process to one which manifests the purpose of bringing the youth back together with the community in a new and healthy relationship. Practices such as home visitation, furlough, and off-campus day work should be more frequently

employed. Meaningful skill development experiences that tie in with release plans should also be provided during the period of institutionalization. The panel felt that successful reintegration of this target population with the community will demand that the whole process of separation and reintegration must be organized as a complimentary cycle rather than one where it is necessary at the end to undo the damage engendered at the start.

EVALUATION

Recommendation 10: Random assignment should not be a strict criteria for applicant eligibility.

Discussion: Members of the panel pointed out that recent initiatives of OJJDP that have required random assignment of youth – such as the Special Emphasis Diversion Program – have thereby created a political backwash in which the projects can take place relatively undisturbed by the prevailing currents and torrents of public interests. The heat gets turned down when projects involving controversial issues are structured and described as precisely controlled experimental investigations rather than full-blown social innovations. If OJJDP is as interested in finding out how to develop such programs as they are interested in the apparently consequential relative costs and benefits, creating randomized experiments may not be preferable to observing the process happen natively in the "real world" of social change.

APPENDIX C: ADDITIONAL STATEMENTS AND MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF THE NATIONAL COUNCIL ON CRIME AND DELINQUENCY (BY MILTON G. RECTOR, PRESIDENT)

The National Council on Crime and Delinquency has always been deeply concerned about the violent behavior of some young law violators. We welcome the hearings of the Senate Subcommittee on Juvenile Delinquency and hope that a thorough review of the problem of violent youth will also place the problem in proper perspective and aid rather than impede the search for solutions.

The recent perceived upsurge in youthful violence in the United States appears to be related to mass media interest rather than any real increase. Of 338,849 arrests made nationally for serious violent crime in 1976, only 20,183 (or 6.1 percent) were of juveniles under 15 and only 74,715 (or 22.0 percent) were of juveniles under 18.[1] Furthermore, the more serious the crime the less was the involvement of juveniles; for instance, only 1.3 percent of all arrests for murder were of juveniles under 15, and only 9.2 percent were of juveniles under 18.[2] In total numbers, 190 juveniles under 15 and 1,302 juveniles under 18 were arrested for murder throughout the United States in 1976; 10,156 juveniles under 15 and 36,990 under 18 were arrested for robbery; and 9,552 under 15 and 32,678 under 18 were arrested for aggravated assault.

With regard to trends, there has been a recent decrease, not an increase, in the number of juveniles arrested for serious violence. Arrests for serious violence of juveniles under 15 declined by 11.6 percent and of those under 18 by 12.1 percent from 1975 to 1976.[3]

The actual incidence of juvenile violence in the United States is not known since most crimes are not reported to the authorities and a majority of those reported are not cleared by arrest. We do know, however, that the total incidence of violent crimes, both juvenile and adult, has remained constant over the years as revealed by national victimization surveys conducted by the U.S. Census Bureau and as published by LEAA. We now have data for the years 1973, 1974, 1975, and 1976.

During those years, the rate of victimization per 1,000 Americans aged 12 and over has remained unchanged at 32. Even the fluctuations of the various subcategories of violence (as well as of property crimes) have been minor. The rates for personal robbery, for instance, have been 6.7, 7.1, 6.8, and 6.5; the rates for assault have been 24.7, 24.7, 25.2, and 25.3. When the rates for injury from serious violence (robbery and aggravated assault) are totaled they show the greatest constancy of all: 5.4, 5.6, 5.4, 5.5. The surveys support the findings of numerous previous studies that violent behavior remains roughly constant over the years.[4]

SELF-REPORT STUDIES

National self-report studies of delinquent behavior, including violent behavior, parallel the Census Bureau findings of a constancy in such violence. The Institute of Social Research of the University of Michigan found no evidence of an increasing incidence of delinquent behavior. If anything the incidence of

[1] U.S. Federal Bureau of Investigation. *Crime in the United States, 1976.* p. 181. Note: 10,119 police agencies reporting, representing a population of about 176 million.
[2] Ibid, p. 183.
[3] Ibid, p. 179.
[4] U.S. National Criminal Justice Information and Statistics Service. *Criminal victimization in the United States 1973, 1974, 1975, 1976.* Washington, D.C., U.S. Government Printing Office.

violence was found to have declined somewhat in 1972 over the previous survey year, 1967.[5]

REPEATED SERIOUS JUVENILE VIOLENCE

While studies of known delinquents have found that a substantial portion of arrested delinquents have committed an injury offense at least once, the incidence of serious and repeated violence is relatively rare. Thirty-one percent of a Philadelphia cohort and 44 percent in a Vera Foundation study in New York City were charged with a violent crime at least once, only 29 percent of it serious.[6]

Repeated violence is much less common. Only 7 percent of the Philadelphia cohort and 6 percent of the Vera sample were charged twice or more with injury offenses. A composite of 3 jurisdictions estimated that between 3 and 5 percent of arrested juveniles had shown a pattern of 2 or more violent offenses.[7]

SELECTION OF VIOLENT JUVENILES FOR JUVENILE JUSTICE PROCESSING

Research consistently supports the view that communities are willing and able to tolerate and absorb a far greater proportion of violent behavior committed by its middle- and upper-class youngsters than by its lower-class youngsters.

A study and observation of the activities and behaviors of two different boy gangs suggested that while the two groups engaged in similar levels of delinquency, both in frequency and in seriousness, the lower-class gang boys were perceived by police and community residents as more of a delinquency problem. Because of differences in visibility, demeanor, and social class, the community, the school, and the police reacted to the middle-class gang boys as though they were good, upstanding, nondelinquent youths with bright futures and to the lower-class gang boys as though they were tough, young criminals headed for trouble. The noticeable deviance of the "tough" boys was found to have been reinforced by the police and the community while the middle-class boys were perceived to be "sowing their wild oats" although their deviance was perhaps greater than that of their lower class counterparts.[8]

A study of recidivism and self-report data of 1,681 adjudicated delinquents at the Preston School of Industry near Sacramento, California, examined the relationship between offenses committed with a weapon and socioeconomic status (SES) : 25.1 percent of low SES's, 19.3 percent of middle SES's, and 42.9 percent of high SES's admitted to a crime with a weapon. Lower-class boys were 1.15 times more likely than middle-class boys to receive a record if the crime was committed with a weapon while upper-class boys were least likely to have acknowledged crimes with weapons officially recorded.[9]

In another study of the profiles of violent youths who were apprehended and youths who escaped detection it was found that those who were apprehended perceived themselves as more alienated from their families and as more disruptive, provocative, and troublesome. They had extremely unrealistic aspirations for success, and, significantly, had poorer abstract reasoning ability and planning skills. They came disproportionately from families where the mother played a dominant role.

Those youths who escaped detection were generally *more delinquent* than those who did not. They were younger when they began antisocial and delinquent behavior, younger when dropping out of school, involved in more gang delinquency, more optimistic about opportunities for future employment, and less conflicted about family and sex roles.

An important distinguishing characteristic of youths who were arrested for violent crimes was their relatively poorer abstract reasoning ability and

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[5] Martin Gold and David J. Reimer. "Changing patterns of delinquent behavior among Americans 13 through 16 years old: 1967–72." *Crime and Delinquency Literature*, 7(4) :483–517, 1975.

[6] Vera Institute of Justice. *Violent delinquents.* A report to the Ford Foundation by Paul A. Strasburg. New York, 1977. 375 p.

[7] Ibid.

[8] William J. Chambliss. "The Saints and the Roughnecks." *Society*, 11(1) :24–31, 1973.

[9] Roy L. Austin. "Offense history and recidivism." *Offender Rehabilitation*, 1(2) :209–226, 1976–77.

planning skill. In effect, the youths who were less intelligent were detected and apprehended; those who were more intelligent were not.[10]

PSYCHIATRIC PROFILES OF VIOLENT JUVENILES

One hundred juveniles who were referred to the juvenile court for assaultive acts were subject to thorough psychological diagnosis at the Judge Baker Guidance Center in Boston. The subjects were mostly older adolescents, 81 percent being over 15½ years of age. Fifty-five percent of the boys were white, 42 percent black, and 3 percent Puerto Rican.

Most of the subjects (58 percent) were diagnosed as being in a "neurotic character" category. Only 17 were diagnosed as normal, but the majority were not regarded as frightening or threatening, "dangerous" types. Their offenses were generally not the work of a chronically assaultive malcontent, but more likely an offense common in their milieu or a result of momentary panic.[11]

THE NUMBER OF VIOLENT JUVENILES NEEDING CLOSED INSTITUTIONAL PLACEMENT BECAUSE OF THEIR DANGEROUSNESS

The Massachusetts Task Force on Secure Facilities was established in 1977 in response to a concern by the state focusing on the issue of public security from the violence of juveniles. Its investigation focused on the issue of whether a community-based system can effectively accommodate the public's right to protection from demonstrably serious and dangerous juvenile offenders and at the same time provide humane treatment geared to the individualized needs of youths. The Task Force concluded that the commitment of Massachusetts to the deinstitutionalized, community-based approach to juvenile correction should be preserved and strengthened. The Task Force determined that the Massachusetts Department of Youth Services needs to provide only 100 to 130 secure treatment placements, of which 40 percent need to be at only a light level of security, and that youths in that level of security can be placed, without detriment to public protection, in structured residential programs.

Only 54 to 70 youths, the Task Force concluded, needed a moderate or heavy level of security. The Task Force noted that the Department already had 114 secure placements and that this was clearly adequate and should not be increased.[12]

Assuming the larger figure of 70 secure placements for violent juveniles in a state population of 6 million, and assuming that the U.S. as a whole needs the same ratio of secure placements as the state of Massachusetts, would mean that 2,531 secure placements for violent juveniles are needed in the entire country. At latest count (June 1974) there were 77,000 juveniles in closed public and private institutions.

TREATMENT OF THE VIOLENT JUVENILE

Massachusetts has been an innovator in handling juvenile offenders. Massachusetts abolished training schools for the treatment of all youthful offenders except those who are dangerous to themselves or others. These dangerous youths are treated by the Intensive Care unit of the Department of Youth Services. Youths in need of intensive care are highly disturbed youths whose actions may include self-destructive behavior, or environmentally damaged, severely acting out youths who in many cases have no rational basis for their aggressive behavior. Common to all of them are the following characteristics: prior institutionalization before age 10, highly manipulative behavior, frequent running away from placement, and extremely unstable home situations. The youths are dissimilar in other ways: Severity of offense is not the most important factor in determining need for intensive care; racial background is varied, with a slight majority being black; and intelligence levels vary from bright to retarded.[13]

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[10] Frederica Mann, C. Jack Friedman, and Alfred S. Friedman. "Characteristics of self-reported violent offenders versus court identified violent offenders." *International Journal of Criminology and Penology*, 4(1):69–87, 1976.

[11] D.H. Russel; and G.P. Harper. "Who are our assaultive juveniles? A study of 100 cases." *Journal of Forensic Sciences*, pp. 385–397, n.d.

[12] Massachusetts. Youth Services Department. *The issue of security in a community-based system of juvenile corrections: the final report of the Task Force on Secure Facilities to Commissioner John A. Calhoun.* Boston, 1977. 108 p.

[13] Massachusetts. Youth Services Department. *Intensive care*, by Linda Familant. Boston, 1974. 21 p.

In 1975, five intensive care programs were serving Massachusetts, with maximum program capacity ranging from 12 to 36. Program content varies according to the type of youths each program is designed to serve. Typical program components include educational programming, group and individual therapy, and specialized services.

The programs are not uncontroversial and there has been dissatisfaction with both the treatment programs and the buildings in which the programs are located. It is felt that although Massachusetts has achieved "humane jails and some responsible programs," the kind of intensive care programs envisioned have not been established. The intensive care program has been beset by problems such as poorly qualified staff, lack of security, and ineffective treatment. The Department of Youth Services responds to its critics by admitting its difficulties with intensive care but emphasizing that no one in the juvenile justice field has come closer to finding an answer to a proper combination of treatment and security.[14]

Another group of programs for serious juveniles include "concept" programs that use a therapeutic community approach such as the Elan program in rural Maine. The Massachusetts DYS utilized the program as the best alternative to intensive care for "heavy" delinquents. Elan accepts hard-core delinquents with records of violence, excluding only psychotics and the most extreme psychopaths who present an immediate danger to others in the program. It takes many violent, disturbed children, including drug addicts, homicides, rapists, potential suicides, arsonists, and children with long assault and robbery records. Most have had multiple experiences with treatment centers, correctional institutions, psychiatric hospitals, and so on before admission to Elan. The failure of traditional treatment methods is the reason for their referral to the program.

The staff is composed primarily of paraprofessionals, mostly graduates of the program, backed up by a professional group including a psychiatrist, psychologist, physician, registered nurse, and 23 certified teachers.

The program consists essentially of work, therapy, and education. The residents are almost completely responsible for the management and maintenance of the program and are expected to face the consequences of their own behavior. The highly stratified organizational structure is military in nature, with residents starting at the bottom with the more menial maintenance tasks. Motivation and control are managed by an extensive system of rewards (promotions, recreation time) and "consequences" (demotions, loss of privileges). Three cardinal rules ban sex, physical violence, and drugs. Therapy efforts at Elan cover the range of "talking cures" and include one-to-one sessions for information, guidance, counseling, and psychotherapy as well as group work. The types of groups include static groups (traditional psychotherapy) and encounter, sensitivity, and primal scream groups.

The approximately 200 residents share one common characteristic—their failure in other treatment or correctional programs. Approximately 60 percent come from middle-class families who pay "tuition" costs; the other 40 percent are wards of the state, usually for delinquent behavior. Residents range in age from about 14 to about 28. The program has been endorsed by Maine, Massachusetts, Connecticut, and Rhode Island. The Elan staff feel that total control is crucial to effective therapy for this group of juveniles to screen out reinforcement of negative behavior. The staff claim a retention rate of 90 percent and a recidivism rate of 20 percent.[15]

Another approach to dealing with aggressive youths outside of the juvenile justice system has been undertaken at the Woodward Day School, which opened in Worcester, Massachusetts, in 1970. Woodward Day School, an alternative school for aggressive adolescents aged 13 to 19, is a cooperative effort of the Worcester public schools, the Worcester Youth Guidance Center, and the Worcester State Hospital. It has evolved into a therapeutic day care program with three components: therapy, traditional education, and vocational training. Current enrollment is 30. The school has classes in traditional academic areas as well as vocational workshops. Assignment to classes is based on student needs

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[14] "Juvenile corrections in Massachusetts." *Corrections Magazine,* 2(2):3–12, 17–20, 1975.

[15] Pieter DeVryer. *Evaluation of Elan: November 23 to November 26, 1975.* Wilmette, Ill., n.d. 3 p.; Vermont. Social and Rehabilitative Services Department. *Informational report of visit to facilities of Elan Corporation at Poland Spring and Waterford, Maine, October 17–19, 1974,* by Steve Rising. Burlington, n.d. 17 p.

and long-range goals. If the aim is to reintegrate a student into the public school system, emphasis is placed on academic classes. If reintegration does not appear feasible, as for most 18- and 19-year-olds, emphasis is on vocational aspects. Individual and group psychotherapy are provided to students as needed. The staff includes a professional social worker, a psychiatric nurse, a rehabilitation counselor, teachers, and consulting psychiatrists and psychologists. The student body now combines aggressive adolescents with those having behavior problems such as severe withdrawal or school phobia.

Day schools allow children to receive specialized treatment while living in a familiar community environment, and avoid institutional confinement which might deprive the children of the opportunity to develop coping skills. Alternative schools of this type may be able to interrupt the cycle of intermittent institutionalization by delivering services within a noninstitutional setting and emphasizing skills that will enhance community adjustment.[16]

A comprehensive effort conducted for the National Institute of Juvenile Justice and Delinquency Prevention searched the research and practice literature and then examined four intervention types aimed at behavioral change in juvenile offenders to determine what interventions work successfully with the serious juvenile offender. The four interventions were those based on clinical psychology and psychiatry, those based on sociology and social work, those based on schooling, and those based on vocational education. No data were found to support finely-grained judgments about the relative efficacy of the various treatment modalities. No programs were found that were concentrated solely on behavior changing efforts with serious juvenile offenders, and no single treatment program was found that was useful to all serious juveniles. Limited success was found with each of the four treatment modalities. In looking more closely at "what works," some similarities were discovered in programs across the four types of treatment. (1) Successful programs involved maximum discretion on the part of the client concerning whether to enter the program and how long to stay. (2) As program involvement increased, so did the prospects for more thorough, lasting, and functional changes. (3) Several standard components of learning theory were associated with success—clear tasks, behavior models, early and frequent successes, and a reward structure.[17]

SUMMARY AND CONCLUSION

The media-fostered view of the United States as a country in the grip of a wave of youthful violence is not borne out by the facts. The view is contradicted by reported crime, by victimization surveys, and by self-report surveys.

The FBI's *Uniform Crime Reports* have registered a recent decline in the incidence of violence, as well as a decline, not an increase, in the numbers of arrests of juveniles for violent crimes. The actual number of juveniles who are arrested for serious crimes of violence is small and repeated serious violence is rarer still. The U.S. Census Bureau's national victimization surveys show that the victimization which Americans experience each year is constant and that victimization from violence shows the greatest constancy of all types of crimes. National self-report studies of delinquency also show a constancy, not an increase, in the violent behavior of American youth.

Communities have shown a propensity toward tolerating and absorbing violent behavior of their middle- and upper-class youngsters while not displaying such tolerance toward their lower-class counterparts. If means could be found to increase the level of public tolerance toward such youthful offenders, and of dealing with them within their own communities, the problem of youthful violence would greatly diminish.

The vast majority of youths who commit assaultive crimes are not dangerous and the actual number needing secure settings is minute. The state of Massachusetts calculated that it needs 54 to 70 such secure placements; assuming the same ratio for the United States as a whole, the country would need no more than 2,500 secure placements for dangerous juveniles.

No one has found the magic pill to cure youthful violence but several communities and institutions are searching for better ways and some have found

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[16] James Kennedy, and others. "A day school approach to aggressive adolescents." *Child Welfare*, 55(10) :712–724, 1976.

[17] Dale Mann. *Intervening with convicted serious juvenile offenders*. Santa Monica, Calif., Rand Corporation, 1976. 116 p.

ways to deal with some violent youth in open settings. The results are mixed. Although treatment of the violent is difficult, the search for better ways must continue because any other alternative is totally unacceptable.

If the goal is to reduce youth violence we must look to other than the juvenile and criminal justice systems. For the past generation in which the number of young people in our population has rapidly increased, we as a Nation largely have ignored the social and economic forces which have contributed directly to the problem of youth violence. To counter with forces for prevention would take too long we have argued, so we have reacted with more police, courts, and institutions.

Now we have grandchildren as members of their grandparents' former youth gangs. Youth unemployment, educational failure, poverty and rates of family disintegration remain unacceptably high. We cannot afford to wait another generation to face these issues for which criminal justice has no answers.

APPENDIX

An examination of data on the volume of arrests for criminal offenses of 11- to 17-year-olds (*Uniform Crime Reports*, 1964–1975) and of the *Juvenile Court Statistics* (National Institute for Juvenile Justice and Delinquency Prevention, 1964–1974) provides a view of the relation of serious delinquency arrests to all delinquency arrests and allows projections of similar volumes through 1986 (graph 1, attached).

The volume of arrests[18] of juveniles aged 11 to 17 for serious violent crimes is a small proportion of the total volume of arrests of all juveniles. In addition, the volume of arrests for serious violent crimes (which actually decreased from 1975 to 1976) appears to be more stable and to be increasing more slowly than the total volume of arrests. This lends added support to the U.S. Census Bureau's victimization surveys which show that victimization from violence shows the greatest constancy of all crimes and to national self-report studies of delinquency which show a constancy in the violent behavior of American youth.

It can be projected that the volume of arrests for 11- to 17-year-olds will increase from 2,071,532 in 1976 to 2,233,000 in 1986, an increase of 11 percent. The volume of juvenile court cases disposed of will increase from 1,369,532 in 1976 to 1,960,696 in 1986, an increase of 43 percent. These projections indicate that the volume of juvenile court cases is increasing faster than the volume of arrests for delinquency. Since the juvenile court data incorporate status offenses while the arrest data do not, it may be possible to assume that the number of status offenses disposed of by the courts can account for the difference. By processing an increasingly large number of cases, while criminal offenses are increasing at a slower rate, the court system may be over-reaching itself and disposing of an increasing number of status offense cases and fewer delinquency cases.

Graph 2 portrays urban (cities over 50,000 population) arrest rates per 1,000 youths aged 11 to 17 broken down by race (status offenses are excluded). Again, the graph illustrates the proportion of arrests for serious violence compared with all arrests. The graph further shows the stability of arrest rates for serious violent crime. A comparison of arrest rates for black and white youths shows the disproportionate rate of arrests of black youths for both serious violence and for all crimes on the basis of their representation in the nation's population; however, as can be seen on graph 3, the volume of arrests of black youths appears to be fairly stable although their proportion in the population is increasing.

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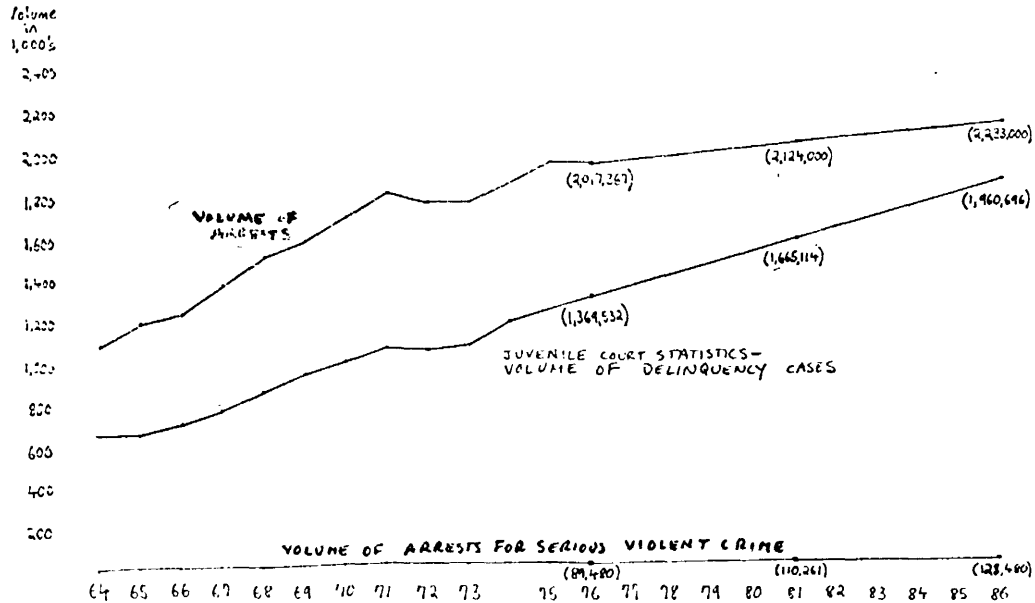
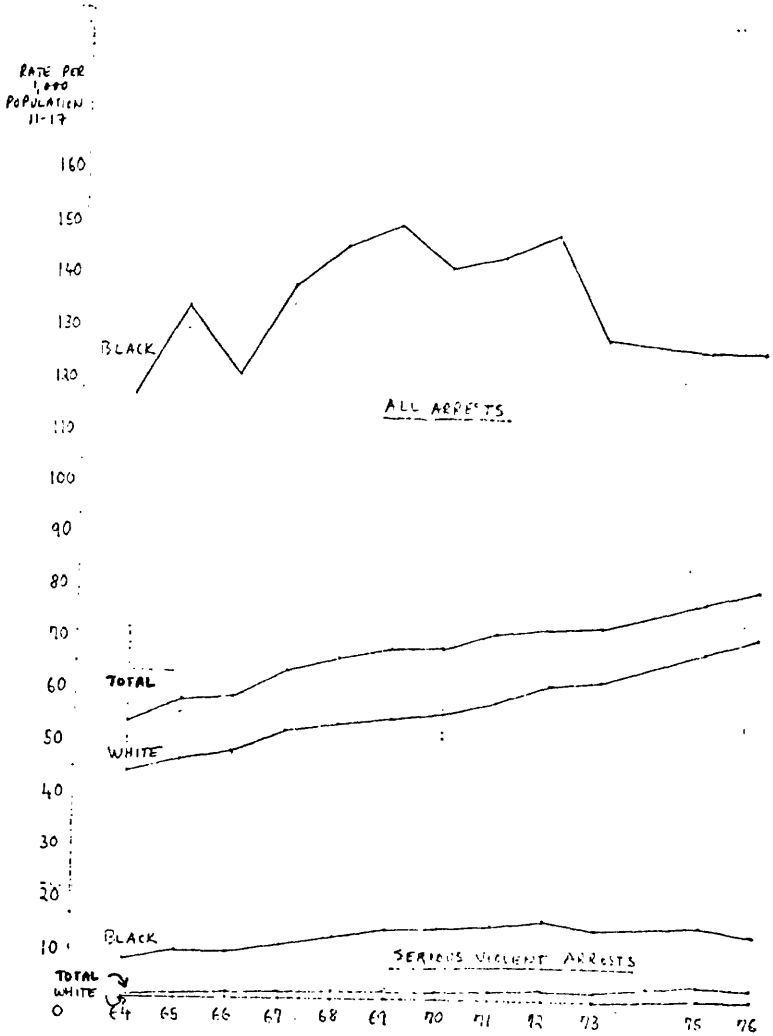
[18] Volume-of-arrest figures on this graph are weighted to account for the fact that the Uniform Crime Reporting program actually represents only a portion of the national population.

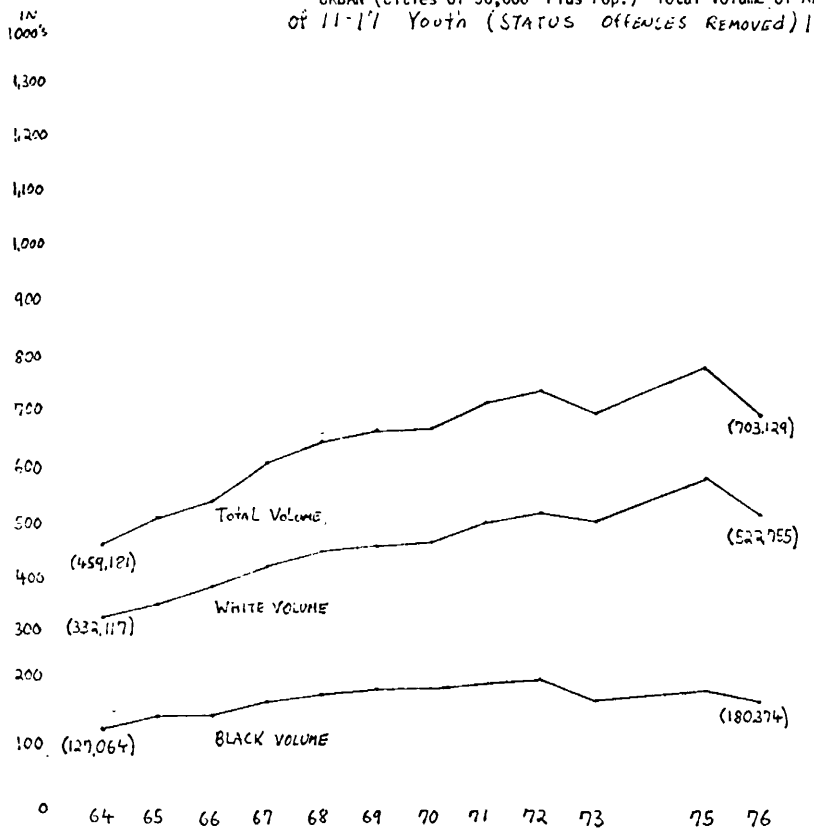
U.S. VOLUME OF ARRESTS OF 11–17 YEAR-OLDS (STATUS OFFENSES REMOVED) 1964–76



URBAN ARREST RATES (cities of 50,000 plus population) PER 1,000 YOUTHS 11-17 (status offenses removed) 1964-1976



URBAN (Cities of 50,000 Plus Pop.) Total Volume of Arrests
of 11-17 Youth (STATUS OFFENSES REMOVED) 1964-1976



PREPARED STATEMENT OF THE NATIONAL PRISON PROJECT OF THE AMERICAN CIVIL LIBERTIES UNION FOUNDATION

(By Nan Aron)

The National Prison Project is submitting a written statement to the Subcommittee to Investigate Juvenile Delinquency because of our concern about the issues involved in Senator Culver's hearings concerning violent juvenile crime. The National Prison Project of the American Civil Liberties Union Foundation seeks to protect and strengthen the legal rights of both adults and juvenile prisoners, to improve overall conditions in the Nation's prisons and jails and to develop rational, less costly and more humane alternatives to traditional incarceration.

It is encouraging that Senator Culver's Subcommittee is willing to bring this problem to the public's attention. An examination of recent statistics (cited below) shows that the numbers of youths convicted for committing violent crimes are rapidly declining. In sharp contrast, most of the public views the problem as being of monumental dimensions. This is in part due to the disproportionate amount of publicity given to sensational crimes which are committed by juveniles. This problem is also exaggerated by many of our public officials who cite media stories to support their views that the streets are filled with violent juveniles who need to be either "locked up" or tried as an adult rather than as a juvenile. A realistic view of the problem cannot be constructed by generalizing from these stories since they describe isolated incidents. It is essential that a proper perspective be set so that both pragmatic and humane measures can be developed to respond to the needs of a small number of violent youthful offenders.

It is important at the outset to define what crimes are considered to be violent. According to the U.S. Department of Justice, F.B.I. Uniform Crime Reports, the offenses of murder, forcible rape, robbery, and aggravated assault are defined as violent crimes.

Contrary to the myth that violent crime committed by youth reaches enormous proportions, an examination of the F.B.I. Uniform Crime Reports also reveals that arrests for violent crime represent only a minute percentage of all juvenile arrests. During 1976, there were 1,973,254 arrests of persons under 18 years of age. While only 3.786 percent of these arrests were for crimes of violence, over 96 percent were for nonviolent offenses.

Several additional factors are revealed by the F.B.I. Uniform Crime Reports. First, violent juvenile crime does not present the same problem in all areas of the country, but is mainly concentrated in the cities. In suburban areas, arrests of juveniles for violent crimes constituted only 2.52 percent of all juvenile arrests and in rural areas accounted for only 1.06 percent of all juvenile arrests. Second, juvenile crime in general and violent juvenile crime are both decreasing and are falling at a greater rate than adult crime. Overall arrests of juveniles decreased by 6.3 percent from 1975 to 1976 while overall arrests of persons over 18 years of age decreased only 4.5 percent. Arrests of juveniles for violent crimes decreased 12.1 percent while such arrests of persons over 18 years of age decreased by only 8.9 percent. In addition, arrests of juveniles for violent crimes decreased 12.1 percent, almost twice the decrease in arrests of juveniles for non-violent offenses, which decreased by 6.3 percent.

It is realistic to believe that this decline will continue because of the decline in the birth rate. In a 1973 study, entitled *A National Strategy to Reduce Crime* the National Advisory Commission on Criminal Justice Standards and Goals reported that:

* * * the pressures recently felt by the criminal justice system due to the unusually large numbers of youths resulting from the postwar "baby boom" will be substantially lessened during the 1970's and 1980's.

The public's fears about the incidence and nature of violent crime have been generated in large part by newspaper articles and media reports which focus on the elderly who are victimized by youths. The common notion that the elderly are the prime victims is inaccurate. In fact, most of the victims of youthful offenders are other young people.

A National Strategy to Reduce Crime reports that: Victims of assaultive violence in the cities generally have the same characteristics as the offenders:

victimization rates are generally highest for males, youths, poor persons, and blacks. p.13

This conclusion is supported by the U.S. Department of Justice's Law Enforcement Assistance Administration statistics from victimization studies conducted in April, 1975, which found that persons under the age of 35 comprised 62 percent of the victimization rates for violent crimes and that the same age group comprised 60 percent of the victims of all crimes. That study was conducted in five major cities: Chicago, Detroit, Los Angeles, New York, and Philadelphia. Even more striking is the 1976 Law Enforcement Assistance Administration National Crime Survey which found that youths are 2.5 times more likely to be robbed and 10 times more likely to be assaulted than persons over 65 years of age. The difference between the media's representation of the situation and that shown by the statistics is dramatic.

Although the problem of the violent juvenile offender is smaller than it appears from the disproportionate amount of publicity given it, the problem is much more complex than initially appears. While we know which juveniles have been arrested for violent crimes, we do not know which juveniles are violent. In its July, 1976 report, *Intervening with Convicted Serious Juvenile Offenders*, the National Institute of Juvenile Justice and Delinquency Prevention stated that: For the most part, the various theories of delinquency apply to both serious and less serious offender populations. The determinants of serious and especially violent behavior are frequently situational and thus not accessible to treatment after the fact. "Serious" offenders may share only one characteristic—that of having committed a serious crime. pp. 71–72.

Attempts to identify potentially violent youths and to prevent violent crimes by labelling children "dangerous", "violent" and "serious" have failed. No projective test has been derived which will predict violence in an individual. In *Can Violence Be Predicted?*, 18 Crime and Delinquency 393 (1972), authors Wenck, Robinson and Smith cite a California Youth Authority study which found that when a history of violence was used as the sole predictor of future violence, only 1 in 20 people with a history of violence was, in fact, violent. The inability to predict which juveniles who have committed a violent act are, in fact, violent, increases the risk of responding to these juveniles inappropriately.

The empirical fact of the invalidity of violence prediction suggests that neither the interests of society nor the interests of the identified individual are being served by social policies based upon the prediction of violence.

L. Cummings and J. Monahan, 31 *Journal of Social Issues* 153 "Social Policy Implications of the Inability to Predict Violence" (1975).

Because of both the complexity and unpopularity of the problem, there is a paucity of research studies concerning the violent juvenile offender. Little is known about the causes of juvenile crime, and even less known about preventive cures. In addition, no agency, individual or juvenile group can provide any significant data such as the number of youths incarcerated, the types of locations housing them, and recidivism rates of those incarcerated. The combination of this lack of information and public fears created by misinformation has led the courts to deal with all juvenile offenders, including those who commit violent crimes, in an indiscriminate manner.

As a result, huge numbers of juveniles, including many who have not committed any crime, are incarcerated in juvenile institutions as well as in jails. For instance, in *Under Lock and Key, Juveniles in Jail and Detention* (1974), Rosemary C. Sarri states that some estimates set the number of juveniles jailed each year as high as 500,000. According to the U.S. Department of Justice, LEAA Advance Report on the Juvenile Detention and Correctional Facility Census of 1975, *Children in Custody*, 46,980 juveniles were held in juvenile detention centers in 1975. This represents an increase of 5 percent over the number of juveniles detained in 1974.

Although statistics are not available, it is clear that the overwhelming majority of juveniles detained are not violent. Prior to the deinstitutionalization of juveniles in Massachusetts, the Department of Youth Services estimated that no more than 5 percent of those youths placed in its care required secure surroundings. Bakal, "The Massachusetts Experience", Delinq. Prevent. Rep. 4 (April, 1973).

Massachusetts has now virtually completed deinstitutionalization of juveniles. A comparison of the numbers of juveniles detained in Massachusetts

with the numbers detained in other States gives some indication of the extent of over-incarceration of juveniles in most States. According to *Children in Custody* statistics, only 130 juveniles were detained in public juvenile detention and correctional facilities in Massachusetts during 1975 while 8,720 were held in California, 3,529 were held in Ohio, and 2,937 were held in Florida.

Most juvenile institutions are large, inadequately staffed, have old and deteriorating physical plants and inadequate or no educational or vocational programs. Juveniles also complain about physical and sexual assault from both guards and prisoners, total lack of privacy and isolation from friends and family. Conditions in some juvenile institutions are so inhumane that courts have declared them unconstitutional.

In a recent lawsuit, *Morgan* v. *Sproat*, 432 F.Supp. 1130 (S.D.Miss. 1977), the Court held that the conditions at the Oakley Training School constituted cruel and unusual punishment as prohibited by the Eighth Amendment to the United States Constitution and violated the students' right to treatment. The institution's program was not geared to meet individual needs, the treatment staff was inadequate, living quarters were substantially overcrowded, and educational, vocational and recreational facilities were deficient. In the facility's Intensive Treatment Unit, students were confined in cells with no furnishings except a combination wash basin/commode and a concrete slab built into the wall for sleeping. The cells had a small opaque window which admitted some light but did not allow the occupant to see outside. All the light fixtures had been removed from the cells. Students were confined to these cells for up to 85 days. They were allowed out only to take showers and for calisthenics. During the day, they were not permitted to talk, sleep, write or receive letters or read any material other than the Bible. Experts testified that:

* * * isolation in a lock-up such as the ITU does not make students penitent but instead increases their hostilities and adds to their behavior problems. At p. 1139.

In addition to finding inhumane living conditions and inadequate treatment and educational programs, courts have found that the practice of physically abusing juveniles in the absence of any exigent circumstances is widespread at some institutions. In *Morales* v. *Turman*, 383 F.Supp. 53 (E.D.Tex. 1974), conditions at six juvenile institutions in Texas were held unconstitutional. Each institution housed from 240 to 1,560 juveniles. In 1972, only 9 percent of the boys and 4 percent of the girls admitted had been charged with violent acts. The vast majority had been charged with stealing, disobedience or immoral conduct. The court found that correctional staff frequently beat, kicked, slapped and otherwise physically abused juveniles. Tear gas and other chemical crowd control devices were used in situations which did not pose any imminent threat to human life or property. Juveniles were forced to perform repetitive, nonfunctional and degrading tasks such as pulling up grass without bending the knees, moving dirt from one place to another and back again and buffing a small area of the floor for an unreasonable amount of time.

Clearly, incarceration is not the solution to the problem of juvenile crime. Some of the reasons why it is so dangerous, inhumane and unlawful in many instances are combined in the draft standards promulgated by the Institute of Judicial Administration, A.B.A., relating to "Dispositions":

Several reason may be advanced to support a prohibition on locking up juveniles in training schools. Institutionalization inflicts numerous deprivations: it isolates and alienates offenders from society; it debases and brutalizes both offenders and staff members; it schools offenders in ways of crime and fosters relationships that may increase future criminality; and it is extremely costly, at p. 71 "Dispositions"

These standards recommend the elimination of traditional juvenile institutions. Commitment to secure facilities is called a "dispositional alternative of last resort." IJA/ABA Dispositions 3.3 E.2. Incarceration can only exacerbate the problem by reinforcing negative behavior and further criminalizing youths who have been unnecessarily placed in such institutions.

Solutions to the problem of violent crime are difficult to devise. Not only is the problem very complex, but hard data is lacking. It is much easier for society to decide what to do about persons who commit non-violent crimes. At least the experience the Project has gained through litigation and discussions with prisoners, prison officials, and legislators has shown that the solution relied on by most States, which is to incarcerate large numbers of youths,

does not work. Not only do the youths eventually return to the street after serving their sentences, but they return in worse shape than they were when they entered. Given this situation, it is clear that an objective assessment of the problem must be made so that we can begin to develop humane, lawful and effective solutions.

PREPARED STATEMENT OF THE AMERICAN CIVIL LIBERTIES UNION JUVENILE RIGHTS PROJECT

The Juvenile Rights Projects of the ACLU is a national project engaged in litigation and public education regarding the rights of children and youths. Many of the issues with which we are concerned involve inequities in the juvenile justice system and we are pleased that the committee is turning its attention to that system. We do not believe, however, that the so-called violent juvenile offender should be the focus of congressional concern.

First, we believe that the actual incidence of violent criminal acts by persons typically within juvenile or family court jurisdiction, i.e., those up to the age of 16 or 18, has been greatly exaggerated by the media. Acts of violence against the person by juveniles betwen the ages of thirteen and fifteen, for example, comprise slightly more than 9 percent of all arrests for such crimes nationally. Moreover, the number of arrests for such crimes has tapered off in the last couple of years according to the most recent statistics.

Second, undue attention to that small group of youths involved in serious violence necessarily diverts resources and energy away from reforms which are deserving of public attention. Indeed, if other reforms were first effected in the juvenile justice system, more resources would become available to deal with the small core of violent youths.

Thus, the pervasive practice of indeterminate sentencing in the juvenile justice system should be abolished. It is a sentencing scheme which is both unfair to youths involved in the system and one which the public itself perceives to be unjust and inappropriate.

The indeterminate sentencing model in the juvenile justice system is predicated on the illusion that confinement is for the child's benefit, treatment and rehabilitation. It is not supposed to be for deterrance or retribution. Yet under this model, those youths who have committed relatively minor offenses—the vast majority of the juvenile crime population—are commonly subjected to substantially longer incarceration than adults charged with the identical crimes. Not only do the institutions to which the children are sent fail to "treat" and rehabilitate them, often they are dismal and punitive and create a tendency to more serious crime which might not have developed otherwise. The continued incarceration of status offenders, i.e., those youths who have not engaged in criminal activity but who run away from home, truant, etc., is a prime example of the unfairness of the indeterminate sentence and the rehabilitative model upon which it rests.

The other side of the indeterminate sentencing coin is that those youths who *have* committed violent crimes are typically confined for terms no longer than the minor offender or the status offender. The public, accordingly, is frustrated by the system's seeming inability or refusal to respond to the violent youth more restrictively.

A second major injustice in the juvenile justice system is the failure to provide counsel for youths who face substantial periods of confinement. Although the Supreme Court held a decade ago in *In re Gault* that children facing confinement for criminal law violations are entitled to counsel, in many areas of this country it is the rare child who is represented by a lawyer. Very often the children and their parents are not advised of their counsel rights. Of if they are, they are pressured into waiving the right. Especially in rural areas, no counsel is available even if the parents and children affirmatively request it.

Other failures in the system are the unavailability of jury trial and a public trial for those juveniles who wish it. A persuasive argument can be made that very young people accused of crime or delinquency should be protected from public notoriety through the option of closed proceedings and the absence of a jury. There is no conceivable reason, however, why the option for public trial or jury trial should not be available to youths and their families.

Thus, the juvenile justice system is in need of reform. Programs for a small number of youths who engage in violent behavior, however, should not be the focus of this committee. Indeed, if other reforms are attended to, it is unlikely that more resources will be available to address the relatively few violent offenders.

MEMORANDA

SEPTEMBER 1, 1976.

To: James Vorenberg, Si Lazarus, Sam Bleicher.
From: Walter Miller.
Re: New Federal Initiatives re Serious Collective Youth Crime.

1. CHARACTER, SCOPE, SERIOUSNESS OF PROBLEM

It is widely recognized that serious crime by juveniles and youths—assaults, burglaries, robberies—is increasing in volume and seriousness in the U.S. For example, between 1961 and 1974 the number of arrests of persons under 18 for the four violent offenses of murder, aggravated assault, forcible rape, and robbery increased nationally from 18,500 to 66,500—an increase of 3½ times in the number of offenses, and 3 times in the rate. During a period when the size of youth population was increasing by 60 percent, the number of juvenile arrests for these violent crimes increased by 250 percent. In 1974, minors accounted for 40 percent of arrests for these violent crimes, and 26 percent of homicides. In the category of serious property crime, minors accounted for 63 percent of all arrests.

What is less recognized is the role played by *groups* of youths—3, 4, 5, up to scores—in the execution of such offenses. While most authorities recognize that serious youth crimes are seldom committed by single individuals, the actual extent and significance of the collective nature of such crime has been granted virtually no attention. One reason for this is that criminal statistics are almost invariably compiled on an individual-case basis. With few exceptions, the collective nature and context of the bulk of serious youth crime does not emerge out of the kinds of crime data customarily compiled.

Perhaps the most visible and spectacular form of collective youth crime is that engaged in by those youth groups that are designated as "gangs." Gang violence today is seen as a major problem in cities such as Los Angeles, Chicago, New York, Philadelphia, and Detroit. Initial findings of a recent national survey indicate the existence of between 900 and 2,600 gangs with up to 80,000 members in the four largest cities alone. In 1974, over 13,000 gang members were arrested in the three largest cities—with 6,000 of these arrests for violent crimes. In Los Angeles, where gang member arrests are equivalent to 45 percent of all juvenile arrests for violent crimes, city and county police recorded 112 gang-related killings in 1975.

But this aspect of collective youth crime, while probably its most spectacular manifestation, is in fact only the tip of the iceberg. In literally thousands of cities and towns in the United States, smaller and/or less cohesive groups—"near"-gangs, cliques, "roving bands", youth "clusters," rings, "street clubs" and the like pose crime problems to the local citizenry and criminal justice personnel ranging in seriousness from low to extremely severe. The volume of such crime, whatever its seriousness, is enormous. In a recent survey covering 19 of the largest cities, 73 percent of 133 criminal justice and youth service professionals queried claimed that collectives designated as "gangs" posed problems in their cities, but over 95 percent reported problems with a variety of criminal activities by non-"gang" youth collectives. These included nightly congregation by disruptive neighborhood groups, group harassment of elderly residents, youthful burglary rings, small bands of armed robbers, of strongarm muggers, of pursesnatchers, groups specializing in larcenies from autos or shopping plazas, groups of auto thieves, drug-using groups, groups engaged in extensive collective vandalism, extortion cliques in schools, and others.

Two manifestations of collective youth crime which appear to be relatively new developments have been particularly alarming to local citizens. These are planned predatory raids by small gangs or cliques of larger gangs on audiences of large-scale public entertainment events, wherein spectators are assaulted, robbed, and raped. Such raids have occurred recently in Washington, New

York, Detroit, Hartford and elsewhere. The most serious thus far occurred in Washington where 600 persons were victimized during a single raid on a rock concert audience, including 86 whose injuries required hospitalization. A second form is mass raids by gangs or smaller groups on downtown business district stores and/or their patrons. These have occurred in communities as diverse as Detroit, Far Rockaway, Minneapolis and Greenwich Village.

The character of these latter forms of collective youth crime suggest a reason for a heightened perception in many urban and non-urban communities that the public safety is being more seriously theratened by such youth collectives than in the past. Traditionally, such groups have been seen as engaged primarily in violence directed against other groups or, at worst, at their fellow youths. Today's collective youth crime, however valid the reality behind such perceptions, is seen as having assumed two new characteristics: First, gangs and groups have moved far more extensively into predatory crimes, both violent (armed robberies, muggings, yokings) and non-violent (burglaries, larcenies); and secondly, related to this, the victims of collective youth crime, both violent and non-violent, now include substantial numbers of adults, often from areas outside the traditional "gang" locales, with the elderly a particularly favored target of violent victimization (pocketbook thefts from elderly women, robberies, burglaries, and beatings of social security recipients).

The intensity of the current furor over violent gang activity in Detroit, for example, is probably related to the fact that three principal locales of recent gang activity—the freeways, the downtown business district, and public arenas—are all outside the traditional inner-city ghetto locations of such activity, and thus create a new sense of vulnerability among adults and adolescents from all parts of the metropolitan area.

2. A PROPOSAL FOR A NEW FEDERAL ROLE IN DEALING WITH SERIOUS COLLECTIVE YOUTH CRIME

In the face of increasing public concern over collective youth crime—a concern whose consequences are reflected in motives for "flight" from the city, in a conviction by many elderly persons that they are imprisoned in their dwellings, in a pervasive fear in many cities of walking the streets at night—efforts by local communities to cope with the problem have been largely ineffective. With few exceptions, they have been based on *ad hoc* "firefighting" responses to emergent crises, rather than on any consistent, well planned, long-range policy which includes preventive as well as reactive elements. It should be said at the outset that this problem is an extremely difficult one, and does not yield readily to conventional remedial prescriptions. In the final analysis, the primary locus of remedial activities must be the local community, the residence both of the group members and the bulk of the victims. Nevertheless, it would appear that the federal government could play a far more effective role in facilitating control efforts than it has thus far played. Costs of initial measures would be quite modest.

In common with attempts to ameliorate many other kinds of crime problems, attempts at policy formulation at once encounter three classic sets of opposing philosophies. The first concerns the relative role of federal versus local agencies, the second the desirability and/or efficacy of "hard" versus "soft" approaches to crime control, and the third the rights of offenders versus the rights of victims and the community. The present proposal attempts to adopt "compromise" positions concerning these opposing philosophies. First, it suggests that there are appropriate roles for agencies at federal, state, city, and neighborhood levels, and that agencies at each of these four levels can assume functions and responsibilities appropriate to their interests and capacities to produce an equitable division of labor. Second, it proposes procedures which incorporate elements of both "hard" and "soft" approaches, with decisions as to the appropriate "mix" based on carefully collected information both as to the character of local youth crime and the character of local program resources. Third, it presents the general outlines of local programs which, if executed as conceived, should achieve a just balance between the welfare of the community and the rights of actual or possible offenders.

With these positions as guiding principles, the remainder of this memorandum will develop on a very general level suggested roles for governmental entities at different levels with respect to three procesess: 1. information gathering/diag-

nosis; 2. program planning and interagency coordination; 3. implementation of specific programs.[1]

1. *Information-gathering/Diagnosis.* The most glaring deficiency in current efforts to cope with increasingly serious problems of collective youth crime is the almost complete absence of any sort of sound informational basis upon which to base policy planning. No police department could operate in the absence of intelligence; it is most unlikely that gang problems in Detroit would have reached their current level of seriousness if carefully collected information had been available to serve as an "early-warning system" for developing problems. With the partial exception of specialized police operations in the three largest cities, not a single city in the United States employs a specialist whose major responsibility is detailed familiarity with the city's collective youth crime situation, including numbers, sizes, locations, membership and major criminal activities of problemmatic adolescent associational units in his cities. Even more glaring is the fact that there is not a single individual in the vast federal administrative structure who has as a direct responsibility the compilation of information on a national level of the serious and rapidly worsening collective youth crime situation in the country.

My first recommendation is that there be established in 10 to 15 American cities now experiencing serious or potentially serious problems with collective youth crime, a position for a full-time specialist whose major duties would be to gather information on a systematic, continuing, and routine basis respecting problemmatic gangs, groups and cliques in his city, as well as information relative to programs aimed directly or indirectly at coping with such problems. If, after an appropriate trial period, this arrangement appears to be productive, it could be expanded to include an additional 10, 15, or more cities.

This position should be administratively located in such a way as to be maximally independent of the specific organizational interests of established agencies (e.g., police, city government), and maximally insulated from partisan political pressures (complete insulation is, of course, impossible; what is proposed is an attempt to achieve the maximum feasible degree of independence). Information collected on a continuing basis by this office would be made available on a periodic basis and in appropriate form to agencies such as police, city government, probation, courts, "outreach" programs, on the basis of decisions as to responsible use of the information and relevance to organizational operations. Methods for insuring responsible use of information would constitute a central aspect of informational operations. Agency cooperation in serving as possible sources of information would be enhanced by the guarantee of periodic delivery to them of current reports as to the gang/group situation.

Concurrently, or at a somewhat earlier point, a position for a full-time specialist would be established at the federal level. His major duties would involve the development of uniform and systematic methods of enumerating and characterizing problemmatic youth collectives of a wide variety of types, disseminating these methods to local specialists, collecting and collating information from the several cities, delineating national-level trends on the basis of comparative analysis, and feeding back generalized and comparative information to the local communities. Consideration of independence from departmental interests should also be considered in the administrative location of such a specialist; given current organizational arrangements, the National Institute of Juvenile Justice and Delinquency Prevention appears as one appropriate possibility.

Spelling out the exact duties of the federal-level specialist is not necessary at the level of this proposal; what is important is the proposed establishment for the first time at the federal level of a specific locus of responsibility for collective youth crime—a problem whose increasing seriousness and volume cries out for recognition and response by the federal government. No direct initiatives at the state level are called for with respect to the information function; state agencies, however, (e.g., criminal justice planning, legislative committees) would receive the same periodic reports sent to the cities by the federal office.

2. *Generalized Program Planning and Inter-Agency Coordination.* My recommendation with respect to the overall planning and coordination of particular programs is that the state and city assume primary responsibility, with a mini-

[1] Following sections outline on a general level methods and procedures some of which have been worked out in greater detail.

mal federal role. Counties and regions within states would also be involved where such entities figure significantly in policy formulation. The major reason for recommending minimal federal involvement in this function relates to the incredibly diverse circumstances of the multitude of state, city, county, and other units (boroughs, townships, etc.). This diversity is found in the character and seriousness of local crime problems, organizational arrangements in criminal justice processing agencies and other governmental-service agencies, the nature of relationships among the various organizational entities, the official and actual amount of authority exercised by the thousands of organizational entities, the nature and provisions of state, county and city legal codes and statutes, and much more. Given this extraordinary diversity, attempts to set up uniform or standardized operating procedures at the federal level would appear unfeasible and unproductive, as past experience has often shown. State-city partnerships in planning processes are particularly important in programs aimed at the control of youth crime, since in most instances different governmental entities are responsible for different functions within the criminal justice processing system (e.g., arrest functions, city or county police departments; judicial functions, city, county, district, state courts; probation, city or county agencies; corrections; predominantly state function).

In brief, the major federal role for the planning function would be that or information provider; the bulk of generalized program planning—including provisions for some order of cooperation among public and private agencies at city, county and state levels, would be conducted by these latter entities. I would advise federal contributions to costs, but minimal direct participation.

3. *Specific Program Planning and Program Implementation.* For this function the key entity would be the local neighborhood, community, or district, with active assistance from the city. While collective youth crime, as noted earlier, may have a city-wide or even metropolitan area impact, and in some instance spread beyond neighborhood boundaries, in most instances both perpetrators and victims are contained within the borders of specific local neighborhoods. Since it is the neighborhood which serves as the primary arena for the bulk of collective youth crime, it is the locals who are most consistently victimized, and who thus have the greatest stake in control. No program aimed to alter youth behavior in local communities can hope for success without, at the least, the acquiescence of local residents, and at best, their active involvement.

While the specific details of such local operations cannot be outlined here, my recommendation is that one major type of program with a good potential for both prevention and control in many urban neighborhoods is the *neighborhood-based* team. Such teams would include representatives of selected agencies and interests, but their core would consist of local residents. Information as to the character and success potential of existing programs is very meager, but what fragmentary information is available suggests that communities which have been able to enlist the active participation of local adults, particularly mothers, in programs aimed at denying the "control" of the streets and public facilities to youth gangs and groups have shown the best likelihood of success.

A variety of models for teams are possible. In one type, adult females would conduct nightly security patrols over designated routes, in conjunction with one or more police officers to provide security back-up if and when necessary. This model has been operating with apparent success in neighborhoods in Philadelphia for the past two years.

A typical community-based team might consist of several key citizen leaders, a juvenile officer from the local police district, a social worker from an "outreach" agency, a staff member from a local school, and a court probation officer on "field" assignment. Other possible participants could be church-connected youth workers, recreation department workers, YM/WCA or Boys Club workers, and others. Teams should be kept relatively small; the more agencies involved, the greater the likelihood of interagency relational problems. The "line" status of agency-affiliated teams workers reflects the fact that in practice interagency cooperation appears to occur most readily on the basis of informal personal relations among line-level workers rather than through formal arrangements at administrative levels.

Both the composition and functions of the local teams should remain highly flexible, in order to be able to adapt sensitively to the particularities of local conditions. A major function would be diagnostic. A team could quite readily determine, for example, that there were six major groups in the neighborhood.

Four might be seen as fairly conventional "hanging" or street corner groups, with low criminal involvement. Appropriate measures might include attempts to involve members in available recreational programs, a determination of the educational and occupational status of members, and subsequent efforts to facilitate job-finding or arrange special tutoring or vocational training. One group might appear as a hard-core "gang," heavily involved in predatory and/or violent crime. In this instance information supplied through police or probation team members might lead to a decision to initiate or insure the continued application of legal sanctions against key members, with an eye to reducing their influence with their own group, and their capacity to serve as role models for younger and not yet criminally involved local youth. Ideally such decisions would be made with the agreement of citizen members of teams, so that decisions to arrest or return to commitment would be seen as accommodating the desires of the community rather than as arbitrary measures imposed by external and hostile law-enforcement agencies.

Legal services should be available to the team to insure that planned procedures accord with the protection of individual rights and the maintenance of due process. A final group might be seen as just on the verge of moving in the direction of more serious criminality. Here the "preventive" objectives of the team would be given top priority; for example, one or two emotionally disturbed ringleaders could be provided with psychological services either through referral or by a therapeutically-trained team member.

Once established, such teams could function in a flexible and responsive fashion to detect and accommodate changes in the character of collective youth activity and the identity of local groups. With programmatic measures based as fully as possible on the achievement of procedural consensus between lay and professional, official and unofficial team members, preventive and control policies would reflect local definitions of appropriate measures, and achieve that order of cooperation with official agencies which is a *sine qua non* of lasting community change. It goes without saying that teams in racially/ethnically mixed neighborhoods should reflect the composition of the local community.

There is no guarantee whatever that the approach outlined above, including the local neighborhood team as the cutting edge of program efforts, would achieve significant success in ameliorating an extremely difficult and perennially intransigent crime problem. However, given the extraordinarily widespread and constantly increasing perception by masses of citizens that current patterns of collective youth crime constitute a threat of the first order, it would appear that a new initiative by a new administration that holds any reasonable chance of being more effective than existing measures would be warmly welcomed and command popular support. At the very least, the establishment within the federal system of a major locus of responsibility for information-gathering and program planning with respect to collective youth crime would constitute a major innovation, and one that would undoubtedly be regarded by the general public as a major step toward ameliorating what most see as a major crime problem, and many as *the* major crime problem in the country today.

The Serious Juvenile Offender by the National Office for Social Responsibility

PREFACE

The National Symposium on the Serious Juvenile Offender, held in Minneapolis on September 19 and 20, 1977, brought together over two hundred professionals and leading citizens knowledgeable about juvenile justice issues. They met to identify key policies and to assess present attitudes and information regarding youth who commit serious crime; especially violent crimes.

The American system of juvenile justice is under fire for its failure to stem the tide of youthful criminal violence. It is vital that the lurid publicity given to a small percentage of violent youth not distract us from the reality of a system whose wide net catches predominately non-offenders (abandoned or neglected) and minor delinquents who are subjected to unwarranted detention and incarceration grossly disproportionate to the harm, if any, generated by their conduct. Such indiscriminate angling permits the appropriate punishment of even fewer violent offenders.

The traditional solution to juvenile problems has been to upgrade personnel, improve services or refurbish facilities. This is not enough. We need an uncompromising departure from the current policy of institutionalized overkill which undermines our primary socialization agents—family, school and community. Likewise, we must shift our resources toward developing productive, responsible youths rather than reinforcing delinquent or undesirable behavior.

We must reject the repugnant policy of unnecessary, costly detention and incarceration of scandalous numbers of young Americans. It is time to accept responsibility for the antiquated and destructive practices which undermine the fabric of our next generation. We must, however, support policies and practices which protect our communities while also assuring justice for our youth. Some youthful offenders must be removed from their homes for society's sake as well as their own. But detention and incarceration should be reserved for youths who cannot be handled by other alternatives.

The current overreach of the juvenile system in its reliance on detention and incarceration is particularly shocking as it affects so-called status offenders. These youths are actually more likely to be detained, more likely to be institutionalized, and once incarcerated, more likely to be held in confinement than those who are charged with or convicted of criminal offenses. Additionally, even a cursory review of the handling of young women reveals the grossest application of the double standard. Seventy per cent of the young women in the system are status offenders!

Many status offenders are arrogant, defiant and rude—and some are sexually promiscuous. Detention or incarceration, however, helps neither them nor us. Some of these children cannot be helped, and others do not need help. Real help, for those who need it, might best take the form of diverting them from the vicious cycle of detention, incarceration and crime. A firm but tolerant approach will not compromise public safety and will salvage young lives.

When we discuss juvenile crime we should address the policies of a state and its respective communities rather than focusing solely on the individual juveniles and the case-by-case emphasis on the needs of individuals which often permits those intimately involved with the implementation of policy to overlook the cumulative impact of their practices.

The National Juvenile Justice Act has been a catalyst for a long overdue and healthy assessment of current policy and practices. Additionally, it has stimulated the development of criteria for imposing incarceration while stressing certainty of punishment for serious offenders. Similarily, the wealth of advice expressed through diverse viewpoints in this publication is provided to help policy makers and other concerned citizens develop more appropriate responses to one of our nation's most critical problems.

JOHN M. RECTOR,
Administrator.

INTRODUCTION

(By Joe Hudson and Pat Mack)

Considerable concern and controversy have been raised regarding the way in which we deal with juveniles adjudicated for particularly serious delinquent acts. The extent of this concern is reflected in the type and amount of activity recently devoted to assessing the scope of this problem and to developing alternative ways for dealing with it. The papers in this volume are a further example of this concern. The aim of this introductory statement is to identify briefly some recent developments bearing upon serious youth crime, to suggest some major issues associated with this phenomenon, and, in the process, to present a context for the papers which follows.

NATIONAL SYMPOSIUM OF THE SERIOUS JUVENILE OFFENDER

The papers in this volume were first presented at the National Symposium on the Serious Juvenile Offender held in Minneapolis on September 19 and 20, 1977. The Symposium was funded by the Office of Juvenile Justice and Delinquency Prevention as a technical assistance grant to the Minnesota Department of Corrections for the explicit purpose of assessing the present state of knowledge about serious youth crime, particularly in relation to three major areas: definitional and incidence, treatment and control, and legal. In turn, each of these major categories encompass a wide variety of more specific

issues. For example, among the definitional and incidence issues and problems discussed at the Symposium were the following:

Relative scope of the problem of serious youth crime and how this has varied over time across population groups;

Characteristics of the population of serious juvenile offenders and how these may have varied over time and across jurisdictions;

Criteria by which a "serious juvenile offender" can be defined and the extent to which such criteria are synonymous with either the commission of a violent offense or a series of non-violent offenses; and

Extent to which serious juvenile offenders continue into adult criminal activity.

Questions raised concerning the wide variety of treatment and control issues and problems at the Symposium included:

To what extent can we empirically support program outcome judgments about the relative effects of alternative treatment/control methods in dealing with a population of serious juvenile offenders?

What are the specific ingredients of relatively successful intervention programs and on what evidence has this judgment been based?

What are some of the varieties of intervention strategies being pursued within different juvenile corrections jurisdictions in this country?

To what extent does the establishment of a "secure treatment program" for juveniles result in "spreading" or diluting the admission criteria over time so that the program begins to handle youth who cause management problems in other institutional settings?

To what extent do specialized and secure treatment programs for the serious juvenile offender have the potential to operate as "self-fulfilling prophecies" so that youth come to define themselves as "hard-core," "violent," or "dangerous," and consequently behave accordingly?

Finally, the variety of statutory and legal issues addressed at the Symposium included:

What types of binding-over procedures are in use around the country and what are the developing trends—if any—in this regard?

What are recent statutory developments aimed at dealing with a serious youth crime and, on the basis of these, what are some likely future trends?

RECENT REPORTS AND STUDIES

A number of reports and studies dealing with the subject of serious youth crime have recently been completed around the country and reflect the increased concern and attention being given to the topic. Among these reports have been those issued by the Rand Corporation,[1] the Vera Institute of Justice,[2] New York State Governor's Panel on Juvenile Violence,[3] the classic study published by Marvin Wolfgang, Robert Figlio, and Thorsten Sellin, *Delinquency in a Birth Cohort*,[4] as well as three reports recently published on the situation in Minnesota—the Minnesota Supreme Court Juvenile Justice Study Commission,[5] the Youth in Crisis Task Force of Hennepin County (Minneapolis),[6] and the Minnesota Governor's Commission on Crime Prevention and Control.[7] The major finding and, where they exist, the recommendations of these reports and studies can be briefly summarized relative to issues pertinent to definitions, characteristics, and recommendations for action.

DEFINITIONS AND CHARACTERISTICS

In the study by Wolfgang, Figlio, and Sellin, a cohort was followed of close to 10,000 boys born in Philadelphia in 1945 who had resided in that city from their tenth to their eighteenth birthday. This investigation found that 18% of all juveniles in the cohort with any type of delinquent record (6.3% of the total population) had five or more offenses, and could be classed as "chronic recidivists." This group was identified as responsible for 51% of all delinquent acts committed over a ten-year period by the entire group. However, of the more than 5,000 total offenses committed by this group of chronic recidivists, only 329 of the offenses (6.2%) were for such violent offenses as homicide, rape, robbery, aggravated assault, or arson. Among the distinguishing characteristics of the group of chronic recidivists were the following:

Note: Footnotes at end of article.

Five times as many nonwhites as whites;
Lower socio-economic status than non-chronic offenders;
Greater number of residential moves than non-chronics;
Lower intelligence scores than non-chronics; and
Fewer grades completed than non-chronics.

The report published by the Rand Corporation, *Intervening With the Serious Juvenile Offender*, defines serious juvenile offenders as those adjudicated for non-negligent homicide, armed robbery, aggravated assault, forcible rape, and arson. This is in contrast to a major focus of the Wolfgang, Figlio, and Sellin report which emphasized the criterion of offense repetition. In terms of rough estimates, the Rand reports suggests that this serious offender group constitutes approximately 15% of all institutionalized delinquents in the country (state, local, or private institutions), yielding a nationwide population estimated at approximately 6,000 juveniles.

Financial support given by the Ford Foundation to the Vera Institute of Justice to study serious youth crime in this country is further evidence of the national concern. In this study, the investigators selected a 10% random sample of delinquency petitions brought in 1974 in the juvenile or family courts of three metropolitan New York City counties. The major results of the study can be summarized as follows: approximately 29% of sampled delinquents brought to court had been charged with a violent crime (homicide, rape, robbery, assault), approximately 6% of the sample had been charged more than once with a violent crime, and the most common violent crime was assault followed by robbery. The characteristics of the group arrested for committing violent crime included a high proportion of minority group males with learning disabilities who were from ghetto areas of large cities.

The report completed by the Minnesota Supreme Court Juvenile Justice Study Commission dealt with the population of juveniles in ten counties of the state for whom certification hearings were initiated from January 1973 to December 1975. A total of 134 cases were identified. Because of the sample selection procedures used, the results cannot be generalized to the population of certification hearings initiated in the state during the study period. At most, the findings reflect some indications of the procedures being followed in the binding-over process as well as some characteristics of youth for whom such procedures were initiated. Supplementing the Study Commission's findings is information available through the Minnesota Department of Corrections on the population of juveniles certified, convicted, and committed to adult correctional institutions in the state during the five year period July 1, 1970 through June 30, 1975. The total yearly number varied from a low of seventeen in 1972 to a high of twenty-eight in 1974. Most of these youth were from the metropolitan area of Minneapolis-St. Paul, had long records of delinquency adjudications, were disproportionately composed of nonwhites, and had been certified on the basis of violent crimes against persons.

Another study commission recently reported its findings in Minnesota on the problem of serious youth crime. The Report of the Children and Youth in Crisis Project of Hennepin County (Minneapolis) proposed a definition of the violent juvenile offender as including two or more arraignment hearings for major person offenses (murder, forcible rape, aggravated assault, robbery) or three or more arraignment hearings for major property offenses (burglary, theft, and auto theft). Applying these criteria to a 1974 sample of offenders in the county juvenile justice system, it was found that 246 of the total population of 6,607 youth (approximately 4%) met this definition.

The third study commission report completed in Minnesota within the past two years was completed by the Governor's Commission on Crime Prevention and Control and contained a recommended definition of the serious juvenile offender as involving the following:

(a) Juveniles, fourteen years or older, with a sustained petition for homicide, kidnapping, aggravated arson, or criminal sexual conduct of the first or third degree;

(b) Juveniles, fourteen years or older, with a sustained petition for manslaughter, aggravated assault, or aggravated robbery with a prior record in the preceding twenty-four months of a sustained felony;

(c) Juveniles, fourteen years or older, with at least two separate adjudications for such major property offenses as burglary, arson, theft over $100, aggravated criminal damage to property, motor vehicle theft, or receiving stolen property over $100.

The application of this definition to a random sample of juveniles adjudicated in Minnesota generalizing to the population of juvenile offenders in the state during 1975 resulted in an estimated population of 650–730 juveniles.

In summary, these reports and studies illustrate the lack of definitional precision used in referring to the phenomenon of serious youth crime. Different studies use different definitions and, as a consequence, arrive at different estimates of the incidence of serious youth crime in particular jurisdictions. In part at least, this is a function of the different research purpose of the studies as well as the jurisdictional variations in legislation concerning the juvenile offender. At the same time, however, these reports are fairly consistent in suggesting that the relative proportion of serious juvenile-aged offenders in different jurisdictions is quite small, and is composed predominately of males at the upper limits of juvenile court jurisdiction, from inner city areas, and disproportionately of minority group youth.

RECOMMENDATIONS FOR ACTION

In common with the different emphasis placed upon definitional and incidence information, the different studies emphasize alternative ways of intervening with the target group youth. For example, one of the major findings of the Rand study was that no basis can be found to relate a specific set of treatments to a defined population of serious offenders and, further that insufficient data were available to support judgments about the relative effects of different treatment approaches. In addition, this report concluded that the important characteristics of relatively successful intervention programs stressed youth involvement, clear definitions of individual tasks and responsibilities, staff role models exhibiting fair, consistent and thoughtful behavior, and structured incentives and rewards.

Two of the recent reports completed in Minnesota came up with opposing program recommendations. The Supreme Court Study Commission, for example, recommended the Minnesota Department of Corrections' plan for providing additional programs and facilities to deal with the violent juvenile offender. In making this recommendation, however, the report did not support the construction of a special facility for such youth. In contrast, the Hennepin County Task Force strongly recommended the development of a secure facility for serious delinquent offenders.

In a similar vein, the report of the New York State Governor's Panel identified a need to develop small secure facilities for juveniles aged fourteen or fifteen who had committed violent acts. Placement in such facilities was recommended for a minimum of one year, followed by placement in less restrictive programs for up to two additional years.

A strikingly different program recommendation is contained in the report issued by the Vera Institute of Justice for the development of a "continuous case management" approach to dealing with the serious juvenile offender. This recommendation would involve a small group of staff—the case management team—assuming overall responsibility for offender assessment, development of formal placement recommendations to the court, referrals to post-dispositional treatment programs, and maintenance of ongoing placement monitoring as well as post-placement referrals. The case management team would provide few direct services, but instead would develop treatment contracts, organize and coordinate the necessary institutional and community services to be provided, and maintain liaison with the juvenile court. The explicit aim of such an approach is to provide a "single locus of accountability" for the development and provision of services to the serious juvenile offender.

To summarize, the different reports arrive at different conclusions about intervening with a population of serious juvenile offenders. Among the major intervention issues running through these reports are the different bases suggested for dealing with "serious juvenile offenders" as an internally homogeneous group with similar characteristics and needs as distinct from other juvenile offenders. Commonly complicating intervention issues is the question of prediction. Clearly, prediction lies at the core of the juvenile justice system and is a central issue in discussions regarding the serious offender. Both the arbitrary nature of defining the population of serious juvenile offenders, as well as the lack of evidence that any particular set of interventions are effective, place program administrators in the difficult position of attempting to deal with an undetermined

population with an undetermined set of interventions to accomplish the goals of protecting the public and aiding in the rehabilitation of the offender. This problem is crystallized in the development and operation of secure treatment facilities. While such programs are commonly designed for a specified population of youth, they commonly tend to operate as a back-up resource for other juvenile institutions. As a consequence, they frequently end up handling youth who cause management problems in those institutions. Furthermore, by their nature, such secure facilities are likely to become problematic because of the restrictive area available for the confinement of offenders. At the same time, community involvement in the program is impractical because of the small size of the program, the security requirements, and the common practice of locating such facilities at considerable distances from the home community of the youth.

ORGANIZATION OF THE PUBLICATION

The major focus of this publication is on the phenomenon of serious youth crime as committed by youth variously defined as having committed serious juvenile offenses. The papers in this volume are arranged by topic area. The first two papers raise the central themes which run throughout the remaining parts of the book. The next three papers deal with the treatment and control of the serious juvenile offender both within an institutional context and in the community. The subsequent four papers describe specific ways of intervening with serious juvenile offenders in different jurisdictions around the country. The final three papers address specific research, program, and statutory developments which directly bear upon the aims and practices of the juvenile justice system in relation to the serious offender.

AN OUTLINE OF THE PAPERS

The papers in this volume are concerned with serious youth crime—the extent, character, and interventions designed to deal with it. Collectively, these papers summarize a great deal of what we know, identify major gaps in our knowledge, and propose new directions for research and programs. The papers by Franklin Zimring and John Conrad provide an overview of the variety of issues involved in identifying and dealing with serious youth crime. Zimring's paper provides a context for defining the nature and size of serious youthful criminality, while Conrad frames the variety of issues associated with intervening with the juvenile offender and then proceeds to discuss major alternative responses for dealing with this population.

More specifically, Zimring deals with four major themes. First, in relation to the set of issues associated with defining a population of serious juvenile offenders, he suggests that any definition of "serious juvenile crime" is relative, and, in this sense, essentially arbitrary. Different methods of arriving at such a definition will produce different results. For Zimring's purposes, however, criminal activity which poses a threat to the physical security of the individual can be regarded as serious. Obviously, this definition is inclusive and subject to the victim's definition of the criminal incident. Secondly, Zimring identifies the nature of the empirical information available on the incidence of youth crime and the variety of validity and reliability problems associated with it. In this connection, he notes that according to official statistics, the rate of serious youth crime in America increased substantially between 1960 and 1975 and was concentrated among urban, minority group males. Given the expected decline in the population of youth in American society over the next fifteen years and extrapolating from current youthful offender crime rates, a decline in such behavior can be expected. Likely to at least partially offset this expected decline, however, is the anticipated rise in the urban nonwhite, juvenile-aged population.

At the same time, however, Zimring notes that officially recorded criminal incident data must be regarded as highly suspect, and vulnerable to such validity and reliability problems as: (1) a changing sampling base over time; (2) the lack of adequate quality control procedures; (3) variable clearance rates for youth crime as compared to crimes committed by adults; and (4) the crude nature of the offense categories in use. As a consequence of such deficiencies, Zimring suggests that official statistics are essentially useless for either research or policy purposes. Finally, Zimring notes that more extensive basic research is needed, and identifies some specific research questions about the phenomenon of serious or violent youth crime.

The paper by John Conrad eloquently describes the changing nature of the juvenile justice system, especially in terms of the various demands placed upon it relative to dealing with serious youth crime. As Conrad sees it, the central issue in dealing with serious juvenile offenders is one of protecting the public while refraining from further damaging youth through state intervention. In this respect, Conrad identifies four major responses which either have been, or potentially could be, used in intervening with serious youth offenders: (1) binding-over into adult criminal court jurisdiction; (2) mandatory sentencing within the juvenile system; (3) the use of small, high security institutions for identified categories of serious youthful offenders; and (4) the more extensive use of purchase-of-service contracts with private programs. It is this latter approach which Conrad sees as holding the greatest promise because personnel practices can be more easily adjusted to the situational demands of the youth being served, flexibility for program intervention is increased, and political constraints are less confining.

The next three papers in this volume deal with approaches and methods of intervening with serious youth offenders. The paper by Jerome Miller provides a context within which to view the more specific set of institution and community interventions identified in the subsequent papers by Donna Hamparian and Ray Tennyson. Miller suggests that the diagnostic categories and intervention procedures used in labeling and dealing with law violators are a direct function of the cultural context in which they are applied. Accordingly, he argues that it is necessary to understand this context in order to begin to deal with the major issues associated with serious youth crime. Miller takes this point further in his discussion of the reciprocal relationship he sees as existing between the processes of diagnosis and treatment. Our diagnosis, he suggests, result from the set of intervention activities to be applied, and the converse is also the case. Miller argues that an underlying assumption of the systems which deal with youthful social deviants is that they are qualitatively different from the rest of the population. The specific sense in which they are seen as different —"sinner," "possessed," "psychopathic," or whatever—is, in turn, a function of the dominant ideologies of the larger culture. Finally, Miller suggests that our present attempts at dealing with the serious juvenile offender are doubly deficient—lacking an understanding of the problem to be addressed and using unimaginative and inadequate treatment technologies.

Among the other points raised by Miller are the small proportion of juvenile offenders in the population of state training schools who have been committed for the commission of serious offenses, the narrowness and rigidity of juvenile corrections programs, and the common requirement that youth adjust to the treatment being provided or risk being labeled a management problem and thus escalated by the system to more secure corrections programs. This point raises a central issue involved in developing and operating more intensively secure programs for a special category of serious youth offenders: Do such programs inevitably begin to operate as "dumping grounds" for youth who fail to appropriately adjust in other parts of the corrections systems? Recent experience in Minnesota lends weight to Miller's thesis. Implications of this for the ongoing viability of the secure treatment program are serious and potentially lead to the self-reinforcing effects of negative labeling. In this respect, Miller echoes Conrad's discussion of youth raised by the state in unlawful institutions.

The papers by Donna Hamparian and Ray Tennyson add further support to the points made by Conrad and Miller that our present ways of dealing with the serious juvenile offender--both within corrections institutions as well as in the community—are sadly deficient. We simply do not seem to know what to do with such youth. While Hamparian focusses her remarks specifically on current systems of incarcerating serious juvenile offenders, and Tennyson focusses his on programs designed to deal with this group of offenders in the community, both strongly suggest that the current status of such efforts are poor. At the same time, however, both writers offer some tentative directions for change. Among those suggested by Hamparian are the use of determinate sentencing for juveniles; greater use of the public sector in the delivery of services; research directed at assessing the effects of statutory changes aimed at dealing with young people; and an improved community aftercare system.

Assuming that some type of control response by the community is necessary, Tennyson suggests a host of alternatives to our present practices of dealing with the serious juvenile offender within the community context. Among those

suggested are pre-parole institution contacts with parole officers and significant other people in the youth's life, parent groups, summer educational camps, and the use of financial incentives for refraining from committing delinquent acts.

An implicit assumption running throughout Tennyson's paper is the relative ineffectiveness of current transition and aftercare efforts in dealing with serious youthful offenders. Parole practices are not seen as providing either public protestion or individual treatment. The explicit rationale for parole is viewed as essentially irrational. For example, questions can be raised about the logic of expecting that one relative stranger, defined and perceived to be an authority figure, holding significant power over the life situation of a parolee, and meeting with him/her for up to a few minutes a week, can be expected to have a significant impact on the attitudes and behaviors of the youth. The outcome evidence in this regard is fairly clear and seems to suggest either the termination or the radical re-definition of conventional parole supervision.[8] Given the growing dissatisfaction with parole supervision, some of the alternative forms of transition programs discussed by Tennyson may well play a more central role in the future.

The next four papers in the volume focus upon particular types of program responses to the serious juvenile offender. The first three papers are written by directors of state juvenile corrections agencies—Peter Edelman from New York State, Kenneth Schoen from Minnesota, Samuel Sublett from Illinois. The final paper by Shirley Goins presents the central framework of an intensive community treatment program for serious youthful offenders in Chicago.

A number of common themes run through these papers: perceptions of the growing public demand for the imposition of more severe penalties for the population of serious juvenile offenders; involvement of the private sector through purchase-of-service contracts with public agencies; and general support for the traditional juvenile justice precepts of individualized treatment.

All three administrators note the relatively small number of juveniles in their agencies who have been committed on the basis of violent or chronically repetitive offenses. For example, Schoen notes that only sixty to seventy juveniles in Minnesota could be expected to meet the criteria established for a new program response to serious juvenile offenders. Edelman notes that largely as a result of New York legislation setting the upper age limit for juveniles at sixteen, the number of serious juvenile offenders in that state is relatively small. At the same time, however, both of these administrators describe the growing pressures to do something about more effectively controlling what is perceived by members of the community as a growing menace. As a consequence, correctional administrators appear to find themselves in the terrible position of attempting to at least partially meet public demands while remaining in the traditions of the juvenile court system. While these administrators place different emphases upon the need to retain central ingredients of the juvenile justice system, they do indicate a continued support for the role of individualized treatment provided according to the needs of the youth. Where they most obviously differ is in respect to how services should be structured and delivered. For example, Schoen is strongly against the notion of specialized secure institutional programs for juveniles, while Edelman supports such facilities in his state. Like Miller, Schoen sees such specialized programs as inevitably susceptible to corruption.

The use of purchase-of-service contracts with private agencies for the delivery of services to juveniles is strongly supported and is a central ingredient in the programs described by Schoen and Goins. Vendor relationships between public and private agencies are seen as one way to deliver more individualized services to the offender. This point is also made in the papers by Conrad, Hamparian, and Miller. A crucial problem with contracting for services, however, is the availability of the needed diversity of programs. Another is the question of the availability of needed services in proximity to the youth and the family. Goins notes that needed services have not always been available from established agencies in the Chicago area and that the development of new agencies has, therefore, been encouraged. Whether such services would be available on a statewide basis seems to be even more unlikely. Furthermore, the key assumption of such an approach (that we are able to "fit" specific types of treatments according to individual needs) would seem to be a rather dubious one. Both the evidence in support of such a practice as well as the inherently inequitable nature of individualized treatments, leaves it open to major questions.

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As opposed to generally supporting the idea of individualized treatment, these writers take slightly different stands about some kind of determinate sentencing for serious youthful offenders. Both Edelman and Sublett are against flat sentencing, while Schoen seems to support the use of such a practice. In this connection, he suggests that some kind of just deserts approach will be an important ingredient of the Minnesota case management method for dealing with serious juvenile offenders. Quite clearly, flat sentencing schemes go against the very foundation of the *parens patriae* doctrine of the juvenile court. As soon as a shift in emphasis is made from dealing with youth on the basis of individual needs to dealing with them on the basis of punishments related to the crime committed, the traditional system of juvenile justice is brought into major question.

The final portion of this volume contains papers by Barry Feld, John Monahan, and Marvin Wolfgang, each dealing with specific legal and research questions bearing upon the serious juvenile offender. Feld identifies major types of waiver procedures and discusses the variety of issues associated with transferring a juvenile for adult prosecution. Wolfgang's paper addresses the question of the extent to which serious delinquent activity is continued into adult criminal careers, while Monahan focuses upon the present state of making predictions—by whatever means—about the probability of individuals committing violent offenses.

The central question raised in different ways in each of these papers is: On what bases and with what procedures as used by what officials should we attempt to distinguish between the serious or "hard-core" and the non-serious juvenile offender? While each of these writers attack this set of questions from a different perspective, then tend to converge in a desire to limit the exercise of administrative discretion and to replace it with legislatively articulated procedures, criteria, and sanctions.

Feld's paper looks at existing judicial, prosecutorial, and legislative waiver mechanisms for transferring juvenile offenders into adult court. Problems endemic to each of the transfer mechanisms are identified, and Feld concludes by arguing for a "reference matrix" to be used in identifying those youth to be certified into adult court.

Monahan's paper deals with a key ingredient of the rehabilitative aims of the juvenile justice system—the prediction of future behavior. More specifically, Monahan reviews the present state of research on the prediction of violent behavior and proceeds to discuss some of the major implications of these findings for the juvenile justice system. Monahan's discussion of the two major types of predictions (clinical and actuarial) raises some disturbing points for the justice system: the danger of overpredicting violence; the need to make explicit the actuarial or clinical criteria in use; the questionable fairness of using relatively enduring characteristics of youth for predictive purposes. In place of the juvenile justice system's concern with predicting future behavior and individualizing treatments in relation to such estimates, Monahan argues for a system of just deserts. The effect of such a practice would essentially amount to dealing with offenders on the basis of what they have done rather than on who they are. Clearly, such an approach does not necessarily imply that we should stop attempting to predict future behavior and coercively attempting to change it. Therapeutic procedures of a non-coercive type are not necessarily precluded from a model of just deserts.

The final paper by Marvin Wolfgang examines questions about the extent to which juvenile offenders continue criminal behavior into adulthood. On the basis of a more extensive follow-up of the cohort of males born in Philadelphia in 1945 and who lived in that city from at least their tenth to their eighteenth birthday, Wolfgang is able to present some detailed findings on the relationship between juvenile and adult criminal behavior. Among the major research findings reported by Wolfgang are the following:

Most adult offenders had an arrest record as a juvenile; only a small proportion of the cohort group had an arrest record only as an adult.

Most juvenile offenders—and especially white offenders with only one or two arrests—are not rearrested as adults.

As the age of offenders increases up to thirty, the seriousness of offenses also increases.

There is an extremely high probability that after a fourth offense, the offender will recidivate.

Proportionately many more nonwhites than whites are involved in serious juvenile and adult criminal behavior.

While it is tempting to generalize the findings reported by Wolfgang to other times, locales, and populations, such extrapolations are not technically warranted. The circumstances unique to the cohort born in that place and at that time, by definition, distinguishes them from other youth. The crucial issue is the extent to which they differ, and only further replications of Wolfgang's research will begin to provide us with an answer.

A major policy implication of Wolfgang's research is the need to concentrate our juvenile justice resources on those juvenile offenders found to have committed multiple serious offenses. Because those juveniles adjudicated for three serious offenses had an extremely high probability of further delinquent or criminal involvement, it then follows that the greatest proportionate reduction in criminal activity can potentially be achieved by concentrating our limited resources on this group. The major problem with this approach, as Wolfgang is well aware, is the sad state of our interventions. At a minimum, however, Wolfgang sugests that a system of just deserts, based upon a cumulative level of offense seriousness, is the direction in which to move.

FOOTNOTES

[1] Dale Mann, *Intervening With Convicted Serious Juvenile Offenders* (Washington, D.C.: National Institute for Juvenile Justice and Delinquency Prevention, 1976).

[2] Paul A. Strasburg, *Violent Delinquents* (New York: Vera Institute of Justice, 1977).

[3] Governor's Panel on Juvenile Violence, "Report To The Governor From Kevin M. Cahill, M.D., Special Assistant To The Governor On Health Affairs," panel report (Albany, N.Y., 1976).

[4] Marvin E. Wolfgang, Robert M. Figlio, and Thorsten Sellin, *Delinquency In a Birth Cohort* (Chicago: University of Chicago Press, 1972).

[5] Supreme Court Juvenile Justice Study Commission, *Report to the Minnesota Supreme Court* (Minneapolis: University of Minnesota, 1976).

[6] Children and Youth in Crisis Project, *The Violent and Hard-Core Juvenile Offender in Hennepin County* (Minneapolis, 1976).

[7] *Alternative Definitions of "Violent" or "Hard-Core" Juvenile Offenders: Some Empirical and Legal Implications* (St. Paul: Governor's Commission on Crime Prevention and Control, 1977).

[8] See, for example, some of the research conducted on different sized case loads or different amounts of parole supervision: James Robison et al., *The San Francisco Project; Final Report*, Research Report Number Fourteen, April, 1969; State of California, *Special Intensive Parole Unit; Phase One, Thirty-Man Caseload Study*, Division of Adult Paroles, December, 1958; Joan Havel, *Special Intensive Parole Unit; Phase Four, The Parole Outcome Study*, Research Report Number Thirteen, State of California, Research Division, Department of Corrections, September, 1965; Reed Adams and Harold J. Vetter, "Probation Caseloads Size and Recidivism Rate," *The British Journal of Criminology*, October, 1971; Stuart Adams, "Some Findings From Correctional Caseload Research," *Federal Probation*, December, 1967; Joe Hudson, An Experimental Study *of the Differential Affects of Parole Supervision For a Group of Adolescent Boys and Girls; Summary Report* (Washington, D.C.: Law Enforcement Assistance Administration. 1973).

The Serious Juvenile Offender: Notes on an Unknown Quanity

(By Franklin E. Zimring)

All societies fear their young, and all but the most successful traditional or totalitarian social orders have good reason to be afraid. In the United States, risk-taking, rebellion, and the conscious violation of social norms are part of the rites of passage for the adolescent. Some criminal activity on the part of the young is almost universal in the transition from adolescence to adulthood. Most adolescent crime is not serious, not repetitive, and not predictive of future persistent criminal careers. Some adolescent criminality is serious, repetitive, and predictive of future criminal activity. This paper explores the concept of "serious juvenile crime." The underlying theme is that definition in any precise terms is not possible, but whatever one's definition of "serious" or "juvenile," the serious youthful offender represents a small but increasing portion of the youth population. The serious young offender, whoever he or she may be, is a special problem, both because of the severity of the criminal harms inflicted and because of the special and tragic choices that serious youth criminality imposes on the legal structure.

The first section of this paper explores some definitional issues involved in the discussion of serious juvenile offenders. The second section discusses the limited information available on patterns and trends in serious youth criminality from official arrests statistics. The third section discusses the limits of

official statistics on youth arrests as a basis for discussing serious juvenile crime. The fourth section suggests four critical issues that future research efforts must address before significant progress can be expected.

I. TOWARD A DEFINITION OF THE SERIOUS JUVENILE OFFENDER

Crime in the United States is primarily the province of the young. Males between the ages of thirteen and twenty-one comprise about 9% of the population, but over half of those arrested for serious property crimes and more than one third of those arrested, are classified by the police as "violent" crimes.[1] The proportion of young people involved in serious and violent crime has been growing because rates of offenses among the young have been growing faster than the youth population.[2] Any discussion of the serious juvenile offender requires an investigation into what law and culture regard as "juvenile" crime, as well as some analysis of the thorny issue of how "seriousness" is to be measured.

Juvenile crime is not a species of behavior restricted to a particular age group, nor is it etiologically different from all other forms of crime; rather, it is the invention of the legislature in the fifty-one jurisdictions in the United States that create boundary ages between juvenile and adult courts. Crime is concentrated in the adolescent years—sixteen is the peak year of arrest for property crime such as auto theft, larceny and burglary, while eighteen is a less dramatic peak for arrests on charges of violent offenses such as rape and robbery. How many offenses and how many offenders are classified juvenile depends upon the age border between juvenile and criminal court jurisdiction adopted by particular jurisdictions. At present, the maximum age of juvenile court jurisdiction ranges from an offender's sixteenth birthday in New York and a few other states, to the nineteenth birthday in Wyoming; the majority of the states using the age of eighteen. When the jurisdictional vagaries of the juvenile court are matched up against patterns of criminality during adolescent years, it is clear that the serious juvenile offender is not far removed from the serious young offender in criminal courts. The decision to divide and age-segregate groups is a legislative one, largely arbitrary in the states, and not the basis for an etiologically differentiated criminology based on the magic word "juvenile."

If the definition of juvenile criminality is largely arbitrary, the definition of serious crime invites the analyst to embark on a difficult and ultimately illusive search for an acceptable standard of severity. The theft of a bicycle or a dog is a relatively minor event in the ongoing business of an urban society—unless it's my child's bicycle or my family's dog. The burglary of a dwelling is a frequent event in American life, perhaps shrugged off by husbands, if the property loss is minor, but regarded more seriously by wives, if the security of the home setting is invaded. One notion of the seriousness of offenses is the degree to which the individuals involved feel a sense of loss as a result of the infliction of criminal harms. This is a totally subjective definition, necessarily imprecise, and incapable of being quantified into a scale that can mesh the victim's sense of the severity of crime with statistics on the incidence of crime and arrest in any aggregate measure.

In contrast, there is a somewhat more objective definition of seriousness available in the general social view of what people, in the abstract, regard as serious crime. This concept, animating several recent efforts to "scale" seriousness of criminality,[3] is both subjective and objective. It is subjective in that it takes the abstract conceptions of several different interest groups as the baseline for measuring the severity of crime. Thus it depends upon the collective judgment—in a subjective form—of particular audiences to define the seriousness of crime in a particular cultural context. Yet it is objective in the sense that it involves a large segment of relevant publics—not simply victims of particular crimes—and thus can be seen to represent a cultural consensus about the seriousness of particular offenses. Such scaling efforts are useful in a general sense, to separate the serious from the trivial, but they cannot provide precise lines between serious and non-serious criminal acts, nor can they be relied upon to provide a precise cultural consensus on what constitutes serious crime.[4]

A third method of defining serious crime is the "value informed" selection of serious offenses. In my own view, offenses involving substantial threats to life or to a sense of personal safety and security are more serious than the burglary

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of unoccupied dwellings, most forms of vandalism, and the vast majority of all larcenies. In making that judgment, however, one must rely on one's own judgment about the relative severity of offenses. Such "value informed" choices ultimately involve the priorities of those who are discussing either serious offenses or serious offenders. Basically this is undemocratic because it does not rely on the social consensus involved in the scaling efforts derived from survey research that provide a mixed subjective and objective view. This process also leads to radically different definitions of seriousness, depending upon who is in charge of definition. Such an approach is, however, superior to scaling efforts in two respects. First, to the extent that official statistics can be utilized, a value informed choice of seriousness that concentrates on violent offenses is easier to translate from the aggregate pattern of arrests into a general portrait of the serious youthful offender. Second, concentration on life-threatening forms of violent crimes state an appropriate priority scheme for any system of sanctions, in juvenile or adult courts, that is designed to protect first things first. On present information, it cannot be argued that life-threatening attacks between blacks is accorded the kind of penal priority that I would wish it to have.[5] But it can be argued that criminal acts by the young that involve threats to the life of their victim are a special category of criminal activity that should be separately analyzed in the construction of social policy toward young offenders.

What then is serious? To the victim, anything with special impact on his/her life. To the general public, anything that sounds serious. For the purposes of this paper, the particular forms of adolescent criminal activity that involve serious threats to life or a sense of physical security of victims and potential victims of violent crime will be the focus of attention. If this pattern of value selection is imprecise, it can be defended because any definition of seriousness in the context of juvenile crime is equally imprecise. Imposing personal values on the search for a standard of seriousness is no less arbitrary than imposing the values of various sub-publics in scaling exercises. It is also, in my view, superior to totally subjective judgments that rely upon victim perceptions.

II. PATTERNS, TRENDS, AND CONCENTRATIONS—A LOOK AT OFFICIAL STATISTICS

Any balanced analysis of serious crime among the young must conclude that it is concentrated in urban areas, concentrated among males, and concentrated among minorities. Table 1 below shows the concentration of F.B.I.-classified violent crime in urban areas.

TABLE 1.—SERIOUS CRIME BY CITY SIZE, UNITED STATES, 1975 (AGES 15-20)

[Arrests per 100,000]

	250,000 city size	All other areas	Ratio of city/other
Homicide	21.3	6.7	3.2
Rape	55.5	19.9	2.8
Aggravated assault	396.0	187.0	2.1
Robbery	678.0	110.0	6.2

Source: F.B.I. Uniform Crime Reports, 1975.

TABLE 2.—ARREST RATES FOR PERSONS UNDER 18[1] YEARS OF AGE BY OFFENSE AND SEX (EXCLUDING RAPE), 1975

	Male	Female	Male/female ratio
Homicide	3.6	0.4	9.0
Robbery	111.7	9.3	12.0
Aggravated assault	76.8	15.0	5.1

[1] Data not available for 18-20 years-olds.

Source: F.B.I. Uniform Crime Reports, 1975.

NOTE.—Table 2 shows the concentration among males.

Note: Footnotes at end of article.

Table 3 shows, for crimes of violence, the extreme concentration among racial and ethnic minorities using as an example the ratio of black to white arrests per 100,000 young males in five American cities.

TABLE 3.—*Ratio of Black to White Arrest Rates, per 100,000 Youths, by Crime in Five Cities* [1]

Ages 15–20:	
Homicide	7.2
Robbery	8.6

[1] Boston, Chicago, Cleveland, Dallas, Washington, D.C.

Source: Zirming, "Crime, Demography and Time in Five American Cities," (forthcoming).

Table 4 shows the increase in adolescent violent crimes as estimated using police arrest statistics between 1960 and 1975 reported in the *Uniform Crime Reports.*

TABLE 4.—ARRESTS BY CRIME FOR PERSONS UNDER 21, ADJUSTED FOR CHANGES IN CLEARANCE RATES, 1960–75

	1960	1975	Percent increase
Homicide	973	4,891	403
Rape	3,064	11,500	275
Robbery	15,141	106,806	605
Aggravated assault	12,342	77,968	532

NOTE.—The 1975 arrest data was adjusted to reflect decreases in the clearance rates from 1960 to 1975 for the indicated offenses using the following formula:

$$\text{Adjusted arrests, 1975} = \frac{\text{1960 Clearance Rate}}{\text{1975 Clearance Rate}} \times \text{Arrests 1975}$$

The urban clearance rates for 1960 and 1975 are used in the formula since urban clearance rates closely reflect rural and suburban rates, and since urban arrests make up the vast majority of total arrests. Federal Bureau of Investigation, *Uniform Crime Reports*, 1960; Federal Bureau of Investigation, *Uniform Crime Reports*, 1975, Table 21.

To the extent that official statistics portray reality, violent youth crime has increased substantially, and the increase remains substantial when controlled for the increase in the general youth population and the changing racial mix of the American center city. These increases in rates of criminality have occurred during a period that also produced increases in the total youth population and an expansion of the youth population of urban nonwhite males.

If current trends are projected into the future, the forecast is both good and bad news. The good news is that the general youth population will decline over the next fifteen years. Those crimes that are democratically distributed among the youth population will therefore probably decline. Such offenses include vandalism, burglary, non-life-threatening assault, larceny, auto theft, and offenses against public morality and order. Only a sharp increase in the rate per hundred thousand of such youth offenses can offset the coming decline over the next fifteen years. Those crimes that are democratically distributed among the youth population will therefore probably decline. Such offenses of such youth offenses continued to accelerate at its 1962–75 pace, the volume of many of these offenses could actually increase. Such an acceleration is improbable. More likely is a leveling or a decline in youth crime.

The bad news would concern those violent crimes that are concentrated among minority populations in urban areas. The urban, nonwhite adolescent population in the United States will grow during the next few years, and then level off during the period between the mid-1980's and 1990's.[6] Rates of violent crime concentrated among minority populations cannot be expected to decline as a simple function of the decrease in the youth population most prominently at risk for these offenses. However, the volume of violent criminality are extremely rate sensitive. Whatever led to the apparent rise in the rate of violent crime could plausibly be a part of a cyclical patterns where

Note: Footnotes at end of article.

crime rates decrease among a stable population. The large, unexplained, and still tentative decrease in violent crime which has occurred in many cities since 1974 may or may not be a hopeful augury for future rates of youth violence.[7]

Despite the problems associated with drawing inferences from official statistics, there is little doubt that the 1960–75 increases in the volume of violent youth crime and the rate of extremely serious youth crime are real. Independent studies of police offense reports, as opposed to aggregated police statistics, show dramatic increases in youth homicide and robbery where police statistics can be used as decent, if imperfect, measures of trends in youth criminality. With respect to homicide, conscientious attempts to control for the changing nature of the population, the tendency for police to make multiple arrests in cases of young offender violence, and the vagaries of age-specific arrest reporting by police departments reveal a residual increase in serious offenses by the young of compelling dimensions.[8] It is difficult to generalize from these studies of particular cities any specific estimate of how much of the apparent increase in serious youth crime nationally is genuine. The increases noted during the fifteen years from 1960 through 1975 and the spotty pattern of decrease first appearing in 1975 remain largely unexplained.

It is the thesis of this paper that continued reliance on police arrest statistics instead of on basic research would make the prospects of further enlightenment dim. To illustrate this point, Section III addresses some of the severe limitations of police statistics for interpreting trends in youth criminality. Section IV outlines some vital scientific and policy questions that must be addressed before the social science community can have a useful portrait of the violent young offender.

III. THE LIMITATIONS OF OFFICIAL STATISTICS

The most concrete demonstration of the weakness of depending on uniform crime reports as a data base on youth crime comes from asking a set of straightforward empirical questions about youth criminality which official statistics cannot answer. Any serious student of violent youth crime would wish to know:

a. How many intentional homicides were committed by offenders under eighteen in 1960, 1965, 1970, and 1975?

b. How many armed robberies are attributable to offenders under the age of eighteen over the same historical time series?

c. How many gun and knife assaults were committed by offenders under the age of eighteen last year or twenty years ago?

The remarkable thing about America's system of reporting crime statistics is none of these questions can be answered from available aggregate data. This is not simply a function of the historical inadequacy of the *Uniform Crime Reports*. None of the above data will be available when the next edition of the *Uniform Crime Reports* appears.

Some of the defects in using official age-specific arrest statistics are well known; others are less widely recognized. It is well known, for example, that estimating youth crime rates from arrest statistics is misleading, because young offenders are more often arrested in groups, and an extrapolation from arrest statistics to crime statistics would thus substantially overestimate the number of offenses committed by young offenders. It is also known that age-specific arrest statistics are based on a sample, rather than the total population of arrests in the United States. Less widely known is the fact that the sample of jurisdictions used to construct an age-specific profile is a shifting one, and in some instances year-to-year changes that appear to be dramatic indicators of shifts in youth crime are actually attributable to changes in the jurisdictions sampled. In recent years, a shift from yearly to monthly age-specific reporting produced an artificial emphasis on city arrest statistics in 1974 that inflated the trends attributable to 1973–74, and created a situation where 1974–75 trends may have been moderated by the changing nature of the sample.[9]

The well-known defects in official arrest statistics pale in comparison with less widely advertised flaws. Age-specific arrest statistics are unaudited data accepted by the F.B.I. rather than subjected to any kind of rigorous quality control. For example, age-specific arrest statistics for St. Louis, Missouri in 1960 reported adult arrest and crime rate approximating those of other major

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cities, but reported arrests of offenders under twenty for robbery and burglary that were, when controlled for population, roughly one-tenth those experienced in comparable jurisdictions.[10] By the time the error was detected, sixteen years later in an independent effort, it was too late to find out whether:

a. the St. Louis Police Department had simply missed a digit in reports for robbery and burglary arrests;

b. the Department had intentionally under-reported them; or

c. the Department had found a cure for youth criminality that eludes so many other major metroplitan areas.

Lack of auditing casts doubts on the veracity of age-specific arrest statistics not only in St. Louis, but also in many other cities reporting data that are poured into the aggregate sample reported by the Federal Bureau of Investigation each year.

A more subtle problem is estimating the detection or clearance rates for young offenders. In many cases, this rate may exceed those for older persons, and thus artificially inflate the role of young offenders in particular criminal acts. For example, sixteen year-olds are roughly five times as likely to be arrested for auto theft as twenty-one year-olds. To some extent, this is an indication of a higher crime rate among younger adolescents. But it also must be recognized that an inexperienced sixteen year-old driver is a far easier detection candidate than a twenty-one year-old who has more familiarity with the basic skills of driving and a greater ability to elude arrests for traffic offenses that frequently lead to the auto theft charge.

All of these problems are compounded by the fact that the publicly available data on age-specific arrests are aggregated samples of cities that experience widely different patterns and trends in youth arrests. The portrait presented of crime-specific arrests "by age" for cities is an amalgamation of many different cities with different trends; this national sample assumes that all cities combined on a weighted average basis are the appropriate unit for analysis and research on youth crime. There is no obvious reason to believe that this assumption is correct.

Finally, age-specific arrest statistics are reported only by general categories of events. In the crucially important and high volume arrest categories of aggravated assault and robbery, there is no way to distinguish gun from knife from unarmed robbery, and no mechanism available in the aggregate statistical analyses to tell the difference between fist fights and shootings.[11] In these two categories of offenses against the person, the variance within crime categories is as important or more important to intelligent scientific research and policy planning than the variance between these offenses and other index crime.[12]

The impact of these deficiencies in official arrest statistics on their use as scientific tools is not accretive, it is cumulative. Lack of auditing alone would be sufficient reason for severe skeptism in the social science research community. The long, still incomplete list of statistical difficulties cited above is a devastating critique of the use of aggregated official age-specific statistics as a basis for scientific research on the profile of the serious juvenile offender.

Many of the difficulties listed above are curable through reform of the methods by which age-specific arrest statistics are collected, audited, and reported. It is important that such cures to a serious disease be pursued with deliberate speed. Yet, the extraordinary unreliability of age-specific arrest statistics may be a blessing in disguise. No matter how much aggregate national statistics on arrest can be improved, they cannot be used as a primary research tool to answer vital scientific and policy questions about the extent and seriousness of youth criminality. The important questions are questions for research using official records and self-report studies, rather than the subject matter for sophisticated manipulation of highly suspect data. To some extent, this is rendered obvious by the flaws in our present official reporting system. However, the need for careful multi-method research is inherent in the nature of the questions that must be addressed about the serious juvenile offender. The sad state of official statistics only makes more obvious what is in any event imperative. Investment in basic research—a long, slow, and expensive process—is a necessary, if not sufficient, condition to comprehending the realities of serious youth crime in diverse American settings.

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IV. IMPORTANT QUESTIONS WITHOUT ANSWERS

This section presents an incomplete but significant list of issues for research in the etiology, concentration, and control of serious youth criminality. The four issues highlighted here are by no means an exhaustive list of the questions that social and policy scientists should be addressing through careful, replicative, and expensive studies.

a. How concentrated is youth criminality?

b. What are the social, criminal justice, and age settings that predict multiple episodes of serious criminality?

c. What is the duration and intensity of careers in violent crime among different types of youth offenders?

d. What is the extent to which variations of social control responses to serious youth crime can be expected to effect:

(1) The crime rate among young persons at risk, and

(2) The general crime rate in the community?

Despite our capacity to orbit men in space, we in the United States know less about these issues than the Norwegians, the Danes, and the English. But the questions are more important in the American context, because rates of criminality are higher and the costs of serious youth crime, particularly in large cities, are incalculably greater in the United States than in any other western democracy.

A. The concentration of criminality

In strict logical terms, groups do not have crime rates. To speak of blacks, males, sixteen year-olds, or any other aggregate population that share a common demographic quality as having a "crime rate" is misleading. It is particularly misleading because the labels described above are an incomplete and dangerously misleading portrait of the actual distribution of serious youth criminality. A primary task of research on the concentration of serious youth crime is to disaggregate the macro-variables used in common discussions and to examine gross variations that exist within demographically similar groups with different rates of criminal activity.

In logical terms the search for the answer to the question, How concentrated are crime rates? would lead to the individual level. But in policy terms the key question is, How many young offenders and what proportion of the population within larger subgroups are responsible for how much reported serious youth criminality? It is clear that simply combining sex, age, race, and socio-economic status is a dangerously incomplete method for addressing the real concentration of youth crime. Any such limited approach both overstates the general propensity toward crime among the group under study, and understates the concentration of offensivity among particularized subgroups aggregated into this larger whole. At a minimum, geographic and more refined social status and achievement measures must be added to the creditable cohort studies initiated in Philadelphia. My suspicion is that intensive research will find the distribution of the most serious forms of criminal activity concentrated in areas or zones far smaller than the macro-demographic characteristics that have been used in crime research now indicate.

The heart of the matter is discovering whether and to what extent there is a criminal class in the United States, and exploring the social, geographic, educational, and peer-structure origins of the conditions which lead to high concentrations of violent criminality. These questions are more important now than at any time in this century. Yet most of the good research that would provide insight on this topic is dated. The Shaw and McKay studies pointed social science in the right direction almost fifty years ago.[13] The Philadelphia cohort study is also of great value in framing and answering questions relating to the concentration of criminal activity within the youth population, yet even this most important modern study dealt with a sample of subjects who turned eighteen when rates of violent youth crime were less than half the current levels.[14]

B. Breeding grounds for crime

In a general sense, much is known of the correlates of violent juvenile and adult criminality. Poverty, minority status in the context of racial discrimina-

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Note: Footnotes at end of article.

tion, the value orientations of particular youth cultures, and the institutions and values surrounding youth populations are importantly correlated with the propensity toward violent crime.[15] The difference between correlation and causation is, however, an important one. Moreover, the kind of general insights available in the present literature are too crude either to predict or to explain why some subgroups of the population have extremely high rates of violent youth crime. If poverty alone breeds crime, particularly violent crime, one would expect that the violent crime rate, historically, would be much higher than official statistics indicate, and that violent crime rates would have decreased over the past decade.[16] If the relevant measure of poverty is relative rather than absolute, we must search for an appropriate measure of relative deprivation and find plausible ways of explaining why relative deprivation leads to violent crime among only a minority of the most deprived.

The search for correlates, predictors, and ultimate causes of serious youth offensivity is no less necessary because it is difficult and frustrating. If violent youth crime is extremely concentrated, it necessarily follows that the social, cultural, demographic, and geographic settings that differentially predict rates of serious crime are a combination of pathological ingredients that occur with relative rarity in the American city. The broader the distribution of violent criminality among urban populations, the more likely it is that a relatively short list of corollary conditions can explain variations in the rule of violent youth criminality.

Studies of the causes of crime and delinquency are frequent, and calls to intensify the search for the community and individual correlates of violent crime might strike the reader as banal repetition of a 1940's social science homily. Yet however long the list of contributions to understanding what contributes to different rates of crime and delinquency, the present research base is totally incapable of explaining the expansion of violent crime rates that has occurred over the past fifteen years, and would have been totally incapable of predicting such a course of events in 1960.[17] Predicting trends in youth criminality is dependent upon producing a plausible model of the conditions that foster crime that can explain to some extent what has happened in American cities over the past fifteen years and why.

C. The duration and intensity of violent criminal careers

Future criminal behavior is notoriously difficult to predict. At the same time, there is public policy emphasis on identifying (and incapacitating) "career criminals." Yet, surprisingly little is known about the duration and intensity of the careers in violent crime.[18] The questions are clear: When do adolescents turn to violent crime? Is there any pattern of specialization associated with a violent young offender or is there frequent crime "switching?" What is the frequancy of commission of violent crime for those young offenders who commit such acts? How long do violent young offenders persist in committing offenses? A combination of self-report and cohort studies is needed to begin to answer these questions. One of the most important contributions of these studies will be a shift in focus from "the violent young offender" to the variety of different types of violent offender who may have importantly different criminal careers.

D. Does social control make a difference?

After a long period of neglect, social and policy scientists have begun to address the issue of measuring the deterrent and incapacitative effects of punishment. To date, the scientific results have been mixed. Relatively fancy statistical and operations research modeling have been applied to relatively crude data. But the potential exists for meaningful explorations into the impact of general deterrence and of incapacitation on crime rates.

The rekindled interest in deterrence and incapacitation has so far been confined to the study of sanctions delivered by the criminal courts.[19] The impact of variations of social control strategy on juvenile offenders is a neglected area of research. Paradoxically, it may be possible to gain more insight about the marginal deterrent impact of sentence severity by studying variations in social response to youth crime. The fact that offenders age out of the juvenile system in New York on their sixteenth birthday but are retained until the age of eighteen in Pennsylvania is a natural research opportunity to discover: (1)

Note: Footnotes at end of article.

whether juvenile and criminal courts deliver substantially different levels of punitive sanctions, and (2) whether whatever difference is noted makes any difference in the pattern of serious youth criminality. The existence of waiver provisions may be seen as somewhat confounding this type of analysis, but recent research has shown that for an offense such as robbery, very few juvenile offenders are waived.[20]

If the sanctions delivered to young offenders make relatively little difference in crime rates, the juvenile justice system can make decisions that balance retributive community needs with policies for avoiding stigma and facilitating chances for young offenders to develop within the community. If the crime preventive potential of variations in sanctions is high, policy toward serious youth crime faces harder choices. In such a setting, the juvenile justice system must balance the interests of potential victims against the interests of young offenders, where the state has a positive obligation to protect both groups. But whether or not social control policy variations make a large difference in crime rates, it is better to know this than to operate a juvenile justice system that is essentially in the dark. If hard choices are to be made, they should be made on reliable data rather than on conjecture.

* * * * * * *

This is a difficult but interesting period for those in the social sciences concerned with crime and delinquency. The received wisdom of years past has been overtaken by events. The upward trend in violent youth criminality remains largely unexplained even as we enter a period when the fever chart of reported youth criminality is moderating. There are no short-cuts to understanding violent "dated" by the time it is completed if trends in youth crime remain as volatile as they have been. Still, one would hope that government and the social science community will show the necessary patience to provide a sustained and coordinated research program in an area of vital policy significance.

FOOTNOTES

[1] U.S. Department of Commerce, Bureau of the Census. U.S. Census of Population: General Population Characteristics (Washington, D.C.: U.S. Government Printing Office, 1971), Table 50; Federal Bureau of Investigation, U.S. Department of Justice, Uniform Crime Reports—1975 (Washington, D.C.: U.S. Government Printing Office, 1976), Tables 37-38.

[2] It is possible, of course, that the same proportion of the youth population is simply "working harder," but expansion of offenses such as homicide and the size of the increase suggest some expansion of the proportion of young persons involved in serious criminality. See Table 4, infra, at p. 19.

[3] Marvin E. Wolfgang and Thorsten Sellin, The Measurement of Delinquency (New York: John Wiley and Sons, 1964); Alfred Blumstein, "Seriousness Weights in an Index of Crime" (Paper prepared for Urban Systems Institute, 1974).

[4] Zimring, Eigen, and O'Malley, Punishing Homicide in Philadelphia: Perspectives on the Death Penalty, 43 University of Chicago L. Rev. 232-233 (1976).

[5] Ibid., Table IV.

[6] Franklin E. Zimring, "Dealing With Young Crime: National Needs and Federal Priorities" (Report to the Coordinating Council of the Institute for Juvenile Justice and Delinquency Prevention, 1975), p. 38.

[7] Federal Bureau of Investigation, Department of Justice, Uniform Crime Report—1974 (Washington, D.C.: U.S. Government Printing Office, 1975), Table 39; Federal Bureau of Investigation, Department of Justice, Uniform Crime Report—1975 (Washington, D.C.: U.S. Government Printing Office, 1976), Table 41. See Section 3, infra.

[8] Richard Block and Franklin E. Zimring, "Homicide in Chicago, 1967-1970," Journal of Research in Crime and Delinquency 10 (1973): 1-12; Franklin E. Zimring, "Crime, Demography and Time in Five American Cities" (Paper prepared for the Hudson Institute Project on Criminal Justice Futures, 1976).

[9] The change in reporting procedures in 1974 produced a decrease in the base population and the number of agencies reporting age-specific arrest data in 1974. Criminal justice agencies retooled their reporting methods quickly and both the base population and the number of agencies reporting greatly increased in 1975.

	1973	1974	1975
Base population	154, 995, 000	134, 082, 000	179, 191, 000
Number of agencies reporting	6, 004	5, 298	8, 051

The age-specific arrest rates produced from this data show dramatic increases in youth crime from 1973 to 1974 and less dramatic, but significant, decreases in 1975 for all ages surveyed (15-23). The severity of the increases in 1974 suggest that the altered reported mechanism produced an urban bias in 1974. A complete anaylsis of this phenomenon requires a detailed breakdown of the reporting agencies, not only into a city-suburban-rural classification, but by city size, as well. The inclusion or exclusion of New York City, for example, could influence age-specific crime rates greatly.

[10] The defects in the St. Louis data take on ironic significance in light of the fact that St. Louis was commended by the President's Commission on Law Enforcement and the Administration of Justice for the implementation of controls over the quality of its police reporting in 1959. The 1959 Annual Report of the St. Louis Metropolitan Police was quoted, as follows:

"To assure, insofar as possible, that reports are being made of all crime, when and where it happens, the Board of Police Commissioners is utilizing the services of the St. Louis Governmental Research Institute to conduct periodic audits of reports submitted by the police. These audits, made by a sampling technique, are designed to determine not only whether police officers who have responded to calls from citizens for police service are reporting crimes against the citizens' person or property, but also whether the officers are properly reporting these crimes." President's Commission on Law Enforce-

FOOTNOTES—Continued

ment and Administration of Justice, Crime and Its Impact—An Assessment (Washington, D.C.: U.S. Government Printing Office, 1967), p. 24, footnote 90.

ARREST RATES PER 100,000 FOR MALES AGES 20-29, ROBBERY AND BURGLARY, 6 CITIES, 1960

	Population 20-29	Number of arrests	Rate per 100,000
ROBBERY			
St. Louis	44,117	14	32
Cleveland	55,762	328	588
Boston	51,116	151	295
Dallas	42,108	93	221
Chicago	215,782	907	420
Washington	56,835	383	674
BURGLARY			
St. Louis	44,117	23	52
Cleveland	55,762	306	549
Boston	51,116	209	409
Dallas	42,108	216	513
Chicago	215,782	951	441
Washington	56,835	637	1,121

Source: Zimring, "Crime, Demography, and Time in 5 American Cities," table III, p. 13.

[11] Although data on arrests for aggravated assault and robbery by age are published in the Uniform Crime Reports, there is no age-specific information on weapon use by age for either offense. "Aggravated assault is defined as an unlawful attack by one person upon another for the purpose of inflicting severe bodily injury usually accompanied by the use of a weapon or other means likely to produce death or serious bodily harm. Attempts are included * * *" FBI, Uniform Crime Reports—1975, p. 20.

[12] Franklin E. Zimring, "Determinants of the Death Rate for Robbery: A Detroit Time-Study," in Journal of Legal Studies (forthcoming, 1977).

[13] Clifford R. Shaw and Henry D. McKay, Juvenile Delinquency and Urban Areas, revised edition (Chicago: University of Chicago Press, 1972).

[14] Marvin E. Wolfgang, Robert M. Figlio, and Thorsten Sellin, Delinquency in a Birth Cohort (Chicago: University of Chicago Press, 1972). The cohort of Philadelphia boys followed in the study was born in 1945: they were 18 years old in 1963.

[15] Donald J. Mulvinhill and Melvin M. Tumin, with Lynn A. Curtis, Crimes of Violence: A Staff Report to the National Commission on the Causes and Prevention of Violence (Washington, D.C.: U.S. Government Printing Office, 1969); Task Force on Juvenile Delinquency, President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Juvenile Delinquency and Youth Crime (Washington, D.C.: U.S. Government Printing Office, 1967).

[16] James Q. Wilson, Thinking About Crime (New York: Basic Books, 1975).

[17] Ibid.; Richard A. Cloward and Lloyd E. Ohlin, Delinquency and Opportunity (Glencoe, Illinois: Free Press, 1960)

[18] National Academy of Science, Report of the Panel on Deterrence and Incapacitation (Washington, D.C.: U.S. Government Printing Office, forthcoming).

[19] Ibid.; Franklin E. Zimring and Gordon J. Hawkins, Deterrence (Chicago: University of Chicago Press, 1973).

[20] Joel Eigen, Untitled (Ph.D. dissertation in preparation, University of Pennsylvania, 1977).

Source: Ellen Fredel, a second year student at the University of Chicago Law School, provided valuable research support in the preparation of this paper.

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When the State Is the Teacher

(By John P. Conrad)

If official behavior and public policies are reliable guides to our collective attitudes, Americans do not like other people's children, especially the children of the poor. We begrudge them support at a standard of living above mere survival. We educate them in generally old and dilapidated schools, and we prefer that poor children be kept separate from those who are born to more affluent families. The truth is that we are afraid of poor children, particularly those of other races. Like children of all classes, these children from time to time confirm our fears and our dislike of them by committing atrocious and frightening crimes.

The problem is old, but a new response is emerging. It is a hard line which justifies punishment as the only method for teaching good conduct to those children who do not learn virtue at home. Thus Ernest van den Haag, a leading exponent of the value severity:

After the age of thirteen, juveniles should be treated as adults for indictment, trial, and sentencing purposes. Once they are in penal institutions or in confinement, they may be held separately and treated differently . . . To be sure, most juvenile offenders come from particularly trying backgrounds and home situations. However, there is no evidence that such home situations have become worse compared with what they were twenty years ago. Yet there are more

offenders among juveniles. They are the product of the leniency of the law—of the privilege granted them—as much as anything else.[1]

Although I am not venturing here on a critique of this author, I cannot refrain from calling attention to the magnificent sample of *post hoc ergo propter hoc* reasoning embedded here in a paragraph written by a savant so widely extolled for the rigor of his logic. Many social changes have occurred in the past twenty years, among which the increased leniency of the courts which van den Haag presumes is only one. The inference of cause from effect is a frail structure for the support of new social policy. Elsewhere van den Haag carries this line a little farther:

* * * Many offenders are classified as juvenile delinquents to be "reformed" rather than punished, and others—far too many—are excused as mentally incompetent. "Reform"—custody for juveniles have not been shown to be more effective than simple imprisonment. Incompetents referred to psychiatric institutions may be kept for life or for a few months, depending on utterly capricious psychiatric judgments.[2]

The essence of these quotations is the message of severity first. Like so many less articulate contemporaries, van den Haag truly believes that increasing severity will decrease crime like the operation of a pulley. The speculative quality of this conclusion does not deter him. He has heard from the statisticians that the rehabilitation of offenders has been tried and does not "work."[3] It takes a tough mind to face futility, and van den Haag, along with many others in the juvenile justice system itself, has decided that it is a futile effort to improve the behavior of delinquents by measures other than punitive intimidation. Concern about our inability to help the serious juvenile offender may be dismissed as the sentimentality of the incorrigible optimist. In van den Haag's world, realism is the recognition of the value of punishment without proving it.

The hard line has not yet prevailed everywhere, but its reception by ordinarily thoughtful reviewers shows how seriously it must be taken. Its implications are ominous for the future management of children in the most serious kind of trouble. The view of human nature on which it res's does not reassure the optimist about the direction of the change of moral values in the society in which these children and law-abiding citizens confront each other.

The jeremiad which I have just delivered is a prelude to another. The conventional administration of juvenile justice against which van den Haag has inveighed has little cause for self-congratulation, particularly when we consider the problem of the serious juvenile offender with which we are concerned in this seminar. Because of the fragmentary nature of the data, a conclusive assessment of the system is impossible. Like the critics of whom I have been so critical, I must argue from a mostly non-empirical brief.

There are, however, some data, and I shall do what I can with them. Let us begin with the *Uniform Crime Reports* as a benchmark. In the 1975 edition of that annual compilation, we find that persons under eighteen were arrested for a total of 72,867 violent offenses—murder, forcible rape, robbery, and aggravated assault. That was an increase of 54.0% over the same figure for 1970. It was 24.5% of all the violent crimes for which arrests were made in 1975.[4] The F.B.I. cautions that these figures measure law enforcement activity, not necessarily numbers of offenders. Two or more persons may be arrested for the same offense, and some individuals may be arrested more than once during a year. Still, there is some reason to think that violent crime committed by juveniles is a large share, perhaps a quarter of all the violent crime committed in our turbulent society.

But the same table also shows the juveniles committed 663,440 "index" offenses, of which the crimes against the person constituted only 11%. This fraction would diminish toward a vanishing point if all the non-index and status offenses chargeable against juveniles could be added into the sum.

We can see that the imposing total of crimes against the person committed by juveniles becomes numerically trivial when compared with the total load of juvenile delinquency. But the F.B.I. data cannot tell us how many serious juvenile offenders find their way into court, nor can we say how many of those who are brought to adjudication are placed under official control. These are difficult questions to answer, as my colleagues and I have been discovering in a study of violent juveniles conducted as a part of the Dangerous Offender Project.

Note: Footnotes at end of article.

Using police records of Columbus, our home town, as our source, we have traced the official fragments of the delinquent careers of 811 persons born in the years 1956–58 who were arrested in Columbus for the commission of a violent offense before reaching the age of eighteen. This is a total cohort comprising all persons born in those years who were arrested for crime against the person. These 811 persons were arrested for 987 offenses which were classified as violent. They were also arrested for 2,386 non-violent offenses in the course of their juvenile careers. Review of the records suggested that not all of the 987 violent offenses were really serious. Many of the assault and battery arrests were the results of trivial fights in which no damage was done. Limiting the definition of violent crime to those offenses which are index crimes against the person, as defined in the *Uniform Crime Reports*, we had 449 arrests which resulted in the disposition reflected in Table 1.

I do not know whether this response is as severe as Dr. van den Haag and like-minded critics would like. I cannot compare these data with those of any other city. My colleagues and I think that the juvenile justice system in Columbus is reasonably efficient. When nearly half of the juveniles who are found guilty of violent offenses receive a custodial disposition, something serious happens to a large number of serious violent offenders in our city. Indeed, if we can disregard the purse snatchers as no more than quasi-violent, the number of guilty individuals in this table who find their way into custody rise to 53%. We have not yet been able to compare the consequences of these dispositions; we shall not be surprised if recidivism rates are rather high across the board, and in this respect we believe Ohio will be found to be like most other states with large urban populations.

Newspaper reports insistently convey the message that the situation is out of control in the largest cities. We are told that the courts are so burdened that due consideration of cases is impossible and that vicious young thugs are able to "get away with murder," because nobody really knows what is going on.[5] Although I do not doubt the veracity of at least some of these reports, data are insufficient to give us a clear picture of the discrepancies between serious delinquency and its disposition. If the conditions in the family and juvenile courts of our largest cities are as bad as they are said to be, it is unlikely that any amount of data could be assembled to make this sort of assessment. Chaos is by definition unmeasurable, but it must be expected when the volume of work to be done far exceeds the numbers and skills of personnel available to do it.

We must take note of disorganization at a catastrophic level as a significant distortion of the state's response to the serious juvenile offender. It is important that the disorganization should be described and that remedies should be indicated. Attempts to apply the statistical quantification of social science should be sparingly made: where accurate records have not been kept, there is nothing to be gained by statistical analysis.

But even if the workload is not as unmanageable as it is represented to be, even if we could be sure that in every city most serious juvenile offenders are picked up by the police and promptly placed under the court's control, the fundamental problem would remain. It is not an organizational problem to be solved by the improved training of the police or the selection of more and better juvenile court personnel. It is a conceptual problem of deciding on a constructive and effective response to the serious juvenile offender. In this respect, I contend that we are virtually bankrupt. Our ideas are threadbare and our programs are worse: all too often they continue the production of the "State-Raised Youth" so well described by John Irwin.

Irwin identifies four themes in the world of the state-raised youth. First, violence is the proper mode of settling an argument, and a man must be ready to inflict it and face it. Second, membership in cliques commands loyalties and defines values. Third, homosexuality defines an exploitative and often violent caste system, whereby sexual conduct is based on the ability to exercise force and the complementary deprivation of masculinity which results from subjugation. Fourth, is the fantasy of the "streets" as a temporary sojourn for orgiastic pleasures, a place for holidays from the real world of the institution. Irvin sums up this product of the youth corrections system:

> The world view of these youths is distorted, stunted, or incoherent. * * * the youth prison is their only world, and they think almost entirely in the categories

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Note: Footnotes at end of article.

TABLE 1.—DISPOSITION OF 449 ARRESTS FOR INDEX CRIMES AGAINST THE PERSON CHARGED AGAINST A COHORT OF 811 PERSONS BORN IN 1956-58 WHO WERE ARRESTED ONCE OR MORE FOR VIOLENT OFFENSES COMMITTED IN COLUMBUS, OHIO, BEFORE THE AGE OF 18 [1]

Disposition	Offense													
	Homicide		Aggravated assault		Forcible rape		Aggravated robbery		Unarmed robbery		Purse snatching		Totals	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
State Institution	4	27	15	17	7	17.5	38	52.8	22	17.9	21	19.3	107	23.8
Detention/jail	1	7	10	11	4	10.0	1	1.4	19	15.4	19	17.4	54	12.0
Other placement	0	0	1	1	1	2.5	0	0	2	1.6	1	0.9	5	1.1
Probation	0	0	11	12	3	7.5	3	4.2	23	18.7	12	11.0	52	11.6
Reprimand and release	0	0	25	28	4	10.0	1	1.4	16	13.0	9	8.3	55	12.2
Disposition incomplete	4	27	4	4	4	10.0	13	18.1	9	7.3	15	13.8	62	13.8
Not guilty	5	33	22	24	16	40.0	15	20.8	31	25.2	28	25.7	104	23.2
Unknown	1	7	2	2	1	2.5	1	1.4	1	0.8	4	3.7	10	2.2
Total	15	101	90	99	40	100.0	72	100.1	123	99.9	109	100.1	449	99.9

[1] Table excludes all charges for violent crimes which were not index offenses.

of this world. They tend not to be able to see beyond the walls. They do conceive of the streets, but only from the perspective of the prison. Furthermore, in prison it is a dog-eat-dog world where force or threat of force prevails. If one is willing to fight, to resort to assault with weapons . . . he succeeds in this world.[6]

No one wants to raise youths like this. Indeed, legislators, judges, and correctional officials will be unanimous that this is precisely the kind of result that they do not want to get. But this is a kind of young man that reform schools have been raising for many decades. Such young men are still being raised, mainly because the state is not sure what else to do with them once it gets them.

II.

The absence of ideas and the inappropriateness of programs for the management of the serious juvenile offender as a separate class is a familiar state of affairs. The inadequacies of youth correctional facilities are staple items for reformist rhetoric. The traditional reform school has been denounced, and roundly, for many decades. Modifications of architecture, program activities, and staff orientation have indeed taken place. But the more it changes, the more it is the same. The hideous old battlements, which our nineteenth century forebearers built with the apparent intention of scaring kids into better behavior, have been demolished or at least remodeled. The occasional survival of this legacy of oppression is unanimously deplored and its use justified an account of the absence of funds to replace it. Discipline by "cadet officers" which was once the mainstay of order in the reformatory has gone for good, and so has the unsightly and humiliating lockstep. The vestiges of military programming which remain are the harmless elements of a noxious tradition. Generally, it is accepted that such facilities should be quite small, and that staff should be qualified to administer a resocializing program.

The new dilemmas confronting state agencies in planning residential treatment for youth have only recently become matters of general recognition. The title of our seminar, "The Serious Juvenile Offender," is novel. We have not been accustomed to differentiating this or any other class in the workload of juvenile delinquency. For years, enlightened judges and probation officers have operated on the principle that it is desirable to limit the penetration of the juvenile corrections system so far as possible in considering the disposition of any delinquent boy or girl. Therefore, some kids went on probation, and only those who seemed to be unmanageable in the community went into training schools. The nature of the offense obviously had something to do with the disposition, but the ideology prevailed, and still does, that the nature of the child's difficulty rather than the nature of his/her offense should determine his/her treatment. The population mixture in the institutions includes delinquents of an extremely serious order and others whose infractions of the law have been close to insignificant. But once arrived at the institution, treatment tends to be undifferentiated except as to its duration. Its content depends on present behavior rather than on the events which brought the youth into the custody of the state. Considering our uncertainty about measures which can be expected to prepare people in custody for a return to the community, this lack of differentiation is entirely understandable. So far, our experiments in differential treatment have been inconclusive for the formulation of new policy.

The need for change is in the air. Perhaps we may attribute its recognition to Professor Wolfgang and his colleagues, who first called attention to the momentous potential for harm contained in a small group within the Philadelphia Birth Cohort designated as chronic offenders.[7] Perhaps it was the alarm of a number of juvenile court judges who have been critical of the ineffectiveness of youth corrections but have not had any alternative disposition available. Certainly the fascination of the media for the youthful mugger and rapist has put the entire juvenile justice system on the defensive. Whatever the sources, we now have a consensus that there is a Serious Juvenile Offender, and that the state's response to him/her is inadequate for the protection of the public.

As I have already noted, this order of classification is new and inconsistent with the traditional suppositions of the juvenile court in the years before *Gault*. During that long period in which our ideas about youth crime and its treatment took form, became standardized for practice, and eventually came under such

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Note: Footnotes at end of article.

fundamental challenge that they could not survive as constituting a paradigm controlling further development, the presumptions about delinquency were simple. The juvenile delinquent was by definition a child in trouble—a far different matter from a determination of guilt for an offense, as *Gault*[8] was to show. It then became the task of the court and the correctional system to remedy the trouble. The nature of the offense was not the determinant of the decision. Rather, the child was to be seen as a whole person, and the magnitude of his offense was not necessarily the measure of the intervention needed. No practice is as simple as the elegant theory which prescribes it, and, of course, steps were taken to assure that such an exceptional person as the teenage-murderer would be kept under control for a longer period of time than a peer whose offense was less grave, even if the lesser offender's social or psychological problems might be more severe. The post-*Gault* court has discarded some of these assumptions. The parental role will undoubtedly be further dismantled. The juvenile court in this country will no longer rely on the concept of *parens patriae* but will become a specialized criminal court for small adults. The primary difference between the juvenile court and the criminal court will be found in the limits on sentencing procedures. The way is clear for a new and more rigorous disposition of the serious juvenile offender.

It is at this point, I think, that we encounter the root issue which justifies this seminar. I believe we can maintain that it is the most serious problem—among so many other serious problems—now confronting American jurisprudence. We are here to discuss the changes which legislators and judges must bring about in the administration of juvenile justice if severely damaged children are not to be further damaged by the actions of the state. The circular misery in which the Wolfgangian chronic delinquent is entangled is both personal and social. The ruin of his/her lifetime begins early and menaces everyone around him/her.

It should be a primary consideration in the administration of justice that the court shall do no harm. The prospect ahead is that harm may well be routine. In this seminar, we must concern ourselves with the modification of that prospect; we wish to minimize the damage done to children under the protracted control of the state. As for the larger world of creative jurisprudence, I ask, in what other domain of action must judges and lawyers confront the probability that decisions they make and actions they take will not redress wrongs done, but rather will initiate new and even more grievous wrongs?

III.

At this point, we need to consider the directions in which our thought about the Serious Juvenile Offender is taking us. It certainly cannot be said that our anxieties about him/her have propelled us far into the realms of innovation. Public discourse seems to be limited to four major themes for the modification of the official response to the problem of violent crime when committed by children. I think it will be useful to discuss these options as specifically as I can because each of them illustrates the obstacles to constructive change.

First, there is the response of the juvenile court to the exceptionally serious offense, ordinarily committed by a minor whose maturity in criminal behavior is all too apparent to everyone in contact with him/her. Such a case can be, and often is, declared inappropriate for adjudication in the juvenile court and is "bound over" for regular criminal proceedings in an adult court. It would be interesting to know how many cases are handled this way, of what types, and with what consequences. Unfortunately, the statistical picture is murky. The *Uniform Crime Reports* have for many years published a table entitled, "Juvenile Offenders taken into custody, by type of disposition and size of place." Inspection of the column headed, "Referred to criminal or adult court" for the years 1972–75 reveals that for the country as a whole, in 1972 there were 16,439 such referrals, accounting for 1.3% of the total dispositions. In 1973, the corresponding figures were 18,767 and 1.5%. But in 1974, the total number of reporting agencies doubled and the number of bindovers increased to 63,527 or 3.7% of all dispositions. In 1975, the total number of reporting agencies increased from 8,649 to 9,684 covering a population coverage which increased from 160,000,000 to 180,000,000. Yet, the number of bind-overs decreased from 63,527 in 1974 to

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38,958 in 1975, representing 2.3% of all dispositions.[8] I have gone into this detail because I have not thought of a way to account for the apparent reversal of this trend, except to charge it off as an artifact of criminal justice bookkeeping. I think it is an obligation of the social scientist who makes discoveries of this kind to call them to public attention in the interest of reminding a credulous world of the difficulties inherent in making sense out of official statistics. We can only say that in the universe of juvenile dispositions the referral to an adult court occupies an inconspicuous space. Whether they amount to 40,000 or 60,000, they are not proportionately a large part of the solution to juvenile delinquency. We are unable to say what fraction of the universe of serious juvenile offenders is bound over for the supposedly sterner adult procedures. The population bases in the *Uniform Crime Reports* vary so widely from table to table that it is impossible to go into one table with data from an adjoining table to make such estimates with any confidence at all. I ask you to keep this example in mind because it illustrates the statistical confusion which the nation faces in defining and understanding juvenile justice policy problems after all these years of the *Uniform Crime Reports* and the earnest efforts of the Law Enforcement Assistance Administration to create a usable data base for criminal justice policy-makers.

In our cohort of 811, there were thirteen boys bound over to the adult court for a total of fifteen offenses. Two were sixteen; the rest were well past their seventeenth birthday. Except for two burglaries, the offenses were extremely serious crimes against the person, including three murders. It is impossible to say how typical of other cities these data are, but certainly recourse to the bind-over has so far been minimal in the data now available to us.

Still, we have no firm data on the number of bind-overs which occur or even whether there is a trend to use this option more frequently. That says nothing of the types of cases bound over, the actions taken by the adult criminal court, or the consequences of those actions for the individual, for the correctional system to which he is committed, or to the community at large for the supposed protection of which the juvenile is converted into an adult. We shall have to wait patiently until some future year for data which can facilitate an informed discussion of these issues.

Although we cannot measure, we can inspect the logic of the waiver of juvenile court jurisdiction and consider where it will lead us. In the day of the pre-*Gault* court (which, we must remind ourselves, still prevails in philosophy if not in some procedures), the rationale is logical. The custodial facilities which the juvenile court can command are juvenile institutions. Jurisdiction over any ward is limited to the duration of his/her minority—with some adjustments in the law of some states. If the court has to consider the case of a seventeen year-old chronic recidivist charged with a heinous crime, it is understandable that it would wish to assure control beyond the maximum of four years to which its jurisdiction is limited.

The commitment of an experienced young violent offender with previous commitments to juvenile institutions to yet another such facility is difficult to defend, as in either the boy's interests or in society's. The institution for older delinquents is balanced on an opposition between a staff culture and a criminal culture which is easily tipped. The contribution of the boy to the criminal culture is likely to outweigh the positive benefits he may gain from the commitment. The court has every reason to ask, Why on earth continue the pretense that this young thug is a child in trouble? Why should he not be counted as a young adult in the prison system rather than an old child in the youth corrections system?

The answer to these questions is anything but obvious. For the boy himself, the advantage of yet another youth commitment is less time to serve—although in states which are experimenting with mandatory sentences for juveniles, the advantage will be narrower than it used to be. For the state, the value of more time served by an adult commitment is increased incapacitation of a young man of whom the community is afraid. There is also the popular belief that an adult commitment will be more effective in achieving the goals of general deterrence and intimidation. This belief has yet to be convincingly verified, but skeptical critics of the system have not yet shaken it with data. Whatever the truth may be about these issues, the chances that the offender himself will be

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better for the experience of incarceration in either system are negligible. The bind-over will accomplish a longer incapacitation and a more vigorous expression of community outrage. These are negative accomplishments, and their value is impossible to verify.

The bind-over is an option available to the juvenile court, and it is exercised in different ways by different judges. Indeed, we hear that in some communities minors ask to be bound over, evidently believing that the chances for leniency are greater in adult than in the juvenile courts. But the uncertainty about the propriety of the bind-over hides a conceptual vacuum. We don't know what to do with this apparently dangerous youth, so we put him away for as long as we can. The most we can hope for is that the experience will be so unpleasant that he will do whatever he can to avoid its repetition.

I do not know of any evidence on the effectiveness of incarceration in the intimidation of any offenders from the commission of further crime. The data on recidivism available to me appear to show that a majority of the people released from prison—perhaps as many as 60%—do not recidivate.[10] I doubt that they have been rehabilitated, so I will tentatively conclude that intimidation has motivated them to keep out of trouble. But we are talking about a Serious Juvenile Offender. He is usually a chronic recidivist for whom incarceration holds few unacceptable terrors. Even if intimidation is effective for many prisoners, it is least effective for him.

Is this all we can do? Is it reasonable to concede so much to the prevailing pessimism? The worst aspect of the consensus that "nothing works" is the corollary to which it leads: nothing can work. As logical as the bind-over seems to the judge and the public, the consignment of the young aggressive recidivist to prison is an admission of defeat. The record of youth training facilities with such young men is discouraging, but the structural and programmatic faults in most of them glare at us so obviously that it is clear that improvements must be possible if we have the will to undertake them. To excuse the juvenile justice system from the effort on the ground that "nothing works" is to admit that society is indifferent about results. Against the occasional bind-over of the truly exceptional delinquent as an individual case I will not complain. But to define a class of offenders who may be bound over is to create a policy which closes out the prospect of change. There must be continuing pressure on administrators, clinicians, and researchers to generate a better solution for this troublesome fraction of the delinquent population than the Deep Six to which the tough-minded "realists" are willing to consign them.

The reverse of the bind-over strategy is the mandatory sentence for the Serious Juvenile Offender. Instead of sending him/her off to an adult prison, he/she is to be kept in the juvenile justice system two or three years. I do not hear from advocates of this policy any suggested activities to fill up those years. That would not matter if the professionals who are responsible for the design of programs appeared to have any treatment innovations in mind. They don't. We are asked to make the same act of faith in the usefulness of a mixture of incapacitation and intimidation implied by advocates of more bind-overs.

The emerging solution—as the category of the Serious Juvenile Offender takes form as a class for which there are criteria for selection—is the secure facility, usually rather small, usually well-provided with staff positions, and usually quite expensive to operate. If dollars were the only measure of our concern, it would be clear that despite my jeremiads, our society has not given up on these young people. But again, we have a conceptual vacuum.

Two examples will illustrate the point. The publication last year of *Juvenile Victimization* by my diligent colleagues, Bartollas, Miller, and Dinitz, provides us with an account of how things go in a well-designed, fairly new (1961) and generously staffed (145 staff for 192 residents) facility for aggressive older boys in Ohio.[11] Although most of the problems in maintaining control are recognized by the staff, the culture is exploitative and criminal. Many of the staff are so fearful of their charges that they hide in the security of their offices. A constant testing of the courage and resourcefulness of the others seems to go on. When residents are out of the sight of staff, there is considerable violence and sexual imposition, following, as if by prescription, the theoretical analysis which I have quoted from Irwin. In the air is a climate of intimidation with all the roles which result from that kind of interaction. The program itself consists of the

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usual mixture of counseling, remedial education, and vocational training. It is supported in the institutional program statements by such language as:

[Our goals are] to promote positive attitudinal and behavioral change within an atmosphere of mutual respect and personal dignity; to provide a resident with opportunities to gain an increased understanding of himself, others, and his environment; and to learn to meet his needs in socially acceptable ways.[12]

The institution which is described in the Bartollas-Miller-Dinitz study is not atypical, except that the discrepancies between intentions and performance have been documented with painful thoroughness. This is a situation in which the staff still has the last word, but the dominant boys among the residents enjoy most of the control. Those familiar with the literature of youth training schools or who have had access to oral accounts of how things have been for the last half-century will recognize this facility as the legitimate heir of an old and disgusting tradition. One can account for the persistence of the tradition: staff idealism erodes in the incessant backwash of unrealized expectations, training is insufficient to prepare recruits for the interactions ahead, leadership by seniors is perfunctory and rhetorical—the list can go on. To my mind, the primary failing to which this dismal list of failings is attributable is the compromise with residents over lawful conduct. Once that compromise has been made and unlawfulness has been overlooked, the hope for creating a civil culture is gone. As the authors of this powerful book put it:

* * * instead of modeling themselves after other professional staff, the professional staff is subverted and adopts the style and values of the residents * * * [A]s long as personnel are in the institution, they must react and respond in resident terms. The turf belongs to the inmates * * *[13]

These failings of the conventional youth corrections facility are well known, and an understanding of them is certainly not my special preserve. Because the youth correction facilities of Massachusetts shared most of these unpromising characteristics, along with some special handicaps peculiar to a bureaucracy too long entrenched, Commissioner Miller initiated his celebrated experiment with deinstitutionalization. It has been described so frequently that one hardly knows which account to cite, but I will call attention to the most recent one, that of Ohlin, Miller, and Coates.[14] Massachusetts has never been able to deinstitutionalize its youth corrections program in the strictest sense of the word. There are still Secure Care Units for the management of extremely aggressive youth in units of a dozen, with a staff almost as large. Although data are hard to come by—these are not the programs on which Miller and his disciples wish to rest their case—the usual length of stay seems to be less than a year, and the administrative pressure on the staff is to get kids out rather than to keep them in.

My own observation of this part of the Massachusetts program was brief, quite possibly unrepresentative, but provocative. The facility was at some distance from downtown Boston, an enclave of delinquents on the grounds of a mental hospital. It was in the charge of a pleasant young man whose commitment to the cause shone through his realistic estimate of the prospects for success as it is usually understood in activities of this kind. He noted that most of his twelve youths were without families that were interested in them, most had been committed for extremely serious crimes of violence, and most had educational and social handicaps of massive dimensions wholly apart from the handicap of a record of frequent and grievous delinquency. In his words, "Most of these guys have been moving so fast through life that they decide what they should do after they have done it. All we can do is to slow them down." He gave us as an example of the process of deceleration an incident that had occurred that morning, before my arrival. Pointing to a small stereo speaker on the floor opposite his desk, he said, "One of the boys threw that at me this morning because I had turned him down on a home visit—he wasn't ready for the privilege. I asked him why he did it, and he said it was because he was so mad at me. Then after thinking it over for a minute, he went to to say, 'I guess I wasn't as mad as I would have been a month ago. I wouldn't have missed you then.' "

The program consists of remedial education, some athletics, and some group counseling. Except for the lack of vocational training programs the very small size of the population and its undiluted composition—everybody's tough—the program has a family likeness to the program in the much larger Ohio insti-

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tution. I would suppose the Massachusetts people would subscribe to the official Ohio objectives as I transcribed them earlier in this paper. But slowing violent delinquents down—the realistic stated goal of the Massachusetts program manager—does not seem to me to be a sufficient objective. It is a step ahead of the treatment which such boys receive in most states. It may be that its success will be more apparent than its staff expect. After all, the history of corrections is strewn with blasted expectations, and the wise manager will mute his hopes with modesty. But when experience with this kind of offender is considered as a frame of reference for assessment of the Massachusetts adventure and its underlying concepts I do not see much reason to expect a greatly improved performance. The Harvard report to which I have referred found that recidivism from secure care units was in the order of 60%, much higher than any of the other residential or non-residential placements. An interesting additional finding is made: there seems to be less recidivism among those who began in secure care and ended there when compared with those who were transferred from a less secure program to secure care. In a system like this, the impact of program failure has its own special significance.[15] A possible interpretation of such a finding is that where the system is as eager for success as is the case in Massachusetts, the client's failure within the system adds a confirmation to his expectation of failure in the conventional world.

Massachusetts is not the only state with experimental work under way to discover a more effective way to hold and help the Serious Juvenile Offender in spite of him/herself. The very small living unit which is characteristic of the Massachusetts program may well be an essential feature of the system of the future; at least it offers the most likely laboratory for the development of whatever successful approach may be feasible. It is too early to say what we can expect, but at least it is probable that many of the repulsive effects described by Bartollas and his colleagues can be entirely avoided. I suspect that the Massachusetts planners believe that there is a way to be found for improved control and treatment which will not require the maintenance of even the tiny Secure Care Units which now seem necessary. If our seminar is reconvened five years hence, we may be much more definitive in our recommendations to states wishing to undertake an optimal program.

I said that there seems to be four approaches to the problem of the Serious Juvenile Offender. Binding over the older ones converts them into adults. To require a mandatory sentence of two or three years is tantamount to changing part of the juvenile justice system into an essentially adult system in which incapacitation is the primary goal. To modify the existing system by developing specialized secure units constitutes an act of continuing faith in the state as a vehicle for treatment.

Each approach calls for the state to continue raising youth.

These three propositions contain within them the foundations of doubt. As to the first two, we back down on our national commitment to a fair start for children. Perhaps we can give up on the adult offenders, or some of them, as too scarred, too damaged to be accessible to help. I do not think we are yet willing to give up on the sixteen or seventeen year-old kid who has foundered in delinquency because of the mismanagement of his/her early years by the adults in his/her life. As to the third proposition, the placement of these minors in small state institutions, we have only too much reason to believe that state agencies for the extension of help to people needing help will become bureaucratized, impersonal, and preoccupied with procedures. There are many things that only the state can do well, but the management of human relationships is not one of them.

So the fourth policy option is the regeneration of the private sector. In a sense, this choice has always been available. Children of the upper classes who get out of control have for many years been sent away to military academies or similar residential schools for attention and discipline which they could not get at home. Some of these facilities may be well managed; some are certainly frauds against distracted parents. We don't really know much that is objective about these places but there are suspicions that in keeping the bad rich boy out of a reform school his parents may not be getting a much better bargain from the boarding school which is willing to take him in.

The state as *parents patriae* has money to spend too. Nobody really knows anything definite about the traffic in difficult children—often across state lines—

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which gets them out of institutions in which they are unmangeable and places them into group homes camps or private institutional situations which are willing to manage them for a price and which are able to make a profit from that price. Obviously there should be much more known about this situation, and it may well be that it is one of those many enterpreneurial activities of modern times which needs a federal regulatory agency to assure the maintenance of standards.

All that is by way of recognition is that the private sector is not necessarily an avenue toward the conversion of the Serious Juvenile Offender into an inoffensive but productive citizen. Nevertheless, I think there are a number of reasons for supposing that most of the future progress to be made in improving the state's response to this figure of our concern may lie in this direction. I would like to wind up my contribution to this discussion by outlining my reasons for believing that enlightened policy should go as far as it can in the encouragement of the private sector to care for these kids and to create programs for their socialization.

First, as I have indicated earlier, the state is not well adapted to the helping role. I think that is as it should be. The state should prevent avoidable misery, but it has no business making individuals happy or morally better. Its tools are those of management and order; its procedures are bureacratic; its agents cannot express the state's love or concern because the state is not an entity capable of love and concern. Impersonality, fairness, and rationality are what we expect from the state. It is not to take risks, and although it may and does experiment, the experiments it conducts are directed at the improvement of state services, which sets a special boundary to the possibilities for improvement.

Second, the kinds of services which Serious Juvenile Offenders need do not lend themselves to the kinds of careers for which civil servants are recruited and around which they build their lives. The pattern of thirty or so years in the same service, with promotion by seniority, civil service and union rules about hours, duties, privileges, rights, and training is workable for a fire department or for highway construction and maintenance. It is much less appropriate when the work to be done is in the influencing of others by example, counseling, and control. It is even less appropriate for the special tasks which those assigned to the Serious Juvenile Offender must carry out.

All of us know in our bones what the problem is. The best of intentions and the highest of motivations will erode with emotional fatigue. It is a rare man or woman who can confront hostility professionally and constructively for the duration of a normal civil service career. Some day, some salty young resident will sling a stereo speaker at the staff member and the response will be inappropriate, not because the counselor is new and untrained, but rather because he/she is too experienced and burnt out. I suggest that ways have to be found to enlist energetic and well disposed young people to work for a few years only in facilities of this kind. I don't think that such a way can be found in the civil service.

The third problem is one of leadership. It has been my observation that the best programs revolve around the personality of a manager or director who possesses that attribute which we call, for want of a better word, charisma. Examples come readily to my mind, and probably to the mind of anyone else who has watched schools, counseling services, group therapy, and even prisons, and I won't labor my examples now. We should make it easier for people of this kind to build programs that fit their potential contributions. I don't think that conventional state procedures lend themselves to the kind of voluntarism which the charismatic leader requires for scope, happy accidents to the contrary not withstanding.

Fourth, a private employee is much more easily hired or fired than a civil servant. Although it is untrue that civil servants cannot be fired (I have seen it done) the difficulties will daunt all but the most determined manager and will certainly detain him/her from more profitable uses of his/her energies.

Finally, as Dr. Miller has frequently pointed out, it is a lot easier to get rid of an unsatisfactory program which is on a service contract to the state than it is to phase out a budgeted state program. In either case, the Commissioner of Corrections, or whoever is in charge, does not have an easy task. Other arrangements have to be made for service, pressures to continue the program in

spite of poor performance will usually be heavy, and the Commissioner is in the politically undesirable position of making a considerable number of enemies and few, if any, friends. But it is easier to refuse a new contract than to close down a bad state program, and failure is a contingency for which provision must be made.

I cannot prove that the private sector is the best hope in this unpromising challenge to the state's competence. Obviously, if we are to choose this route, we cannot expect an overnight transformation. Legions of young men and women are not out there eagerly waiting for their chance to show what they can do with these troubled and sometimes frightening young offenders. Nor is there an obvious category of people-serving organizations who can channel their energies into constructive service.

And even more obviously, once we have state funds transferred to private organizations for the provision of services, there will be abuses and shortcomings and failures which could have been prevented had adequate precautions been taken. The state will still have standards to set and practices to regulate. It will, however, be out of the business of regulating itself, but it will still be the teacher.

Many years ago, Mr. Justice Brandeis wrote:

Our government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by example. Crime is contagious. If the government becomes a law breaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy.

He was not writing about the operation of facilities for the management of the Serious Juvenile Offender, but his point extends to our problem. What the state finds itself doing in even fairly well run juvenile facilities is condoning unlawful conduct by allowing a criminal culture to control the turf. This is exactly the example which cannot be permitted in residential facilities. It may be possible to avoid it in a state facility, but I suggest that we will all be a little safer if we turn the task over to the concerned entrepreneur who is willing to comply with the state's guidelines and to do as the state requires, but not as the state itself has so commonly done in the past.

What do we want the state to teach? I think that whatever else is taught—from welding to the primal scream—the lessons have to take place in a lawful community, one in which violations of the criminal law do not occur, or, if they do, they result in immediate adverse consequences. Obviously, life outside is not like that. The Serious Juvenile Offender usually come from a nearly lawless society and will return to it. That cannot excuse the state from its duty to assure that while he/she is in custody, he/she is safe and prevented from unlawful conduct. We don't know what good observance of this principle will do, but we know all too well what harm will be done by not observing it.

FOOTNOTES

[1] Ernest van den Haag, *Publishing Criminals; Concerning a Very Old and Painful Question* (New York: Basic Books, 1975), p. 249.
[2] Ibid., p. 164.
[3] *Uniform Crime Reports*, 1974, Table 31, p. 183.
[4] Robert Martinson, "What Works?—Questions and Answers About Prison Reform," in *The Public Interest* 36 (Spring 1974): pp. 22–54.
[5] Nicholas Pileggi, "Inside the Juvenile-Justice System: How Fifteen Year-Olds Get Away With Murder," *New York Magazine*, vol. 10, no. 24 (June 13, 1977), pp. 36–44.
[6] John Irwin, *The Felon* (Englewood Cliffs, New Jersey: Prentice-Hall, 1970), pp. 26–29. See also for another and confirming account, Malcolm Braly, *False Starts* (Boston: Little Brown, 1976), pp. 36–60.
[7] Marvin E. Wolfgang, Robert Figlio, and Thorsten Sellin, *Delinquency in a Birth Cohort* (Chicago: University of Chicago Press, 1972).
[8] *In the Matter of the Application of Paul L. Gault and Marjorie Gault, Father and Mother of Gerald Francis Gault, a Minor, Applicants*, U.S. Supreme Court, October Term 1966, 1 Crim. Law Reporter 3031–3054.
[9] *Uniform Crime Reports*, 1972 Table 21, p. 116; 1973, Table 21, p. 119; 1974, Table 23, p. 177; 1975, Table 25, p. 177.
[10] See *Uniform Parole Reporters*, December, 1976, published by the National Council on Crime and Delinquency, for the most optimistic estimate of prison recidivism.
[11] Clemens Bartollas, Stuart J. Miller, Simon Dinitz, *Juvenile Victimization, The Institutional Paradox* (New York: The Halsted Press, 1976).
[12] Ibid., p. 31.
[13] Ibid., p. 273.
[14] Lloyd E. Ohlin, Alden D. Miller, Robert B. Coates, *Juvenile Correctional Reform in Massachusetts* (Washington, D.C.: U.S. Government Printing Office, 1977).
[15] Ibid., pp. 77–78.

Systems of Control and the Serious Juvenile Offender

(By Jerome G. Miller)

The title of this paper, in a sense, speaks to the paradox and indeed the dilemma which confronts those who would understand or deal effectively with the problem of violent offenses committed by juveniles. Most public concern, media comment, and, unfortunately, most scientific research, relate only to one or the other side of the dichotomy. More often than not, we focus on either the system of control (training schools, new treatment modalities, ideologies of deterrance, etc.) or on the description of the serious juvenile offender (new diagnostic criteria, actuarial or psychological profiles, life histories of potentially or actually dangerous juvenile offenders, etc.). In our constant search on the one hand for the most effective system of control, and our seeking of the most valid diagnostic or labeling process for the serious juvenile offender on the other, we may be redoing the wheel every decade or so to fit current professional ideology or public hysteria about youth, without addressing in any meaningful sense the issues which underly the dialectic. As a result, we are caught up in a dilemma of either prematurely overdefining and overpredicting violence in juvenile offenders, or of overpromising the capacity of our so-called systems of control (or treatment) to deliver effective results.

I propose to examine some of the reasons for this pattern and to make tentative recommendations as to how we might break out of the self-defeating, self-fulfilling cycle in which we are presently caught.

The search for the "answer" in understanding the social deviant, be he/she "violent" or not, is hardly a new one. From the diagnostic indicators outlined in the medieval "Witches Hammer," to Lombrosian theory, to the psychoanalytic approaches of Lindner or Cleckley, to the latest round of "Aha" diagnosis of Yochelson, the futile search continues. Taking an historical perspective, however, one cannot but marvel at how closely the particular diagnoses, labels, and descriptions of behavior coincide with particular public concerns or political ideologies of the day. Denis Chapman, the British writer, has commented, for example, that Lombrosian theory of criminality coincided neatly with the prison regimes of the Victorian times. He notes, for instance, that D. L. Howard, the British criminologist, asserted that the punitive English practice in penal institutions of the late 19th century found a felicitous ally in Lombrosian theory.

The DuCane Regime (named after a British prison administrator), far from following public opinion was successful in directing it to some extent. Men and women went into prison as people. They came out as Lombrosian animals shorn and cropped, hollow-cheeked and frequently as a result of dietary deficiencies and lack of sunlight, seriously ill with tuberculosis. They came out mentally numbed and some of them insane; they became the creatures, ugly and brutish in appearance, and stupid and resentful in behavior, unemployable and emotionally unstable which the Victorian middle classes came to visualize whenever they thought of prisoners. Much of the prejudice against prisoners which remains today may be due to this conception of them not as the common place, rather weak people the majority of them really are, but as a composite caricature of the distorted personalities produced by DuCane's machine.[1]

Chapman notes that, "the theories of Lombroso and others on criminal types, and Victorian stereotype of the criminal were identical. Prison produced the criminal type, scientific theory identified him even to the pallor of his skin and the public recognized him; the whole system was logical, water tight, and socially functional."[2] Chapman believe that the same process exists today in a modified form. The situation is more complex since one part of the public wishes to modify or to abolish the prison and training school systems, while many others believe in punishment and social isolation. He notes that in such a contemporary system, "the change in prison conditions proceeds at a rate rapid enough to satisfy the pressures of reformers while continuing to produce the stereotyped 'old lage', the 'abnormal', the 'phychologically motivated', the 'inner-directed delinquent' whose maladjustment is 'deep-seated' and often 'intransigent to treatment' and who, in his turn becomes the scapegoat needed by society and the data for the latter day Lombrosos whose social function is to provide the 'scientific' explanation required by the culture."[3]

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In this context, the diagnosis relieves the strain on the social system by diverting attention from its inadequacies, and focussing attention upon the individual deviant or class of deviants who, paradoxically, are largely a product of the inconsistencies inherent in the system. With this as background, the diagnosis of the serious juvenile offender may tell us as much about the culture, quality, and types of controls or treatment options existing in that culture as it does about any scientific or pseudo-scientific entity or characteristic intrinsic to the offender or class of offenders. By stressing primarily the identification and labeling of the serious offender, we may further confuse the possibilities for understanding the greater issue involving the dynamic existing between the diagnostic process and the treatment process (social control). The two are complementary rather than discrete. The labeling of the offender stands opposite the systems of control which already exist and which call for "appropriate" labels. This is not to suggest that there is no need to understand violent behavior among juveniles or that we cannot do something about those juveniles who engage in such behavior, but rather to question the current one-dimensional approaches to multi-dimensional problems.

Although there appears to be some increase in violence among juveniles in the past years, there is also evidence that this pattern has tended to slow down or decline in the past two or three years. It is questionable that this is the first time in our history that juvenile crime has been of major interest. It is also questionable whether the serious and violent juvenile offender of today is an anomaly not seen before in our own society. The current concern with gang behavior in New York, for instance, effectively forgets and neglects the relatively recent experience in that city with violent gangs of the late 1950's. With such a short memory for historical fact, one would be advised to take a short breath before rushing off to further define current problems surrounding the identification and control of the serious or violent juvenile offender.

Looking at the other side of the dichotomy, the so-called "systems of control," one finds further problems. Functional relationships exist within the helping professions' rehabilitative and treatment settings, from the most closed to the most open. Such settings reflect larger social systems and are at least partially related to social control. Therefore, when one approaches the systems of control necessary to deal with the serious juvenile offender, one again sees how culturally bound such systems are. It matters very little to the person defined as a serious or violent juvenile offender, whether that definition is as the "sinner" of the 17th century; the "possessed" of the 18th century; the "moral imbecile" of the 19th century; the "constitutional psychopathic inferior" of the early 20th century; the "psychopath" of the 1940's; the "sociopath" of the 1950's; the "person unresponsive to verbal conditioning" of the 1960's; or the "criminal personality" or "career criminal" of the 1970's—the treatment is basically the same, a series of variations on a familiar theme of incarceration, isolation, and exile. The systems seem to be designed to prove that we must define and treat this human being as qualitatively different from the rest of us and therefore in need of methods of control or manipulation which we would reserve only for violent strangers, never for violent friends or relatives, and that of course, is the core of the problem. In such a system, "cure" approximates the definition given by the anthropologist, Edmund Leach, in speaking of the treatment regiments in British "approved schools." He says, "cure is the imposition of discipline by force; it is the maintenance of the values of the existing order against threats which arise from its own internal contradictions."[4]

Our systems for labeling and diagnosing serious juvenile offenders therefore call for certain systems of social control. In a circular way, those very treatment or control systems encapsulate and constrict the potential of the diagnostic process itself. As diagnoses are what Ronald Laing calls "social prescriptions," so existing treatment and control systems constrict and narrow the diagnoses themselves, one ever narrowing and negatively reinforcing the other. Thus, we find ourselves in the current dilemma of a fantastic lack of social control innovations or treatment options on one side, with even less originality in our perception and understanding of the dangerous or violent offender on the other.

This issue is further compounded by the growth and accumulating power of the "helping professions" and the consequent bureaucracies engendered. Many of us, for example, have long bemoaned the inability of the mental health profession to provide helpful diagnostic categories or effective treatment modalities

Note: Footnotes at end of article.

for the violent juvenile offender. However, when one sees the involvement of this profession, for example in applying the medical model to correctional settings, one often sees more maltreatment and disregard of human rights than in many more traditional correctional institutions, penitentiaries, and jails. It has been a personal impression, for example, that medically run facilities for the criminally insane have characteristically the worse tradition of brutal and dehumanizing institutional treatment. One need not look further than the recent history of such facilities as Lima State Hospital in Ohio, Mattawan Hospital in New York, Farview Hospital in Pennsylvania, Camarillo State Hospital in California, or Bridgewater State Hospital in Massachusetts. In the latter situation of "Titicut Follies" fame, one sees the issue distilled in the pleadings of a "patient" to be allowed once again to become a "prisoner," and to be returned to Walpole State Penitentiary (hardly a benign institution) since "treatment" at Bridgewater was driving him insane.

We have often maintained a naive view, taught us in some graduate schools, that the diagnosis of the serious juvenile offender is scientific and the treatment following therefrom is a consequent scientific exercise. In fact, the diagnosis is often a political problem which culminates in a bureaucratic process called treatment. This is not to suggest that there may not be a way to better understand and control violent offenders. It is simply to point out that most of the persons, structures, and systems which are ostensibly set up to do that are in fact doing something quite different; what they are doing muddies the scientific waters so much that the problem is further compounded. As a result, any scientist who steps into this arena is quickly politicized, whether he/she means to be or not. Similarly, his/her data, if drawn from this field, cannot be taken at face value because data collected from this system are often compiled, named, and outlined for purposes other than those given. As a result, "objective" labels such as "assaultive" are skewed in terms of the needs of the various juvenile justice, diagnostic, and treatment bureaucracies, and it is often impossible to know clearly what the "assaultive" behavior is or was. It seems to me that those who prepared the so-called "Cahill Report"[5] on serious juvenile offenders in New York implicitly recognized this problem. They attempted to define violent behavior in very specific behavioral terms, understanding the propensity of the juvenile justice bureaucracies to overpredict violence and to overdefine potential dangerousness. Using strict definitions of proven violence—murder, rape, forcible sodomy, assault with a weapon, etc.—they limited the potential for overpredicting or overdiagnosing violence in a particular juvenile. They thereby limited the use of psychiatric or social work jargon as the fainthearted bureaucrats' means of avoiding accountable decisions or potentially embarrassing incidents which might follow from those decisions.

Despite a current popular misconception, as outlined in *New York Magazine* and *TIME* magazine articles made available by Professor Cohen, the juvenile justice system is hardly a mollycoddling system. What masquerades as permissiveness or bleeding-heartism, is more often than not a matter of neglect or bureaucratic chaos. When we are told that everything has been tried in the case of a particular serious juvenile offender, a closer look will very often reveal that one or two things have been tried a number of times (i.e., probation with warning, detention, commitment to a training school, or referral to agencies which should be "appropriate" but are not, such as childcare group homes or state departments of mental health) culminating in the extrusion of the offender from the agency as "unmotivated," a "character disorder," etc., all of which again point up the intimate relationship between diagnosis and treatment options. In this case, the client must somehow adjust himself/herself to the treatment option as well as the relative comfort of the treatment staff or he/she will be rather quickly and effectively diagnosed and labeled as "inappropriate" for their treatment. This should be sufficient cause for a mild depression, but the problem does not end there. Rather, it plays on, further compounding the destructive scenario. If labeling theory has any validity, it cannot be helpful to see the juvenile bounced from setting to setting, with escalating diagnosis as a rationalization for rejection by the agency. The youngster becomes more "violent" or "potentially violent" as the threats for conformity to programs increase. The process is set in motion not so much by the "dangerous" juvenile as by the ineffective or fainthearted "treatment" or social control programs

Note: Footnotes at end of article.

which, in turn, up the ante for violence upon the juvenile, which is likely to be returned by him/her later, in kind.

I can think of no other reason for the standard and common practice of filling maximum security or "intensive treatment" units with large numbers and percentages of youngsters who have committed no violence on the streets, but have become management problems once they are caught-up in the treatment system. I keep hearing of the large numbers of newly violent, unsocialized juveniles who would as easily kill you as look at you. However, I find very few who could be viewed this way in our state training schools, secure units, or "intensive treatment" programs. This experience has been borne out in varying states in which I have had some administrative authority over programs for adjudicated, detained, or committed delinquent youth. While my own experience gives lie to the popular mythology surrounding the numbers of violent juveniles abroad in the land, it clearly points again to the relationship between our labels and our treatment options. One has the impression with many of these youngsters that the definition of dangerousness has more to do with professional frustration or bureaucratic discomfort than it does with any documented history of violent street behavior. If this were an exceptional or unusual phenomenon, I would not mention it here, but it is my impression that it is indeed the rule, rather than the exception. It may seem presumptuous, but, once again, it is my experience that the average judge or probation officer is as much taken as the media with war stories, horror stories, and the drama of handling difficult cases involving violent juvenile offenders. They are, therefore, not about to downplay, dismiss, or shunt off the juvenile who has murdered, raped, sodomized, mugged, or assaulted with a weapon. One must assume, for a host of reasons, that juveniles arrested, convicted, and sentenced for such offenses receive a good deal of attention and, more often than not, find themselves committed to state juvenile correctional facilities, unless they are "bound over" for adult trial and sentencing. However, when one looks for juveniles convicted and sentenced for such crimes in the average state juvenile system, one finds relatively few such dangerous offenders. Mr. Edelman notes in his paper presented at this conference that, with qualification, the New York law relative to serious juvenile offenders has identified a rather small number (fifty) and has incarcerated only half of those in secure settings in the first six months of the new law. This experience is consonant with what I know personally in other states.

For example, if one used New York criteria for defining the violent or dangerous juvenile offender in Massachusetts, one would find considerably less than fifty such juveniles in the whole state system of juvenile corrections—this in a state where the juvenile age is a year higher than in New York, and where there is very limited use of the adult courts or correctional system for juveniles "bound over," even in cases of murder. Similarly, in Pennsylvania, where the juvenile age is eighteen, we found more than 400 juveniles sentenced by juvenile courts to an adult prison because they had been defined as dangerous. Yet less than one in four were there on crimes against persons, and again, were the New York criteria applied, one would find less than seventy-five such juveniles in the whole state juvenile system for a population of twelve million plus. Despite this, five times that number of juveniles could be found locked in secure settings within the state (including jails, detention centers, and "secure units" on training school grounds) labeled as "dangerous." What is really meant here is not a "dangerous" or "violent" juvenile, but rather a juvenile who is a "pain in the ass" to the court or agencies; one who repeatedly engages in minor delinquencies and does not stay where he/she is told. The diagnosis of dangerousness is therefore being applied somewhat indiscriminately to those youngsters who are troublesome to programs or are a frustration to the courts, and is unrelated to any history of, or propensity for, violence. This attitude is best spoken by a juvenile judge in Pennsylvania who wrote me a critical letter for pointing out that among the "dangerous" juveniles sentenced to the Pennsylvania adult prison mentioned above, was one teenager convicted of "turning over gravestones." The judge commented that "any youngster who is capable of turning over tombstones is capable of pushing his grandmother off a cliff." So much for the diagnosis of the "potentially violent."

We learned in the Camp Hill Prison experience in Pennsylvania (resulting in the removal of over 400 juveniles from that facility) that the diagnosis of "dangerous" was closely related to the ineffectiveness, inappropriateness, or lack of non-incarcerative social control or treatment models. When alternative pro-

grams to state training schools did not exist, or when youngsters bombed-out of such programs, or when those same programs rejected them as "inappropriate," then the diagnosis of "dangerousness" or "potentially violent" was escalated as a rationale for program rejection. Program failure is thereby salvaged with a new diagnosis. The diagnosis, in this case, insures that failure is made to rest on the head of the victim, and success is worn as a halo by the helper. In these cases, the diagnosis and labeling of the offender as dangerous validates ineffective social control or treatment programs, and that process, in turn, narrows the potential of the juvenile's being seen in any other terms. To do so would be to question the competence or altruism of those who offered the original diagnosis or treatment program. That is bad form in professions and bureaucracies. The process of "winding down" the diagnosis for "dangerous" to "less dangerous" or, God forbid, to "not dangerous or violent," is as difficult as terminating a governmental agency or cutting-back a bureaucracy. This is because it is the selfsame problem, and has little to do with scientific or consistent criteria. As a result, we have a system which overpredicts violence and which overincarcerates those it has labeled. We have redone, at the systems level, that familiar pattern of ineffective institutions whereby the degree to which an institution is brutal, ineffective, or inhumane determines the degree in which the inmate population of that institution is defined in even more extreme terms as "brutal," "ineffective," or "inhumane"—usually spiced-up a bit with war stories of particularly bizarre incidents affecting an inmate or two. Once again, the poor diagnosis becomes a social prescription for the maltreatment of inmates, and the maltreatment reinforces inmate behavior patterns which, in turn, confirm the originally faulty diagnosis. Paradoxically, the diagnosis becomes more plausible the longer the offender is subjected to the treatment.

It is not only the poor institution and programs which overly diagnose "dangerousness" in inmates as a means for rationalizing inadequate or poor treatment. Unfortunately, for other reasons, productive or successful programs tend to do the same thing. This is because the system of care for apprehended offenders (captives) is based on a series of disincentives whereby there is little or no pressure from the clientele upon the service-giver to produce results. Good programs will therefore do even better with clientele who are less risky, but who guarantee the state or county *per diem* coming to the agency. A natural and understandable process of "creaming" sets in whereby the most likely to succeed" are admitted to programs and kept inordinately long, thereby guaranteeing program peace and financial stability. It is at this point that the diagnostic games ensue, whereby less difficult offenders are seen as potentially more dangerous and in need of the program, while juveniles with histories of violence are rejected as inappropriate. Theoretically, governmental regulatory agencies and funding sources should be able to keep pressure on these better social control and treatment programs to insure that they continue to deal with the "deep end" more difficult juvenile. However, the record of most state agencies in this regard is dismal, since it is not the row to hoe if one wishes to maintain stasis in the political or bureaucratic system by keeping peace with contractors, vendors to institutions, patronage considerations, state employee unions, or Boards of private agencies (often tied to major religious groups, and thereby carrying considerable political influence).

In summary, it is the contention of this paper that we cannot know or understand either the "serious juvenile offender" (his/her characteristics, numbers, intensity, etc.) or the "systems of control" (treatment, secure programs, deterrence, etc.), until we look more closely at the backdrop against which these issues and concerns are defined, developed, and implemented (i.e., the juvenile justice and "helping professions" bureaucracies). To attempt to either define or treat the serious juvenile offender without due consideration for the arena in which the problem is considered is to invite further frustration and failure. I have attempted to point out some of the considerations and issues in this paper. The solutions are, of course, more difficult and, in a sense, it is contradictory to suggest that solutions are possible in this confused system. However, directions might be plotted and for that, to paraphrase Robert Theobald, we need a compass rather than a map. This paper has been an attempt to provide some of those bearings. As one maps the uncharted territory, there are a few suggestions which might be helpful in keeping our directions straight.

As we seek an understanding of the serious juvenile offender and the systems of control which we set up to deal with him/her, we must stress the following—although in the present juvenile justice system context, some of the suggestions

might appear absurd. Perhaps it is time to send in the clowns, and perhaps, they might help us keep our bearings. The following must take place:

1. Accountability to the client (in this case, the invalidated, captive "serious" juvenile offender) must be stressed. He/she remains the best judge of the effectiveness and appropriateness of our diagnosis and treatment.

2. The diagnosticians must be changed constantly, and must be from outside the juvenile justice system.

3. Research on the problem of serious juvenile crime must focus on the political and bureaucratic characteristics of the juvenile justice system, while attempting to understand the serious offenders.

4. There must be constant movement of clientele and staff to new roles between, among, and within diagnostic and treatment settings. The movement must be vertical as well as lateral, to the degree to which program consistency and public safety allow.

5. We must build systems whereby there is constant pressure to limit, proscribe, and de-escalate the diagnosis of serious or violent offenders as a means of counteracting the natural bureaucratic process of overusing and overdefining dangerousness as a rationale for social control.

6. We must increase the possibility of choice of treatment, even for those clearly violent and dangerous juveniles who are caught up in the juvenile correctional system. For example, if they have to be in a locked and secure setting, they might be given some choice as to which facility they feel best meets their needs, given a State voucher, and be allowed to "shop" a bit. They also might be allowed to leave an unsatisfactory locked unit for another locked unit, and to take the State's money with them.

FOOTNOTES

[1] D. L. Howard, *The English Prisons* (London: Methuen, 1960).
[2] Denis Chapman, *Sociology and the Stereotype of the Criminal* (London: Tavistock Publications, 1968), p. 237.
[3] Ibid.
[4] Edmund Leach, *A Runaway World*, BBC Reith Lectures, 1967 (New York: Oxford University Press, 1968).
[5] Governor's Panel on Juvenile Violence, "Report To the Governor From Kevin M. Cahill, M.D., Special Assistant to the Governor on Health Affairs," panel report (Albany, N.Y., 1976).

Who's Coming to the Picnic?

(By Donna Hamparian)

For my title and text, I draw from the public statements of Edward M. Davis, Chief of Police of the City of Los Angeles and sitting president of the International Association of Chiefs of Police, who recently warned us as follows:

* * * as the juvenile justice system continues to operate under present constraints, we know that it is building an army of criminals who will prey on our communities. The benign neglect that we have shown—has made children with special problems into adult monsters that will be with us forever. If improvement to this system does not come, it will insure a generation of criminals who will make the current batch look like kids on a Sunday School picnic.[1]

Although I do not share Chief Davis' alarming vision, I will certainly agree that the juvenile justice system is in urgent need of improvement. While I am not as sure as I once was—and as some still are—what the system should be like, I am here to indicate some of its parameters from recent research which my colleagues and I have been doing, some of the range of possibilities drawn from my observations of prevailing practice, and some tentative conclusions about the future of incarceration as an intervention in the lives of Serious Juvenile Offenders.

The Dimensions of the Problem

Our problem is, What shall we do with the Serious Juvenile Offender? The beginning of a solution must be found in a determination of how many such young people there are. To begin with, youths under eighteen account for almost half of the serious crimes committed in the United States. Since 1960, crimes committed by juveniles have increased in number at twice the rate of crimes committed by adults.[2]

Note: Footnotes at end of article.

The *Uniform Crime Reports* for 1975 show that youths under eighteen account for about a quarter of all arrests (about 2,000,000 of a total of 8,000,000); 23.1% of all arrests for violent crime, and 43.1% of all arrests for index crime. Between 1970 and 1975, there was a 54% increase in the numbers of youth arrested for violent crimes, as compared with a 38.3% increase of those over eighteen. The only Part I offense that showed a decreased rate for juveniles during the period 1970–75 was auto theft, which declined by almost 18%. Table 1 shows the total number of arrests for serious crimes by juveniles in 1975.[3]

TABLE 1.—1975 ARRESTS FOR SERIOUS CRIMES

Offense	Number under 18	Percent under 18	Total
Murder	1,573	9.5	16,485
Manslaughter	368	12.1	3,041
Forcible rape	3,863	17.6	21,963
Robbery	44,470	34.3	129,783
Aggravated assault	35,512	17.6	202,217
Burglary	236,192	52.6	449,155
Larceny	432,019	45.1	958,938
Motor vehicle theft	65,564	54.5	120,224
Total violent [1]	85,418	23.1	370,453
Property [2]	733,775	48.0	1,528,317
Total index crimes	819,561	43.1	1,901,811

[1] Murder and manslaughter, forcible rape, robbery, and aggravated assault.
[2] Burglary, larceny, and motor vehicle theft.

Whether this increase reflects an actual increase in juvenile violence or a higher rate of police apprehension, the public, the mass media, and most policy-makers are persuaded that the streets are unsafe because they are studded with dangerous juveniles. Demands for a more stringent juvenile justice system in line with the recommendations of Chief Davis, have been reflected in the proliferation of bills and new statutes in many states. I am not sure that the new legislation in New York, which provides for mandatory sentences of three to five years for a considerable range of juvenile offenders, presages the future in other industrial states, but it certainly reflects the current public impatience with the juvenile justice system we have.

At one end of the spectrum of juvenile troubles, the status offenders are being removed from the jurisdiction of the juvenile court; at the other, the dangerous juveniles are being shunted by bind-over into the hands of the adult courts. For these young people, the future of incarceration is to be found in the adult prisons. We are chipping away at the jurisdiction of the juvenile court without benefit of systematically gathered information or an attempt to formulate a rationale for a new system. Most policy-makers have absorbed the principle that if status offenders are to be removed from the jurisdiction of the juvenile court, appropriate services must be provided for them. Similarly, if the serious juvenile offender is to be better managed, the state must have a more coherent solution than a change of jurisdiction. A beginning in the journey to coherence must come from measurement of the extent and nature of juvenile violence. Data of this kind are in scarce supply. In spite of the rhetoric of the advocates of severity, I have seen no data at all that show that society will be better served or better protected when a juvenile is tried as an adult and sentenced to an adult prison. If the problem is to be solved, we have to think harder and longer than that, and we must have the wherewithal for serious planning.

In the interest of putting some information together to see what it looks like and what the problems are in getting it and interpreting it, the Dangerous Offender Project has engaged in a retrospective study of violent juvenile crime in Columbus. Although John Conrad has mentioned this study in his contribution to this Symposium, I shall recapitulate our methods and objectives before relating some of our preliminary findings. We had access to the police records of all juveniles born in 1956–60, of both sexes, who had been arrested once or more for a violent crime. These data were supplemented by data extracted from the files of the Ohio Youth Commission on the number and length of institutional commitments. We have five violent arrest cohorts, consisting of 1,138 youths. In the data to be presented here, we are drawing from findings for the first three cohorts, those born in 1956, 1957, and 1958. These cohorts totaled 811 juveniles,

Note: Footnotes at end of article.

all of whom have "graduated" from the juvenile justice system, and thus, we have their completed juvenile arrest histories to examine.

Many of the sample under study had only one arrest, a crime against the person, but the majority had two or more arrests for a wide range of offenses. The maximum number of arrests was twenty-three. Because the data analysis is still far from complete, all I can offer you now is a battery of preliminary findings which I hope to relate to policy recommendations. Some of our findings will come as no surprise to experienced professionals and researchers; others seem novel to me, at least. Let me run through the major trends and indices.

1. Sex: As expected, female juveniles are not as violent or as chronically delinquent as their male counterparts. Some of the particulars:

a. Females had a lower number of arrests per individual: they averaged 2.5 per individual as compared with 4.5 for males.

b. 94.5% of the females committed only one violent offense, as compared with 81.0% for males.

c. Females used weapons less often (18.5%) in the commission of violent offenses than did males (27.8%).

d. Most of the female arrests were for assaults: 73.2% for assault and battery and 7.8% for aggravated assault, as compared with a total of 42% for males.

2. Race: The majority of youths in the three cohorts were black (54.6%) whereas the population of Columbus is about 20% black.

3. Socio-Economic Status: Most of the arrestees were from poor families; 80% lived in census tracts in which the median income was below the city-wide median.

4. Arrest Records: So far we have not discerned any defined patterns in the arrest histories. However, some suggestive data have emerged which deserve our attention:

a. The instant violent offense was the only arrest for about a third of our consolidated cohorts. Forty-eight percent of the females and 26% of the males had no other arrests. I cannot tell you yet how many of these one-arrest-only individuals received a punitive disposition from the court in the shape of a commitment to the Ohio Youth Commission or probation.

b. In our cohort of 811, 368 or about 45% were first arrested for a non-violent offense; the first offense for the remaining 443 was violent. Of these 443—only twenty-five or about 6% were committed to the Ohio Youth Commission. Only two of the non-violent first offenses were committed. Ninety of the 811 were placed on probation on their initial court appearance, of which fifty-four were violent and thirty-six non-violent.

c. The mean age at the time of arrest for the first violent offense increased with the seriousness of the charge:

Assault and battery: 14.2 years.
Purse snatching: 14.5 years.
Armed or aggravated roobbery: 15.5 years.
Murder or manslaughter: 16.4 years.

d. Over one-quarter of the three cohorts served at least one sentence in a juvenile correctional facility.

e. At first, when violent offenders are committed, it is on the violent offense itself, not on the record. But as the record lengthens, it becomes the basis for the commitment rather than the nature of the offense. From the fifth offense on, commitments for property and other types of offenses increase. (See Table 3.) In general, the greater the number of prior offenses, the less serious is the offense which results in commitment.

TABLE 2.—NUMBER AND PERCENTAGE OF CASES COMMITTED TO OHIO YOUTH COMMISSION BASED ON NUMBER OF TOTAL ARRESTS

Arrest number	Number of cases	Total number committed	Percent committed
1	811	29	3.6
2	572	38	6.6
3	441	33	7.5
4	358	84	23.0
5	272	33	12.0
6	215	31	14.0
7	181	55	30.0
8	143	34	23.8
9	102	30	29.0
10	75	8	10.7

TABLE 3.--NUMBER AND PERCENTAGE OF CASES COMMITTED TO THE OHIO YOUTH COMMISSION BY TYPE AND NUMBER OF ARRESTS

Arrest number	Total number of commitments	Violent		Assault and battery		Other offenses	
		Number	Percent	Number	Percent	Number	Percent
1	29	25	86.0	2	12.0	2	12.0
2	38	22	57.8	4	10.5	12	31.6
3	33	11	33.0	0	0	22	67.0
4	84	48	57.0	2	2.4	34	40.0
5	33	7	21.0	2	6.0	24	73.0
6	31	6	19.0	0	0	25	81.0
7	55	10	18.0	1	1.8	44	80.0
8	34	9	26.0	2	5.9	23	67.0
9	30	3	10.0	2	6.7	25	63.0
10	8	0	0	1	12.5	7	87.5

TABLE 4.—*Number of commitments to the Ohio Youth Commission by offense*

Offense	*Number committed*
Violent offense:	
Murder	4
Rape	7
Molesting, sexual imposition and sodomy	6
Unarmed robbery	22
Purse snatch	21
Assault and battery	21
Armed robbery	49
Aggravated assault	15
Other violent offenses	23
Subtotal	168
Property offense:	
Breaking and entering	25
Larceny	7
Auto theft	43
Grand theft	9
Breaking and entering	61
Petit theft	8
Other property offenses	20
Subtotal	173
Public Order	28
Status offenses	28
Drug offenses	5
Intoxicants	13
Parole violation, AWOL	21
Total all offenses	436

What can we conclude from these findings? As I said, I haven't surprised you. We are dealing with a population of minors who are overwhelmingly poor, predominately black, and predominately male. A substantial number of them have only one arrest, and that for violence. As their appearances in court become more frequent, they seem to be identified in the mind of the court as bad news, kids who need as stern a lesson as the state can teach them. Sometimes the court gives the boy or girl a break on a serious crime on the first time up, only to lower the boom later on for a much less serious incident. Some of our impressionable subjects must conclude that there is a great inconsistency here: "I got away with mugging last time but this time he's racking me up for shoplifting * * *" I have no way of knowing how many of our sample made this conclusion—or if any did—but consistency is certainly the hobgoblin of delinquent minds, especially when considering their treatment by persons professing moral superiority over them.

However unfair that sentencing policy may be, it is plausible and probably universal. It suggests that the population of juveniles who have committed assaultive offenses become subjects of the court's severity. Unless research can supply juvenile jurisprudence with a good reason for doing otherwise, such youths will be sent to state correctional facilities, there to appear on the statistics as nonviolent offenders. At the other end of the continuum represented in this cohort there are youngsters whose offenses may be violent enough but whose subsequent conduct indicates that severe intervention is unnecessary. As we learn more about these two classes of offenders, differentiations will become possible which will shed light on middle bands of the spectrum. This kind of analysis leads to conclusions about the varieties of disposition which should be available for the serious juvenile offender. I am glad to say that as our interpretation of the Columbus juvenile arrest data continues we can expect that some of these answers will emerge.

JUVENILE INCARCERATION AS THE DISPOSITION OF CHOICE

For many years, the literature of juvenile justice reform has leaned heavily on a horseback truism. We are told by those who would revise the present system that those who know best the residents of our youth training facilities will affirm that the majority of those confined in them do not require secure custodial containment. As the Vera Institute of Justice report stated, "the number of delinquents, violent or otherwise, who must be isolated in closed institutions is smaller than current policies and practices would suggest. Research on this issue * * * is far from adequate." [4] So far as I am concerned, it is still inadequate for the purposes of intelligent policy change. Some believe that about 50% of the present population of closed juvenile institutions could be harmlessly released. Others, far more optimistic, will set the figure much higher, perhaps as high as 95%. Whatever the percentage may be, they are candidates for the various options available in principle to juvenile justice even now. They would be better cared for in open residential facilities or in community-based day programs if a sufficient number of such programs could be developed.

But as matters now stand, despite the pessimistic evaluations of state training facilities, 25,424 adolescents were housed in such facilities in 1974.[5] If we cannot say for sure how many of these young people could be safely turned loose, we can at least suggest reasons for this very considerable figure:

1. Clinical prediction of the need for secure placement is at best an inexact art. Whatever clinicians can predict, the uncertainty is such that the inclination to err on the safe side, in favor of incarceration, is natural and consistent with a policy-value that the safety of the community commands the highest priority.

2. Even if an alternative to incarceration is seen as a safe recommendation, the appropriate alternative may not be available.

3. Even if the clinician is willing to make an alternative recommendation and even if there is a suitable facility available, judges and administrators are too often unwilling to experiment with innovative programming within community settings. Although this reluctance is understandable enough, the risks sometimes being what they are, the consequences add up to a stagnant treatment policy for serious juvenile offenders.

4. Even if all agree on the desirability of community programming for a serious juvenile offender—or a whole class of such offenders—decision-makers have to consider the balance between the increased probability of success with some serious juvenile offenders against the contingency that the anticipated results will not ensue and another violent incident will take place.

If this analysis is correct, conjectural though it is in part, we will not see the end of juvenile incarceration in this century. What seems more likely is that custodial facilities will be occupied predominately by minors who are clearly identified as seriously delinquent. We don't know how many such offenders will be so confined or how the determination will be made of their eligibility for secure care because of violence potential. As non-violent delinquents are increasingly managed in community-based services, the state juvenile correctional facility will become more and more homogeneously dangerous.

There is evidence to support this prediction. As noted by Vinter, Downs, and Hall, "there is reason to believe that the California Youth Authority, with its

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extensive system of 'probation subsidies' to local governments, handles a greater proportion of serious offenders than do most state agencies."[6] The stringent criteria governing the placement of juveniles in secure treatment in Massachusetts[7] or in similar treatment control in such New York facilities as Goshen Center or Brookwood[8] limits the population of secure facilities in these states to those who are thought to be most dangerous. Another example is the Green Oak Center in Michigan, which accounts for 100 of the 130 secure placements in the state; about 80% of the population was committed for homocide, forcible rape, aggravated robbery, or aggravated assault.[9]

In most states, the distillation of the juvenile offender population to arrive at a concentration of verifiably violent youth has not gone so far. Traditional facilities are characteristic of the dispositions available at the end of the line in juvenile justice. In his paper, John Conrad has described one of them most familiar to both of us Ohioans—the Training Institution Central Ohio (TICO). I shall not recapitulate his description here. I do want to comment, though, that although we tend now to see it as a traditional institution, with much to deplore in its performance and much to question in its operating philosophy, it would have been seen as an advanced example of enlightened practice if presented to an informed audience as recently as fifteen years ago—perhaps even more recently than that. In Ohio and throughout at least the more affluent parts of the country, the message of treatment has been delivered. So far the public is unstinting in its support and uncritical of its results. The criticisms of the juvenile justice system may be and in many respects certainly are vociferous and severe, but no one is seriously advocating the dismantling of treatment, even for the most unfavorable prospects for successful intervention.

BETTER THINGS TO COME?

I wish I could report that on the horizon there can be seen the outlines of much better systems of intervention. What I can tell you about consists of the observations of several programs which offer some prospect of at least marginal improvements. My presentation will be necessarily superficial, but I intend to aim my reports toward generalizations which will support specific recommendations for improvement in the traditional systems.

Green Oak Center is a 100-bed maximum security unit operated by the Michigan Department of Social Services. It is located at Whitmore Lake, not far from Ann Arbor. Most of the boys sent to this facility have been found guilty of one or more of the index crimes against the person and have been in serious trouble from an early age. The admission criteria require that boys assigned to this facility must have been found guilty of felony charges in juvenile court and must also pose a threat to the safety of the community, to other inmates, or to themselves.[10]

The program centerpiece is Guided Group Interaction. Peer pressure is mobilized to induce residents to show concern for others and for themselves. Although the age range runs from twelve to nineteen, the program emphasis seems to be on severely disturbed older boys requiring institutional care. Group pressure on the individual is unremitting; the whole group loses privileges when a member commits a serious infraction; one boy absent without leave results in serious consequences for the entire group. It is interesting to note that although the groups at Green Oak Center are permitted some decision-making autonomy, they are not allowed to decide—or even to recommend—negative sanctions for any member. The staff has long since found what seems to be generally true that when inmates do have such latitude they tend to be excessively punitive in deciding the suitability of sanctions. Nevertheless, staff members are expected to avoid authoritarian postures so that the inmate peer culture can work effectively as a treatment tool. At the same time, staff members have to accept responsibility for making those decisions which cannot be delegated to the groups.[11]

Most of the boys committed to the Center have long histories of contact with the court, going back to complaints of child neglect against their parents. Many of them have been held in private treatment facilities or open correctional placements; others have been placed in mental health facilities with diagnosis as "borderline psychotic." Their educational level is far below average performance for their ages; some are six years below average test score. Despite the

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severe problems which virtually all of them manifest, the average length of stay is about ten months. A recent study showed that about a third of the releases were rearrested within six months; a fairly impressive performance considering the nature of the population.

Goshen Center is a self-contained maximum security facility in New York with a capacity of seventy-five, held in individual, locked cells. In November 1976, when I visited it, there were forty residents with almost as many staff. Most of them were recidivist violent offenders; the majority of them had used knives and guns in the perpetration of their offenses. Most of them were members of street gangs. Under the provisions of New York's Juvenile Justice Reform Act of 1976, such offenders, if fourteen or fifteen and therefore still under the jurisdiction of the juvenile court, may be held for six to twelve months in custody and retained under supervision for thirty to forty-eight months, depending on the nature of the offense.

There is a heavy emphasis on academic education. Because functional illiteracy and learning disabilities are the rules rather than the exceptions, most of the educational effort is remedial with class schedules timed for typically short attention spans, interspersed with physical education. The goal is to bring each student up to fifth grade reading level, as required for high school admission in New York.

There is little formal psychological treatment; the staff seems primarily interested in creating a supportive milieu. There is considerable attention given to interaction with the surrounding community. Residents are taken to town for shopping expeditions, athletic contests, and other events. Visits with parents are facilitated; several home visits are required before the youth is considered ready for parole.

There is no question about the custodial nature of this facility; the boys are there because the community will not tolerate their criminal behavior. The staff is realistic in its expectations. Obviously, they hope for positive results, but there is no talk of "rehabilitation" in the sense of drastic modification of behavior in the six to twelve months during which a youth is under their control. This period is recognized to be an interlude between the years of accumulating anti-social behavior patterns and the attitudes that go with them, and the succeeding years after release when the youth will return to the old neighborhood and the old gangs.

It is still too early to say what the outcome of this effort will be. The statutory change which made it necessary went into effect in January 1977, and I visited it when it was still in a transitional phase. Obviously, an evaluation at this time would be premature.[13]

The Bronx State Hospital Unit is a joint project of the New York Division for Youth and the Department of Mental Hygiene. It was created in 1976 to provide treatment for male adjudicated delinquents who were determined to be both violent and mentally ill. The project consists of two units. One is a ten-bed ward to provide short-term diagnostic, stabilizing, and emergency services to be delivered by the Department of Mental Hygiene. The other is a twenty-bed unit for long-term treatment for those youth determined to require that level of care, and is operated by the Division for Youth.

To be admitted to the program, a juvenile must have displayed significantly violent behavior and his evaluation must have been judged to be sufficiently disordered to require psychiatric treatment. It is planned that the long-term treatment program can last for eighteen months, after which, if necessary, he may be transferred to other facilities operated by either the Department of Mental Hygiene or the Division for Youth.

Serious problems have become manifest in the first year of operation. To quote from an early report, "despite the assumption that all juveniles who commit violent acts must be mentally ill and despite the manifestation of this assumption in the demand by the media, and by the policy-makers for more and more psychiatric services, the data from this project would suggest that there are, in fact, very few juveniles who can successfully be shown to be both violent and mentally ill if these terms are defined strictly."[14] In addition to the difficulty of finding clients, there have been philosophical questions about the propriety of drug therapy for these young people. For how many are controlling drugs appropriate and for how long? Nevertheless, in spite of these difficulties, the Bronx State

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Hospital represents an experimental initiative from which much can be learned in the development of effective treatment for the assaultive juvenile.

PRIVATE ENTERPRISE TO THE RESCUE?

Elan. Situated in Poland Springs, Maine, Elan is a residental psychiatric center for disturbed adolescents from fourteen to twenty-five. As of July 1977, it housed about 250 residents in four rather widely separated facilities. Receiving patients from a number of states on commitment, it also accepts private admissions on a fee basis. Elan does receive some extremely serious juvenile offenders —a girl who brutally murders a child, a boy on a sniper spree, some extremely assaultive adolescents accustomed to getting their way by intimidation. The mugger and the street hoodlum is less likely to arrive, although such cases are acceptable within Elan's general admission policy aimed at the difficult youth with a penchant for violence. This policy tends to pull in the institutional misfit. The chronic delinquent tends to learn how easy time is done and to do it; he fits in all too well.

The Elan approach draws some techniques from Synanon and Daytop, the addiction self-help treatment centers developed in California and New York. There is much group treatment which is directed primarily at the here-and-now issues of everyday living. The claim is made that the social structure is designed to reinforce desired conduct by giving absolute support while attitudes and behavior change.

Much stress is placed on maintaining a lawful community. Illegal behavior is punished immediately. Three primary rules of conduct are enforced by peer pressure and staff authority: no narcotics, no violence, no sex.

While leadership is shared between a psychiatrist and a program director, this is primarily a program operated by para-professionals—many of them former residents. There is a rigid hierarchial structure in each of the houses, with promotion accorded by meritorious performance on the job. New admissions have the status of workers, from which they can and do move to become "ramrods," department heads, coordinator trainees, and coordinators. Each house has six departments: business, communications, maintenances, kitchen service, medical, and expeditors, the last being the house police force. Few residents successfully "elope;" they are watched and checked at least every ten minutes by an expeditor.

He who rises in this organization must justify his elevation by performance or be "shot down." Most of the discipline meted out is in the form of the "haircut" in which erring conduct and its significance are pointed out on the spot by higher ranking residents. In addition, the program provides for a full assortment of fashionable group treatment techniques—from sensitivity sessions to the primal scream.

The program has been criticized by some observers for abusive and occasionally violent measures of behavior control. Some observers find it objectionable that individuals using violence for intimidation are required to enter the boxing ring against the "champion of the house" there to battle it out until he is soundly drubbed. Although this approach to the control of violent behavior is unusual in the contemporary institution for the juvenile offender, it appears to have the merit of assuring that the community is in control of itself rather than in the control of its most lawless elements.[14]

The Just Community is founded on a developmental view of individual growth. Drawing on the work of Lawrence Kohlberg, the Metropolitan Social Services Department in Louisville has built a probation program applying the concept of moral development to juvenile offenders. The ruling paradigm defines six stages of moral development, thereby providing a theoretical attribution of delinquency to developmental arrest. Children are seen as having a logical and social perspective appropriate to their ages rather than a less mature or incomplete version of adult moral responses. The Just Community approach aims at developing among its participants the ability to cope with social and moral problems in a consistent and responsible manner.

In the Louisville program all decisions are jointly made by probationers and probation officers. Problems and conflicts are resolved by all group members, each assisting any one member encountering a crisis. It is claimed that this

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approach "promotes moral character development and responsibility (a) through participation in moral discussions and exposure to new and different points of view, (b) through living in an atmosphere of fairness and developing relations of loyalty and trust and (c) by taking responsibility for making and enforcing rules on oneself and other members of the group." [15] Concepts which can truly be regarded as innovative are hard to come by in this field. Although this approach has not, to my knowledge, been tried with the Serious Juvenile Offender, its potentiality deserves attention from program planners.

Continuous Case Management Programming, an approach proposed by the Vera Institute of Justice, would put into effect a sort of consistency in service long advocated by the social work community but seldom achieved because of its obvious practical difficulties and probable cost.[16] Briefly, Vera suggests that repetively violent juvenile offenders should be reintegrated by planning services and assuring that they are carried out from the time of sentencing to a point where services are demonstrably no longer needed. The argument here is that by the fragmentation of social services many offenders who could be helped do not get what everyone agrees they need. Clearly such a program, if adopted for a significant enough population of serious offenders, could have much research value, even though some of the stubbornly adverse influences of community, peers, unemployment, and low morale are unlikely to be offset by positive programming. Nevertheless, it seems clear that the present deployment of services could be greatly improved upon by this kind of programming; certainly if not all the offenders at whom it is aimed can be helped, more of the reachable will be reached successfully.

SUMMARY AND CONCLUSIONS

Where does this review of the present practice in the control of serious juvenile offenders lead us? I think the following points must be kept in mind as we consider the limited policy options confronting us:

1. The preponderance of the statistics indicates that juvenile violent crime is increasing at a more rapid rate than adult violence.

2. There appears to be a general inclination to increase the severity with which violent juveniles are treated. With the means at society's disposal, increased severity will probably mean more juveniles sentenced to custodial facilities for longer terms. There can be little question but that secure facilities will be required for this sector of the delinquent population for the indefinite future. However, in most states, the violent juvenile is a small fraction of the confined population, not more than 15%.

3. Although the increase in juvenile violence is marked, a very large number of minors arrested for such offenses do not commit any further offenses. There is no reliable method remotely in sight for predicting violence.

4. Treatment in conventional correctional institutions is adequately supported but poorly executed.

5. Innovations in treatment for this group are primarily limited to modifications of organizational structure using very familiar modalities. With a few untested exceptions, new concepts in treatment are not in evidence.

This is hardly an encouraging picture. My consideration of the present position leads me to recommendations about which I am uneasy; they run counter to the juvenile court tradition and philosophy. None of them are adequately tested. However, in the face of a system that is ineffective and losing public confidence, these are logical, if not sure-fire remedies:

1. If successful treatment cannot be a reliable criterion for release, fairness seems to require us to abandon the indeterminate sentence structure. I lean to a counterpart of the flat term sentencing now in vogue in the reconstruction of adult sentencing. The seriousness of the offense and the length of the individual record should be the basis for a decision to hold in custody.

2. Because repetitively violent juvenile offenders constitute so small a fraction of the delinquent population, plans for their care should allow for services and institutional structures not easily provided by the state. For this reason, I agree with John Conrad that provision should be made for contracting for service with private agencies rather than continuing the counter-productive effort to hold them in state-operated facilities. This change is already under way in Massachusetts as part of the drastic revision of the juvenile correctional system

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of that state. Other models exist, and undoubtedly the possibilities are far from exhausted. The state will have an important role in stimulating organizations to proceed with the development of programs, and the responsibility for monitoring and assuring the maintenance of standards cannot be delegated.

3. Although control may often have to take precedence over treatment, there must be recognition that treatment in custody will seldom if ever be sufficient for successful reintegration. A system of aftercare, adequately coordinated with institutional programming, is absolutely necessary and should be based on whatever access is needed to community services.

4. The resort to waivers of juvenile jurisdiction must be studied to determine the extent to which they are used and the consequences. So far, the evidence is inconclusive and fragmentary. A change in the maximum age of juvenile jurisdiction and increased use of bind-overs by the juvenile court should await evidence that these measures increase the protection of the public without increased damage to the youthful offender.

5. Where incarceration must be used, it must be part of a long-range plan for a severely damaged youth. The following elements are requisites to a successful program, whether publicly or privately operated:

a. Close ties to the community to which the youth will return.

b. A flexible, youthful staff, probably including some ex-offenders as role models.

c. Strict enforcement of necessary rules; assurance that the facility is law-abiding.

d. A significant reward structure allowing for tangible incentives for realistically attainable goals.

e. Staff-intensive security programming with minimum use of jail hardware.

f. Helping roles for residents; full use of positive peer cultures.

g. To the fullest extent possible within the constraints, a maximization of choice and decision-making by individuals with consequences fully and clearly related to choices made.

h. Credible training and remedial education programs.

I suggest that a survey of existing secure treatment facilities would uncover very few that met all these criteria.

No correctional system that I can conceive of will truly correct the damage done by years of early bad experience cannot be offset by the most lavishly provided institutional program. Everyone knows this in his bones, and we all know something about the resilience of youth and the marvelous capability for change which so many young people possess, even the kinds we are considering in these proceedings. An institution can help such youth, though modestly, and at least it can allow the restorative processes of nature to have their way during a respite from the streets. We shall continue to need confinement for some such youth. Neither hospitals nor warehouses, they must be seen as interruptions in a delinquent's career during which some remedies will be provided for the most obvious damage, and the best preparations possible will be made for a successful restoration to the community.

I cannot promise Chief Davis that my prescription will lead to a Sunday School picnic, but I think we can use these means to avoid the apocalyptic culture of violence, which he so gloomily forecasts. There is a way up from the present state of affairs, but it will require ideas and concern in even larger amounts than money.

FOOTNOTES

[1] Edward M. Davis, "Juvenile Justice Since Gault Decision," *The Police Chief* (July, 1977): 8.

[2] Federal Bureau of Investigation, U.S. Department of Justice, *Uniform Crime Reports—1975* (Washington, D.C.: U.S. Government Printing Office, 1976), Table 30, p. 182.

[3] Ibid., Table 36, p. 188.

[4] Paul A. Strasburg, *Violent Delinquents* (New York: Vera Institute of Justice, 1977), p. 186.

[5] Robert D. Vinter, George Downs, and John Hall, *Juvenile Corrections in the States: Residential Programs and Deinstitutionalization* (National Assessment of Juvenile Corrections, November, 1975), p. 13.

[6] Ibid., p. 74.

[7] Commonwealth of Massachusetts Department of Youth Services, "Secure Treatment Policy Manual" (1976).

[8] New York Division for Youth, "Master Plan for the Implementation of the Juvenile Justice Reform Act of 1976."

[9] Information obtained from an oral communication, Wolfgang Eggers, Director of the Green Oak Center, August, 1977.

[10] Ibid.

FOOTNOTES—Continued

[11] Don Ball, "Green Oak Houses Violent Offenders," *Detroit News*, 1977.
[12] Observations from visit and discussion with the staff of Goshen Center, November, 1976.
[13] Joseph J. Cocozza and Jeraldine Braff, "The Diversion of Violent Juveniles into the Mental Health System: Why?" (Prepared for Presentation at the 1976 Annual Meeting of the American Society of Criminology, Tucson, Arizona), p. 9.
[14] Personal observation, discussions with Gerald E. Davidson, M.D., Medical Director and Joseph Ricci, Therapeutic Director and other staff and published and unpublished materials describing the Elan program.
[15] Personal communication from Jack Freckman, Director of Probation, Metropolitan Social Services Department, August 4, 1977.
[16] Strasburg, *Violent Delinquents*, pp. 285–306.

AFTERCARE AND THE SERIOUS DELINQUENT: ALTERNATIVE STRATEGIES

(By Ray A. Tennyson)

The problem for this afternoon's session simply stated is, What form should aftercare take on a continuim of one of no control to one of intensive supervision of the serious delinquent? What shall be done here first is to present a selective review of the salient issues, and then, secondly, to discuss programs which appear to offer promise, but which either have limited or no program application, or have had considerable program application with an apparent limited measure of success.

It seems understood that two classes of program options exist. The first class is that suggested by the "leave them alone school," an argument most strongly developed by Schur.[1] Restraint in intervention into the lives of delinquents was urged by these social scientists because of ethical or moral limits contained in the intervention strategies, i.e., what is judged "right" for the serious delinquent may be only "right" for those making the judgment. (Don't we also know that adult judgments of juveniles are in flux and that such judgments of youth change with important and vital physical changes such as those which have recently occurred where there was a lengthening of hair and a change in the style of dress.)

Restraint in intervention also appears reasonable, especially if one takes Martinson and colleagues' work seriously.[2] For if nothing works on experimental groups any better than it does for control groups who have ostensibly "been left alone," the argument to leave them alone seems supported. Of course, we all know of programs which work, we have seen them in operation, and their results are clearer to us than to Martinson. What is unclear in most research evaluations, however, is whether a rate of success for a program is appropriate if it happens fifty times out of one hundred times or two times out of one hundred. Most of us have seen the two times out of one hundred success rate, which is really not a bad rate if one considers the rarity of programs actually tried on the variety of delinquents observed. What is being referred to here is the fact that delinquent acts, which taken in the context in which they have happened in real life situations, may indeed be rare or nearly unique acts. If there are 50,000 delinquents in U.S. institutions, as some have guessed, one would expect that 6,000 serious delinquents would be found in the fifty states. Some states probably never see a juvenile arsonist, while others have two or three. Some states may hold five juvenile armed robbers who have held up stores, while others may have fifty such cases. What I'm trying to point out here is that:

(1) some programs may not appear to work because the places for testing them have held too heterogeneous a population to permit adequate testing; and
(2) retests of the same program can produce different outcomes.

Another argument for leaving them alone appears in research reported on parole caseloads.[3] Certainly a caseload of ten would be a low load. Dividing ten into forty hours, an expected parole agent's weekly hours for work, we can see that four hours per week of what some dare to call "intensive parole supervision" is nothing short of leaving them alone. After all, a caseload of ten leaves only one hundred forty-four hours more a week for a parolee to get into trouble again! No wonder then that caseload *per se* has little effect on recidivism rate, for if current parole practices aren't the same as "leaving 'em alone" they're awfully close to it.

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Perhaps the strongest argument for leaving delinquents alone may be found in those positions which urge that individuals must be allowed to contain themselves insofar as possible through self-directed, self-contained, personal restraint. The social-psychological literature suggests that voluntary actions are likely to result in long-term changes in attitudes, if not behavior, and that behavior change is more likely to result from voluntary actions than when forced or controlled by actions of others.[4]

At this point you may wonder if I don't advocate stopping the conference, doing away with parole, and prohibiting any form of intervention with serious delinquents, since I have given some rather adequate arguments for leaving them alone. Obviously, this is a control conference. Those of you who came here expecting otherwise may wish to leave at this point. The rest of us, myself included, will continue to advocate control of the serious delinquent. It's not that we wouldn't allow free will to exist, it's that continued serious, predatory, assaultive behavior by anyone, whether juvenile or adult, left unchecked, may become normative (if it has not already) and will destroy those freedoms (to say nothing of the health) of those who do not wish such imposition. Clearly, I am a control advocate. The question for me is what form that control should take. Let's examine some of the forms and speculate about some applications.

First, let me express the belief that the U.S. is not likely to do away with juvenile institutions, the Massachusetts experiment notwithstanding. For example, can you imagine Texas accepting anything from Massachusetts? Regional differences in attitudes toward law and juveniles virtually insure continued incarceration of youth, but that's not the main reason we won't do away with juvenile institutions. It is because of the current trend for youngsters, both male and female, to commit the more serious crimes. Boys and girls of twelve are now going on twenty-five when it comes to commission of some serious felonies. Social protection from these young criminals means they will be caught, held, and released under supervision, whether in traditional institutions or not.

Given this, it seems most appropriate to advocate a suggestion made by William Arnold in his 1970 work, *Juveniles on Parole*.[5] I recommend that you read it again if you have not already done so. Arnold holds the view that success on parole would be enhanced by bringing parole agents into juvenile institutions for intensive pre-parole contact as early as six months or more before release from the institution. Such visits would provide for familiarization with personality types, outlining of parole expectations, and the development of personal bonds between the two at the earliest possible time. A kind of social contract assumption is made by Arnold that parole agents will develop bonds with the juvenile by assisting in the transition to "real" life.

Arnold also points out the importance of peers in the control and the success or failure of juveniles on parole. They are "significant others"[6] as are uncles, aunts, parents, brothers, sisters, and other people to whom the juvenile will relate. Expanding Arnold, I would identify the help of each serious delinquent with those whom he considers to be "significant others" and I would bring them to the institutions six months or more before release, if necessary, to facilitate the re-entry of the juvenile into the community. Why allow the delinquent to choose his/her significant others, Because ultimately only he/she can make such a decision. Furthermore, significant others are precisely significant because they are perceived as important and hence have influence upon the serious delinquent. This informal influence or control, if you will, should become a formal part of any well thought out supervision program. The inclusion and assistance of informal control agents in aftercare programs for serious delinquents is essential, if they are to be successful. Therefore, significant others should be involved as early and as extensively as possible with the juvenile while he/she is institutionalized, as well as during the transition period. Involvement with informal control agents on a continuing basis until maturation has occurred may require programs which function for more than a decade. May I ask, Where have you seen such programs.

We know that most institutionalized serious delinquents are minorities from urban slums who were gang affiliated. It also appears that juveniles are disproportionately incarcerated—that is, the rate of incarceration per 100,000 population is greater—in southern states than elsewhere. Probably these facts should direct the bulk of aftercare programs. That is, most effort should be undertaken

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with minority, urban, slum gang youth. Parenthetically, the spin-off on programs directed toward this group would appear considerable, since serious delinquents are thought more likely to recidivate and appear as adult criminals. Effective work with these juveniles might reduce not only the quantity of delinquent acts but also the number of persons entering adult institutions, two major feats indeed.

The groundwork for such intervention has been laid for many years. It was developed in Boston, New York, and Chicago in the late 50's and early 60's, and was tested and found fiscally sound in Los Angeles until the late 60's (see especially Adams, Spergel, Klein)[7] when gangs appeared to disappear, for lack of those federal funds so vitally needed to keep interest alive in this continuing phenomenon. Surely group process and serious delinquency is too well established a phenomenon to be ignored. Certainly a review would be timely of informal control strategies which street workers have used in affecting informal leaders informally controlling serious delinquents after prison release. Much of that knowledge is as useful today as similar knowledge was twenty years ago.[8]

Variations in street work themes could also be adapted by parole agencies who advocate intensive parole supervision practices. In the open community, serious delinquents may require twenty-four hour, seven day a week scrutiny (a procedure which parallels current institutional practice). How intensive that supervision can realistically be is an unknown. Alden Miller has related in conversation that a Massachusetts intensive supervision program is so tension-producing for both the juveniles and control agents alike that it indicates severe limits probably exist in both the length and intensity of such supervision.

Frequent scrutiny and early availability of services to paroled delinquents may be programmatically the best one can expect short of intensive use of informal significant others (unless one uses part-day confinement in a home, halfway house, etc. as a substitute for institutional confinement).

OTHER CONTROL ACTIVITIES

It is well understood that youth have similar needs, and serious delinquents are no exception. Every delinquent has physical needs which must be met. These include a place to live, food, health care, and psychological support. Nurturant requirements have traditionally (especially for young delinquents) included a return to the delinquent's own home, or to foster home care. The bulk of delinquents in the twelve to seventeen age bracket return to their urban environments and slums, from families characterized as female based and/or dominated (especially true for minority urban youth), and/or to a family situation which is less than supportive. Most families are unable or unwilling to exercise control over their child, a major reason for repetitive delinquency. We boldly suggest at this point a variety of programs which may strengthen family control over the chronic delinquent:

1. Perhaps an innovative social welfare agency might locate parents and bring them together in a mutual delinquency prevention activity. Any effort undertaken which would help parents to cope with the problems they face with their delinquent sons or daughters seems appropriate.

2. A similar effort might involve contact, exchange, and support between the delinquent's parents and the parents of a delinquent's peers who would then participate in a joint effort designed to support the delinquent's parent(s). Although peer influence is considerable and probably much stronger than parental influence in the urban environment, an effort of this type should be directed toward strengthening parental influence.

3. Nurturance (psychological as well as physical) is frequently given by other relatives or "significant others" with whom a delinquent might be placed. That is, families of peers or other people with whom the juvenile has had substantial personal contact, and whom he/she holds in high esteem, should be regarded as alternate sources for care. Such "significant others" might include relatives, friends (including peers), and others who have not been traditionally acceptable as parole families, but who, nevertheless, have informal social control over the juvenile.

4. Social welfare agency approved homes in which youth live as unsupervised residents seem to be used seldom. Agencies such as the YMCA, YWCA, Salvation

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Army, Catholic Aid, and other social agencies which have housing capacity should be considered as residences for selected youth, probably chosen to demonstrate programs featuring an exercise in high individual self-control. Such agencies have function as "halfway houses" but only rarely as juvenile "halfway houses," since most halfway houses serve adult populations only. Innovative kinds of halfway houses need demonstration and evaluation.

5. Virtually all released juveniles, because of legal requirements or educational deficiency, must return to school. Educational difficulties are many (discussed later) and a vacuum appears to exist where great potential is possible, i.e., in the housing and supervision (twenty-four hour care) of delinquents by the schools. Such programs might start with or include summer camp education as a transition program to bring delinquents from the institution to the community. In our example, the summer camp would be a public Board of Education program, followed by fall residence in homes maintained again by the same Board of Education. Innovative, school-directed programs are especially important, not only because of the impact schools have upon delinquents, but also because of the impact upon delinquent peers and others (not excluding the reshaping of educator thinking and practice).

6. We know of no neighborhood homes run by "neighbors." Efforts should be attempted to facilitate a demonstration of serious delinquent control projects run by neighbors in their own homes, as opposed to the usual social worker run neighborhood homes.

EDUCATION

Virtually all twelve to seventeen year-old delinquents are affected by legal education requirements, and the need to learn those things necessary for life enhancement. Especially appropriate might be twenty-four hour a day schools including adult education, vocational education, school-work options, and other programs such as evening school, or a summer camp experience which provides educational enhancement.

Clearly, school plays an important role in the success or failure of youth.[9] The research literature is full of such implications, some directly related to the severe delinquent. An extreme position argues that no effort should be directed toward school involvement because of their high failure rates.[10] The fact that schools do produce failures is, we believe, sufficient reason to suggest that considerably revised educational approaches must continue to be undertaken to cope with problem youth. Support for highly innovative and promising programs which regard crime and delinquency as an educational problem is recommended. Innovation might take several forms:

1. Programs which attempt to provide support (control) during the late afternoon and evening hours when youth are out of school "doing time" and are involved with peers in social activities which produce and promote trouble. The suggestion here is that school programs might be developed to maintain nurturance and support for seriously delinquent youngsters in schools (seven days a week if necessary, but especially during off school hours).

2. The integration of high school peers and/or youth groups to assist in the control of serious delinquents. High school peers and and youth groups might contract for specific project support. Both junior and senior high schools have service clubs which help with the physically or emotionally handicapped. Such organizations might be encouraged to contract a service function with serious delinquents. They could work with them during school and evening hours, hopefully achieving the same success as they have with the mentally and physically handicapped. The development of new peer relations, important for returning delinquents, would be an important function of the groups, as would their "buffer" role with teachers.

3. Changes in the practices of schools which would facilitate development of "buffer" jobs in the bureaucracy (e.g., a staff of teachers paid as ombudsmen in support of the serious delinquent—Note: We're not specifying counseling here!).

4. Adult education and/or work option funding given directly to employers who would provide total care (seven days a week) commitments and which would include work training. We speculate that juveniles who have had recurrent property crime patterns may especially benefit from adequate work training, with education provided by employers who function independently of tradi-

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Note: Footnotes at end of article.

tional educational systems. Total care of this type has not been demonstrated outside of institutions.

FINANCIAL SUPPORT

Young people need money and are known to do those things adults do to get it, including work or stealing. Most appear to acquire legal funds through families, relatives, or significant others. Funds are also received from social welfare agencies which provide nominal income support. Part-time jobs are generally rare, unrewarding, and probably not competitive with the returns garnered from stealing. It seems very important that financial support be established and maintained on a sustained basis after the juvenile's release. Several innovations come to mind:

1. Formal contracts could be established (as has been done with adults)[11] with selected juveniles. Juveniles might be contracted to stay out of trouble at a flat salary rate, probably offset by savings from non-return to crime (property not stolen or damaged, and savings in terms of police, court, and incarceration expenses). The specification of a reasonable salary for which the individual would be assured as long as he/she remained trouble-free and met criteria such as education or work training progress, would not seem unreasonable. Paying someone to stay out of trouble might turn out, in the long run, to be one of the cheaper ways to establish control and would be consistent with the interests of capitalism and democracy. It would seem that efforts should concentrate on property offenders who depend upon such crimes for sustenance.

2. Innovative kinds of programs, such as gang or peer contract to maintain control of serious delinquents with whom they affiliate for purposes of keeping them out of trouble, seem appropriate. Modified attempts at this were generated in the 1960 Chicago gangs' project when the street workers paid consultant fees to members of street gangs who were in leadership positions, ostensibly for the purpose of assisting in the control of gang delinquents. These jobs were not specifically directed toward the reduction of crime (although they sometimes served that purpose) but were regarded as a job placement for gang leaders. It appeared that subsequent failures resulted from a lack of supervision of the contractural obligation and the short-term nature of the support.

We have used the term "contract" generously because it allows for the development of formal understandings with the juvenile.[12] However, contractural obligations will probably require some considerable supervision such as overview by schools, parents, police, parole, or other social agents to ensure the meeting of contractural obligations. All contractural parties should have input and the right to grievance. However, contractural review should be given the juvenile, since he/she is the one who will suffer the most if contractural obligations are not met.

It is abundantly clear that virtually nothing has been undertaken programmatically for the serious female delinquent when she is released. Programs specifically tailored for females, containing attributes similar to those just suggested should be given high priority. Such programs appear especially important and timely since rapid growth in female crime rates has been projected.

Clearly there is much potential controversy in what has been suggested. There is also much more that could be proposed which would be even more controversial than some of the suggested programs.

FOOTNOTES

[1] Edwin Schur, *Radical Non-Intervention* (Prentice Hall, 1973).
[2] Douglas Lipton, Robert Martinson, and Judith Wilks, *The Effectiveness of Correctional Treatment* (Praeger, 1975).
[3] Stuart Adams, "Correctional and Caseload Research," *Federal Probation* (December, 1967): 48–57.
[4] Herbert M. Lefcourt, *Locus of Control* (Wiley, 1976).
[5] William R. Arnold, *Juveniles on Parole* (Random House, 1970).
[6] A comprehensive review of literature compiled with research is found in Michael Schwartz and Sheldon Stryker, *Deviance, Selves and Others*, Monograph Series (Washington, D.C.: American Sociological Association).
[7] Stuart Adams, Roger E. Rice, and Borden Oliver, "A Cost Analysis of the Effectiveness of the Group Guidance Program," Los Angeles County Probation Department, Memo 65.3 (1965); Irwin Spergel, *Street Gang Work* (Addison Wesley, 1966); Malcolm Klein, *Street Gangs and Street Workers* (Prentice Hall, 1971).
[8] See Walter B. Miller, "American Youth Gangs, Past and Present," in *Current Perspectives on Criminal Behavior*, ed. A. S. Blumberg (Knopf, 1974); and Leonard Savitz, Michael Lalli, and Lawrence Rosen, "City Life and Delinquency-Victimization, Fear of Crime, and Gang Membership," National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention, L.E.A.A., U.S. Department of Justice, 1977.

FOOTNOTES—Continued

[9] Kenneth Polk, "Schools and the Delinquency Experience," *Criminal Justice and Behavior* 2 (December, 1975) : 4.
[10] Arnold Schuchter, "Schools and Delinquency Prevention Strategies," *Criminal Justice and Behavior* 2 (December, 1975) : 4.
[11] Rubin Epstein et al., *The Legal Aspects of Contract Parole* (American Correctional Association, 1976).
[12] James F. Short, Jr. and Fred Strodtbeck, *Group Process and Gang Delinquency* (Chicago : University of Chicago Press, 1965), p. 267.

Note: A "must" for readers should be Dale Mann, "Intervening With Convicted Serious Juvenile Offenders," Prepared under a grant from the National Institute for Juvenile Justice and Delinquency Prevention, L.E.A.A., U.S. Department of Justice (Rand Corp., 1976).

A New York Perspective on the Problem of the Serious Juvenile Offender

(By Peter B. Edelman)

I. INTRODUCTION

The key fact to bear in mind in judging the merits of strident demands for harsher punishment in New York State is that youth in New York are already subject to adult criminal responsibility at the age of sixteen.[1] All crimes allegedly committed by persons sixteen and over are tried in the adult courts in New York State. Youth between the ages of sixteen and nineteen are eligible for "youthful offender" status which involves an indeterminate sentence of up to four years imposed at the discretion of the judge and available for all but the most serious crimes.[2] But, the judge can also use the adult framework in sentencing anyone over sixteen, and must do so in relation to crimes like murder and first degree arson and kidnapping. Even so, the age distribution of criminality is not much different in New York from that in other states. If the criminal justice system can be expected to deter, prevent, or otherwise affect crime, the problem in New York on the "adult" side is clearly not one arising from the sentencing structure, but, if anything, relates to the effectiveness of law enforcement and the judicial system.

Using the word "juvenile" then, as a term of art, the "juvenile" crime problem in New York State is much smaller than in other states. In 1976, there were only forty-three arrests of juveniles for homicide in New York State, and this number has been dropping steadily for the past three years.[3] The peak ages for arrests for rape and aggravated assault are nineteen and eighteen respectively, which is not dissimilar to patterns in the rest of the country. The difference is that these crimes are firmly in the "adult" sphere in New York.[4] There are certainly significant, even disturbing, numbers of robberies and aggravated assaults committed by fourteen and fifteen year-olds, especially in New York City. But, the numbers of juveniles arrested are a distinct minority of total arrests for such crimes,[5] as opposed to the fact that fifteen and sixteen, respectively, are the peak ages for such crimes in vandalism and larceny.[6] Moreover, the incidence of violent crime as a whole in New York State, as elsewhere, has apparently peaked and has been declining somewhat for the past year or more.

I would divide the issue of systems responses to serious juvenile crime into two major areas—sentencing structure and treatment programs—although I would stress that prevention from an early age is as important in regard to serious crime as it is in regard to any other kind. Thus, while I will not dwell on issues of adequate jobs and adequate income for families and for young people entering the labor market, of decent education and especially mainstream services for disruptive children and truant children, and of services for families and children, these matters are as important to the issue of serious juvenile crime as they are to preventing crime generally.

II. SENTENCING STRUCTURE

The sentencing structure in New York State in 1975 had for some years been one of an indeterminate eighteen month placement, with one year extensions available until the youngster's eighteenth birthday.[7] The agency with which the youngster was placed, which would ordinarily be the State Division for Youth in the case of a serious juvenile offender, could release or discharge the young-

Note: Footnotes at end of article.

ster at any time within the eighteen month period, or could seek an extension of placement. Average length of stay in State training schools (cottage-type facilities) and secure centers was approximately seven to eight months, and there was very little differentiation in the length of stay with reference to the nature of the delinquency. It was not uncommon for delinquents to be released from facilities because beds were needed for new population influxes.

In these circumstances, it was not surprising that there were calls for greater stringency with reference to serious juvenile offenders.

In June 1975, Governor Carey, having been in office five months, appointed a blue ribbon panel chaired by his health advisor, Dr. Kevin Cahill, consisting of judges, attorneys representing both sides, health and social welfare professionals, and academics to review issues regarding serious juvenile crime and to suggest solutions.[8] In early 1976, the Governor submitted a bill patterned closely on the panel's recommendations to the Legislature, and after some amendment and alteration of an important but not fundamental nature, the Legislature enacted it and the Governor signed it into law.[9] It became effective February 1, 1977.

The philosophical underpinning of the new Juvenile Justice Reform Act, as it is called, is that it is appropriate to differentiate among categories of juvenile offenders within the juvenile system by reference to the degree of seriousness of their act. That this was something of a novel proposition helps to explain the degree of outside criticism to which the juvenile system has been subjected. People had found it difficult to understand the previous propositions that what the juvenile did to get himself/herself into the system was totally irrelevant, and that the amount of time he/she would spend in the system would have nothing to do with what was done to get involved in it in the first place.

Several even more fundamental propositions underlying the new statute were that the juvenile justice system should be preserved as a separate entity, that juveniles should be tried in juvenile courts regardless of their crime, and that they should be served in juvenile facilities regardless of their crime. When considering the merits of this second proposition underlying the new law in New York State, one should recall, again, that all youth are subject to the adult courts in New York State when they become sixteen.

The Juvenile Justice Reform Act covers acts committed at the ages of fourteen and fifteen. For murder 1 and 2, arson 1, and kidnapping 1, it gives the family court judge discretion to impose a restrictive placement or to choose the pre-existing eighteen month placement. The restrictive placement is a five-year placement which can be renewed annually after the five years until the youngster is twenty-one. The youngster must be held in a secure facility for at least the first year, and in another residential facility for at least a second year. The time spent in any facility can be lengthened at the discretion of the incarcerating agency which is the State Division for Youth. For a larger category of crimes including robbery 1, assault 1, rape 1, arson 2, manslaughter 1, kidnapping 2, and sodomy 1, the restrictive placement which the judge may choose is for an overall total of three years which, again, is renewable annually until the youngster reaches the age of twenty-one. If the restrictive placement is chosen, the judge must then fix a period of six to twelve months which the youngster must spend in a secure facility, and an ensuing period of six to twelve months which the youngster must spend in another residential facility. Again, the time in the secure or other residential setting may be extended administratively.

How will this new law work? It is too early to say. Our family courts, especially in New York City, are terribly overburdened. Like their adult counterparts, they are necessarily prone to plea bargaining approaches. Thus, especially in New York City, what we see occurring is that charges like robbery 1 and assault 1 are reduced so that a full fact-finding does not have to take place. The judge then imposes the "standard" eighteen month placement for a charge of robbery 2 or assault 2, or perhaps for possession of a dangerous weapon. Thus, during the first six months of the applicability of the new law, we have seen about fifty youngsters in the whole state adjudicated for the designated felonies mentioned in the act, and only about half that number placed restrictively for those felonies. The pace of use of the law seems to be picking up, however, and the numbers may well increase as judges and others get used to utilizing it.

Note: Footnotes at end of article.

I strongly support this new approach. There are naturally many in our state who think it is not stringent enough, as well as a few who think it is too severe. Properly and consistently enforced, I believe it can be an effective law enforcement tool. It leaves it to the judges' discretion to take individual circumstances into account without having to resort to the kind of subterfuge that is often necessary to ameliorate the harsh effects of a more rigid, mandatory sentencing approach. At the same time, it enables the judges to ensure that youth will not be released prematurely as a consequence of administrative discretion.

We at the Division for Youth have taken concomitant administrative steps to tighten our handling of the serious juvenile offender. Thus, even before the new law was passed, I promulgated a "classified case" policy which assumes that serious offenders will be housed in our secure centers and training schools for at least a year, with very tight restrictions placed on home visits and release decisions. With the new law, I have kept that policy in effect, so that even when youngsters who have committed "designated felonies" are not placed under the restrictive provisions of the new law, we have an administrative presumption that they will be placed in either a training school or a secure familility and that they will stay there for at least a year. The average length of stay for serious offenders has increased substantially in their facility of initial placement, and total residential stay has increased even more, because we have pursued the idea of a secondary, or "halfway house" type of placement for significant numbers of serious offenders in order to help reintegrate them into the community.

I might add that while I strongly favor differentiating the sentencing response to serious juvenile offenders so that it is clear that they will have to accept a greater measure of responsibility for their acts and that they will be treated more stringently than minor delinquents, I am, at the same time, opposed to efforts to create a "mini-adult" sentencing structure for all juveniles. Beyond the most serious and violent offenses, it is our experience at the Division for Youth that individualization of response to the youngster can and should remain the most important factor in determining the length of time spent. I would impose very limited and strong overall time frames within which administrative discretion as to release can be exercised, but I would not favor fixed sentences of a year or any other period of time for property offenses. Thus, I strongly believe that our structure in New York State of an eighteen month placement for but the most serious crimes—within which we at the Division for Youth then determine the type of facility to which the youngster will be assigned and the amount of time he or she will spend in that facility—is the wisest approach.

III. PROGRAMMATIC RESPONSES

Let me turn now to the content of service that is offered to serious juvenile offenders once they are placed under whatever sentencing structure is operative.

One significant departure in New York which has occurred within the past two years is a joint project operated by the Division for Youth and the Department of Mental Hygiene, located on the grounds of the Bronx State Hospital, and designed to serve ten youth in a diagnostic unit operated by Mental Hygiene and twenty youth in a long-term treatment unit operated by the Division for Youth. The project is limited to male juvenile delinquents who have been adjudicated for violent acts or who have otherwise exhibited violent acts even when such was not the nature of their delinquency. It requires that a youth have serious mental problems as well. An initial psychiatric screening and due process hearing are conducted before a youngster is even admitted for diagnosis. Following the diagnostic period, which can be up to ninety days, youngsters are either placed elsewhere in the Department of Mental Hygiene, elsewhere in the Division for Youth, or most often, in the long-term treatment unit operated by the Division for Youth.

The treatment modality utilized in the long-term treatment is not especially startling or bizarre. It consists of a heavy emphasis on individual therapy, group therapy, highly individualized education, and recreation. Major emphasis is placed on working with the families of the youngsters as well. The idea, as in any treatment program, is to get the youngsters to confront what they have done and take responsibility for it, to help them get control over their emotions and especially their rage, and to help them think better of themselves so that they may be able to function in the outside society.

The program has been in existence for a little over a year, but there are some four residents approaching release who seem to have improved considerably

under the intensive care which has been provided. In addition, their educational attainments have improved markedly. Their "aftercare" supervision will be conducted by specialists attached to the project, with a small intensive caseload, confined exclusively to "graduates" of the project.

The cooperative relationship with the Department of Mental Hygiene has not always been smooth, but it has constantly improved through the life of the project. The modality itself, while not innovative in any of its particular elements, is innovative in its combination and intensity, and certainly deserves examination by people from other jurisdictions. I had discouraged visits during earlier stages of the project because I did not think we were ready to demonstrate anything in the way of outcome, but I do think the project is worth looking at now.[10]

If I am encouraged about our cooperative relationship with the Department of Mental Hygiene at Bronx State Hospital, I am by equal turns discouraged by the apparent unwillingness, or at least the demonstrated incapacity, of the Department of Mental Hygiene in our State to provide services to seriously disturbed delinquents, and for that matter status offenders, whether they are violent or not. I could list literally dozens of anecdotes—and these are only the ones that I know of personally—where the Division for Youth has referred youngsters with serious psychiatric problems to the Department of Mental Hygiene, only to have them sent back very quickly having been pronounced sane, sometimes having been filled with thorazine, and even worse, sometimes having been released to the community rather than sent back to us.

What disturbs me about the current fashion of saying "rehabilitation" has "failed" is that I know there are a significant number of youngsters with histories of serious delinquency who can be reached and helped. Clearly, the success rate will be lower than it is for youngsters who have not engaged in extremely anti-social acts, or who have not penetrated the system so deeply and so repetively. Nonetheless, I think we should clearly state—to the public and to the media and to our elected officials—that the concept of a "new breed" or "remorseless, cold-eyed" youth who do violence to the old and the weak without a second thought and who are therefore unreachable, is a vast overstatement. That there are youth committing serious acts which hurt others is obvious. That many of these youth say they do not care or offer excuses which seem outrageous is also obvious. That the pathology of the inner city is now so malignant as to produce very hard cases—especially in an era when there is little political hope in contrast to the rising expectations of the sixties—is probably also an operative fact.

Nonetheless, when youngsters are confronted by strong, caring, active, able staff in an atmosphere of strong supervision and intensive attention to individualized response, breakthroughs can occur. Sometimes the breakthrough is started by a new set of teeth, or plastic surgery to fix an ugly scar. Sometimes the feelings are unlocked via educational efforts, when a spurt in reading achievement or math achievement makes the youngster feel like he/she is worth something. And sometimes the key is what I call "professional love," a skilled person letting the youngster know someone truly does care what happens to him/her, and indeed, that someone cares enough to set limits on the youngster's behavior as well as to care about what ultimately happens to that youngster.

There is no question that the kind of service I am talking about is intensive and therefore expensive. It is tragic that any youngster should be a victim of urban life for so long that the costs of even attempting rehabilitation become so incredibly high. Thus, as I stated at the outset, preventive efforts are absolutely essential. And, it should also be emphasized that we must not return to a period of over-institutionalization, or concomitantly, to loosely use the scarce resources of intensive service programs for youngsters who can be served appropriately in other, non-institutional settings. Nonetheless, the investment in intensive programs should be made for those who need them most.

Consonant with the above, we have moved away from undifferentiated large institutions in New York and have closed some 500 training school type beds in the last two years. We have moved toward both far greater service to youth in the community and the development of a network of specialized beds and services.

Note: Footnotes at end of article.

We, of course, have our secure facilities for serious delinquents, and we have tried to intensify service in those facilities. The Bronx State project is a new departure of a specialized nature, and we have a new 20-bed program for youngsters with learning disabilities (which is obviously for more than just serious delinquents), and we have funding for two 10-bed enriched residential centers (as we call them) for disturbed youngsters whose problems manifest themselves in their inability to be part of a group process even though they may not exhibit serious violence.[11]

I have no magic solutions to offer from a service point of view. I think small programs are better than large programs. I think an eclectic approach to modality is essential—emphasizing therapy, education, physical health, recreation, and family relationships—coupled with the recognition that there may be different key steps for different youngsters in terms of what will accomplish a breakthrough. Money alone is surely not the answer, but the case must be made for adequate funds in order to be in a position to make a serious effort. And, it must be understood that, even with all the efforts, the "failures" may well outnumber the "successes."

Our choices, however, can really not be otherwise. If we fall prey to the accusations and calls of those who now demand a wholly punitive approach—with its attendant warehousing and incarcerating quality—we will surely end up as a nation of prisons, perhaps at greater cost financially than our present cost and effort, and certainly at the cost of bankruptcy of our national soul.

FOOTNOTES

[1] N. Y. Penal Law Section 30.00; N. Y. Fam. Ct. Act Sections 712, 713.
[2] N. Y. Crim. Proc. Law Art. 720.
[3] From figures compiled by New York State Division of Criminal Justice Services.
[4] *Crime and Justice in New York State, Annual Report, 1975,* Division of Criminal Justice Services, pp. 96–99.
[5] Ibid. The proportions of juveniles arrested for robbery and aggravated assault in 1975 out of the total number arrested for these crimes were 25.0% and 9.9% respectively.
[6] Ibid.
[7] N. Y. Fam. Ct. Act Section 756.
[8] Governor's Panel on Juvenile Violence, "Report to the Governor from Kevin M. Cahill, M.D., Special Assistant to the Governor on Health Affairs," panel report (Albany, N.Y., 1976).
[9] 1976 N. Y. Laws, Chapter 878.
[10] New York State Department of Mental Hygiene, Special Projects Research Unit, "The Bronx Court Related Unit: Evaluation and Recommendations," evaluation of program effectiveness (1977); New York State Division for Youth," "Grant Application for Second Year Funding, Project for Aggressive Disturbed Adolescents," refunding application (1977).
[11] New York State Division for Youth, "Enriched Residential Center Program Description" (1977).

Instead of a Children's Prison

(By Kenneth F. Schoen)

There are few who would compare Minnesota to New York, using any basis of comparison. The life styles are very different, the pace is markedly variant, the environments are unrelated. Yet, somehow, when the subject of crime—particularly juvenile crime—is broached by the average citizen, the crisis in New York becomes the crisis in Minnesota.

Juvenile delinquency, or better stated, serious crimes committed by juveniles, is far greater in New York than it is in Minnesota. Using 1976 Part One arrest reports as the basis of comparison, in New York, over 60% were juveniles; in Minnesota, 43% were juveniles.

Yet the rhetoric one hears in Minnesota about this subject patterns the recent *TIME* magazine article about the problems in New York. "A pattern of crime has emerged that is both perplexing and appalling," states *TIME*, "* * * many youngsters appear to be robbing and maiming as casually as they go to a movie, or join a pick-up baseball game."

"The people," says *TIME*, are afraid. "They have retreated with broken limbs and emotional scars behind triple locked doors." And although the numbers in Minnesota are far less, the fear seems to be, for a large segment of the population, just as great. Those who fear call for strong measures to stem this outrageous behavior; the cries of "lock 'em up" are just as loud in Minnesota as they are on the East Coast.

Recently, a position paper was advanced by the Minnesota Metropolitan Senior Federation supporting this notion. Advocating the establishment of a prison for kids, the paper stated, "We measure the value of a security facility in the knowledge that while a wanton, violent offender is incarcerated in a proper facility, that individual will not be bashing in skulls or breaking the limbs of victims or assaulting and/or robbing them on the streets or in their homes."

Historically, the "lock 'em up" notion has been limited with respect to juveniles. The entire basis for the separate juvenile court, and the removal of the juvenile offender from the statutes of the adult criminal code, was cent *parens patriae* notion. The state, through its juvenile court and correctional systems, was to treat the child, not punish him/her.

It seems that the current call for strict incarcerative measures is in opposition to that treatment mode. Yet, as is the case in a number of criminal justice policy areas at the present time, those who hold differing philosophies do on occasion come together and offer the same solution to a problem. Sometimes, the same person poses one solution to what some would perceive as two totally different problems. The best example on this subject of violent juvenile crime comes from a statement made by a Minnesota juvenile court judge and quoted in a paper of the Metropolitan Senior Federation which stated that "the (lack) of juvenile security facilities is not just a serious handicap; it has literally destroyed our juvenile justice capacities. We need security facilities desperately for two major reasons: (1) We need to have the capacity to isolate certain hard core offenders often for substantial periods of time and for the protection of society, and (2) We need the 'threat' of a security facility in order to make our community's resources work." The Minnesota Department of Corrections disagrees.

Our position in the Department of Corrections has been—and continues to be—the following: We will not support a children's prison to be operated within the juvenile justice system. We are of this persuasion because there is no evidence indicating that such a facility will do anything except incapacitate, and if that is the purpose, it is in conflict with the precepts of the juvenile law. A juvenile whose behavior is so horrendous that his/her welfare is quite secondary to the assurance that the criminal behavior will assuredly stop, should be certified to the adult system. In Minnesota we have two adult institutions—the Reformatory at St. Cloud and the Lino Lakes facility—which are both secure and humane.

There are, however, juveniles for whom incarceration in the adult institutions would be too strong a measure. For these juveniles we wish to provide control, with some type of reintegration into the community, yet we also wish to keep them in the juvenile system. In short, we believe that they are treatable. It is for this group that the options are scarce. Yet forcing this group to accept only one model—the "lock 'em up" model—is in my judgment a poor solution, and one quite frankly, that we know is high in cost and low in success.

The issue is not an easy one to consider. In Minnesota, several recent study groups and task forces have dealt with this problem. Among these have been the Supreme Court of Minnesota, the Goveror's Commission on Crime Prevention and Control, the Hennepin County Youth in Crisis Task Force, and a task force appointed by the Commissioner of Corrections.

In all of these studies, there is general agreement that the number of these people is small. They are almost entirely male; minorities, especially blacks, are disproportionately represented. They are poor and are usually concentrated in dense urban neighborhoods. Their intellectual and academic functioning level is below the average of less chronic delinquents. Unless we assume genetic differences, we must conclude that environmental factors have put these adolescents in a disadvantaged condition.

There has been no substantial agreement by any of the Minnesota experts or, for that matter, by any nationally known figures about the appropriate response to such serious-offending juveniles. What has emerged out of the two major national studies (the Rand Corporation and the Vera Institute) is that what is most needed is experimentation, utilizing a wide variety of possible program approaches. No experimentation has yet been done anywhere with respect to programs specifically designed for serious juvenile offenders.

Consequently, our Department has sought and obtained funds for such an experimental program. Using existing juvenile institutional resources, which will be coupled with intensive community supervision after institutionalization,

this program intends to attempt to provide an effective response to a narrowly defined group of serious juvenile offenders.

The program is intentionally called experimental. We seek a resolution for a complex problem. The fact that professionals argue about even its definition makes it absurd to suggest that we have designed a program that is "the answer." The likelihood of this single program solving the serious juvenile crime problem is as great as the likelihood of finding a cure for cancer—yet with it, as with that disease, we must try options.

In a sense, it is easier to describe what the program is *not* than what it *is*.

It is not a program of pure incapacitation. The program still looks on the offender as a juvenile, amenable to treatment. Its purpose is not to "put away" the adolescent whose behavior has become so intolerable that punishment, not treatment, becomes the single goal.

Likewise, because the program is designed for juveniles (who do not fall under the adult criminal code), it is not a program designed solely for general deterrence, with the primary goal of warning juvenile offenders that there are serious consequences for their behavior.

Finally, it is not simply a program that takes a series of oft-tried, but seldom succeeding, prior efforts and puts them together in a new package. Because Minnesota has never operated a program solely for serious juvenile offenders (who have been classified as such based on their offense record, and not on their disruptive or escape behavior while institutionalized), this program cannot be simply dismissed as a rehash of current or prior unsuccessful program elements. What then, are the characteristics of this new effort? The program focusses on a target population of sixteen to seventeen year-olds, adjudicated on these bases:

1. A current adjudication for: murder in any degree, aggravated arson, criminal sexual conduct in the first or second degree, manslaughter in the first or second degree, aggravated assault, or aggravated robbery with a previous adjudication, within the preceding twenty-four months, for an offense which would be a felony if committed by an adult; or

2. A current adjudication for burglary with three previous adjudications within the preceding twenty-four months for an offense which would be a felony if committed by an adult.

Approximately sixty to seventy juveniles per year are expected to meet these criteria with approximately fifty to sixty expected to be committed to the Commissioner of Corrections, and approximately ten to twenty probably maintained under county jurisdiction. Those juveniles meeting the criteria who are committed to the Commission of Corrections in the course of one year will be randomly assigned to either an experimental or control group.

The experimental group will participate in the full proposed program described below; the control group will be assigned to the normal institution program followed by regular parole. A portion of the full program (case management services only) will be offered to juvenile judges for use with the group of offenders described above who are maintained under county jurisdiction and not committed to the Commissioner of Corrections.

A small "core" staff, referred to as a "case management team" will, upon commitment or at the request of the juvenile court judge, assume overall program responsibility for the defined serious juvenile offender.

The case management team will provide few direct services to offenders; instead, they will develop offender behavioral contracts, organize and coordinate necessary institutional and/or community services to be provided to the offender, and establish and maintain liaison with significant members of the offender's home community.

INSTITUTIONAL USE

While the plan calls for institutional stay for most of the participants, locating them in a single building designed as a place for violent juveniles will be avoided. Experience has taught us that these kinds of operations degenerate into failure and despair, possess exaggerated management problems, and generally contain a counterproductive culture. In those programs that have been tried, bureaucratic imperatives supersede avowed intentions; if not immediately, this happens eventually. In our own state, the St. Cloud Reformatory was established by the Legislature as an intermediate correctional institution between the training school and the State Prison, "the object being to provide a place for young men and boys from 16 to 30 years of age never before convicted of a crime,

where they might, under as favorable circumstances as possible, by discipline and education best adapted to that end, form such habits and character as would prevent them from continuing in crime." It now houses eighteen to twenty-five year old felons, many of whom are multiple felons, and for whom the chances of being prevented from continuing in crime are not 100%.

The experiences of the Reformatory's change of direction make clear the futility of the "reformatory" goal. Not only is the centralized "secure treatment" facility an acronism, its concept is inconsistent with the desire to hold the community and its resources in the central position where each case and community can be treated individually.

In the Minnesota experiment, we will not, then, have a single strong box. Rather, the institutional phase of this experiment will use those facilities and programs already existent which can provide appropriate levels of security (presently there are 150 secure beds operating in the state) and which can address the shortcomings of these youth; it will, of course, also need to be a program in which the youth himself is willing to participate.

One obvious advantage of this experiment is the cost savings. At $10,000 per bed (or more), building an institution is not cheap!

Minnesota has not dreamed up this experiment out of an ivory tower vision. The Vera Institute report has made some good points about the rationale for the case management type approach:

1. Serious juvenile offenders have probably experienced nearly every possible disposition available in the juvenile justice system, including many of the elements contained in this program. What has been missing is a single locus of responsibility for management of the correctional and post-correctional response on an individual care basis.

2. The goals of case management are the integration and expedition of each step in the correctional process, and avoidance of contradictory decisions and discontinuities.

3. Although one phase of the program resembles an intensive parole process (similar to some other things that have been done for juveniles in this state), the continuous and intensive management of the case begins before, rather than after, correctional intervention, helping to ensure that decisions made throughout the entire correctional and post-correctional process all relate to the needs of the juvenile.

4. Generally, serious juvenile offenders are discriminated against in terms of opportunity for placement in specialized community programs (i.e., no one wants to take a proven failure). Since this program has a substantial sum of money set aside for purchased services, it is hoped that not only will existing resources be used for these youth, but also that some incentives will be created for the development of new resources for this offender population.

5. The study reiterates the results of several other studies which show that increases in the number of juveniles securely incarcerated and/or length of secure incarcerations, can have little, if any, effect in terms of reduction in the number of crimes or enhancement of individual deterrence.

The "full" program in the Minnesota experiment will consist of up to one year in a state institution, followed by halfway house residence and/or intensive one-to-one community supervision by appropriate individuals contracted to perform this service on a part-time basis. The total program length could be up to two years; the average length per juvenile will likely be closer to one year.

The length of time in the program will be established via criteria linked to the crime committed. The phenomena of commensurate punishment with predictable length of stay in confinement established proactively will be difficult to achieve, but is an important ingredient of the program.

In order to provide a year of programming for twenty-five juveniles entering the program at staggered intervals, it will be necessary to operate the program as an experiment for at least twenty-two months. Special characteristics of the program will be:

High flexibility and availability in application of resources;

Highly individualized programming on a case by case;

Heavy surveillance both in and out of institutional setting;

Three-party contracts, between the Department, the juvenile, and the judge, indicating specific time frames and goals to be accomplished; and

Payment of restitution, both in the form of money and community work orders.

Because of the experimental nature of the program, its more specific characteristics are yet to be developed by the director in conjunction with an advisory panel. This is felt to be a wise approach, since there is no model. The program received general legislative sanction and an appropriation to match this grant.

In making the concluding remarks, I want to cite an important guideline. A major problem with alternatives and specialized programs which have developed in the last several years is that unless the candidates for a program are narrowly and specifically defined, there is a tendency to expand the nets of social control for a variety of well-intended reasons. The criteria for this program are specific; we intend to guard against making exceptions.

I am convinced that what we have done in the past has not been satisfactory. Likewise, I am convinced that those who claim we must "lock 'em up" are seeing only a small part of the problem, and have, if any, only a small part of the solution.

The Minnesota program has been designed, and will be operated, as an experiment. I will not say that we have the answer now; I hope I may be able to say that we have found a part of the answer when it has been operational for some time.

The question is a perplexing one, but to sit and ponder its definition, the description of this type of juvenile offender, or the number of them that exist, will do nothing more than give us better data. In my mind, if we wish to address the problem, we must do so head on—recognizing that further study is needed, but trying, at least, by establishing an experimental program, to give all of us something more to study than our past failures or a replicated model of them.

An Illinois Perspective on the Problem of the Serious Juvenile Offender

(By Samuel Sublett, Jr.)

The "serious juvenile offender" or the "violent juvenile" is a current issue of major concern for juvenile justice professionals. It is also an issue of considerable public concern, the intensity of which threatens the basic structure of the juvenile justice system.

The "serious juvenile offender" defined as "repetitive, hard-core and violent" has been portrayed by media[1] as characteristic of a subculture growing in number and threatening community life in a manner heretofore not known in American history. Heinous crimes—crimes against the elderly, crimes involving weapons, crimes in groups (gangs), crimes related to intoxication (alcohol and other drugs)—are viewed and portrayed as being so deviant as to warrant drastic action by the government in order to effect control. This "tyranny of youth" spectre is the forefront of an apparent anti-youth syndrome generally equated with the breakdown of the traditional family and family discipline. Implied is an assumption that the traditional family is characterized by strong parental control over youth and that deviant criminality is not an aspect of behavior of such family members. The recent history of media depiction in this area is reminiscent of the "muck-raking yellow journalism" of another era.

A critical consequence of the nature of the information transmitted to the public is the polarization of political thought and expression into two diverse camps—left-wing do-good coddlers, and rigid law-and-order constructionists. The ideology of the U.S. Constitution and the Bill of Rights is compromised in the rationale of both extremes. The traditional basis of jurisprudence found in the Judeo-Christian ethic is pushed aside for action-oriented solutions dealing with gross symptomatic behavior.

With increasing vigor, it is fashionable to discredit the juvenile justice system. In fact, it is often regarded as a "non-system." Failures of the present system are frequently highlighted as examples of systemic failure regardless of their statistical significance. Solutions are suggested as the province of new systems rather than increased application of the suggested actions derived from existing systems. The logical extension is to discredit government and governmental involvement in affording protective services for youth and the community. This denigration of government sponsored programs serves as a springboard for the reduction in scope and quality of governmental services, particularly in the area of the juvenile justice system. It has led to the "purchase-of-services"

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doctrine based on the notion that persons not related to the government can provide better services. In the juvenile justice system, however, the exception is the serious offender.

This monograph is not a treatise on bigger and better government. It is an effort, however, to review public policy issues generated by public concern for the serious juvenile offender from the perspective of a state agency administrator. It is an area of national concern needing national policy. It is an area of critical State (Illinois) concern needing policy definition and program implementation.

The present thrust to decriminalize a large amount of juvenile behavior is beginning to create conflicting public policy as stated in statute. The effort to decriminalize status offenders (i.e., truants, runaways, etc.) is most notable, except for the often accompanying elimination of basic support services. A juvenile, extremely immature and attempting to fend for him/herself, frequently needs certain basic support services whether they be administered by law enforcement, court services, or court facilities. In the effort to remove certain juveniles from the purview of the justice system, the mechanism for the provision of basic support services is also often removed.

More meaningful as a public policy issue is the growing intensity of legislative change reflecting public regard for the adult criminal justice system. There is mounting evidence of significant anti-children legislation consistent with the law-and-order attitude that supports the move to punish adult offenders. The move involves child welfare legislation outside the justice system.

From the perspective of persons and agencies responsible for implementing policy on state and local levels, a dilemma exists. In recent years, a considerable amount of time and energy has been devoted to deinstitutionalization, contracting services with private agencies, and fostering the growth and development of services in the private sector. This activity has sometimes been fostered by an anti-government posture regarding the provision of human services.

Suddenly and with great emotion, a new climate demanding governmental policy of a punitive nature has evolved and is fast being written into statutes. A number of states have recently enacted legislation detailing punitive sentences for certain offenses. The legislation is usually described as mandating appropriate treatment for serious offenders.

The dilemma also includes a major personnel component. Most human service agencies are composed of persons trained and dedicated to treatment approaches and care. Certainly the training modality—academic and in-service—has been to enhance programmatic considerations and to define treatment goals for individuals committed to agency care.

A major problem has emerged in terms of public agencies reflecting public sentiment. Conflict in this area invariably results in political ferment. It would appear that the present ferment is the basis for political debate which more and more borders on demagoguery. The serious juvenile offender has become an issue for political debate and campaign rhetoric.

THE SERIOUS JUVENILE OFFENDER

The serious juvenile offender is defined in a number of different terms. In one context, the definition involves only those guilty of acts of violence against a person or of acts which threaten violence against a person. In another context, acts or threats of violence against a person are coupled with serious property offenses (i.e., auto theft, arson, grand theft, etc.). In yet another context, the acts against person and serious property offenses are linked to repetitive criminal behavior of a less serious nature. Repetitive behavior generally becomes "hard-core" when it is known to involve an individual in official arrest or police files three or more times.

Recent research indicates that "* * * half of all serious crimes in the U.S. are committed by youth aged ten to seventeen. Since 1960 juvenile crime has risen twice as fast as that of adults. In San Francisco, kids of 17 and under are arrested for 57% of all felonies against people (homicide, assault, etc.) and 66% of all crimes against property. Last year in Chicago, one-third of all murders were committed by people aged 20 or younger, a 29% jump over 1975. In Detroit, youths commit so much crime that city officials were forced to impose a 10 P.M. curfew last year for anyone 16 or under."[8]

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As reflected in official statistics, youth crime is an imposing social problem that needs attention and action as a function of the justice system. More importantly, it is a problem that needs attention and action in the area of prevention designed to cope with delinquency causation. A most notable achievement in this area was the enactment of the JJDP Act of 1974.

The juvenile justice system involves a small number of known participants in youth crime.[3] The best assessment in a large sample indicates that the number of youth participating in youth crime exceeds official statistics ten-fold. If that estimate is only 50% accurate, it encompasses an exceedingly large number of youth who are potential wards of the State as recipients of juvenile justice. It is obvious that the justice system, at least as we know it in terms of sanctions, cannot realistically cope with such large numbers of individuals. In studies of self-reported behavior, data indicates that "* * * acts which may be formally defined as delinquent are performed by the vast majority of juveniles."[4] The same studies also indicate that "* * * it is incorrect to divide adolescent misbehavior into two dichotomous and unrelated classes: mere misbehavior and status crimes on the one hand, and serious crime or 'photo criminal' behavior on the other. Our correlations show that the most trivial of status offenses and the most serious of juvenile felonies are different parts of the same social fabric. They intercorrelate with each other and they both correlate in many cases with the same social and demographic independent variables."[5]

Excepting the grossly pathological, the "serious offender" is not a "special breed" or a "different kind of person" to be separated on a treatment or punishment basis. Serious offenders "* * * have law-abiding friends and associates. There are teen-agers whom their peers acknowledge are dangerous or disturbed, but the overall integration of serious offenders in a peer-group world and of serious offenses with trivial ones in statistical correlations mean that serious crimes as well as trivial acts of misbehavior arise from many of the same conditions of adolescent life."[6] Knowledge of the serious offender promulgated to the public does not relate in a positive manner to the findings of research in the area. Extremely violent acts are usually isolated by the media and presented to the public in a journalistic mode that is often stated in language designed to stimulate outrage and indignation and/or sympathy and sorrow.

In a study of violence in the British Isles, considered to be not nearly as violent as the U.S., it was noted that "violence is normally part of a repertoire of behavior within a pre-existing relationship and is usually taking place between people who know each other, not in consequence of attacks by unknown thugs or assassins. This is an extremely important fact because the media project an image of violence as something which arises 'out of the blue'; the mugger, the random, vicious knife attack or pub brawl are given large coverage. However, the majority of violence takes place either within the family or within other existing relationships; this fact is rarely given adequate coverage by the media mainly perhaps because it reflects adversely on some very deeply held attitudes about family life within this country."[7]

The writer's personal familiarity with thousands of serious offenders over a period of twenty-six years in the juvenile justice correctional system of a large state jurisdiction (Illinois) supports the thesis that most violence involves interactions among people with existing relationships. Violence outside that context is generally wealth-acquisition oriented, reflecting known or perceived needs in terms of money or goods. Known or perceived needs may or may not be valid in a social context. They do, however, reflect individual perspectives deemed important, i.e., drug dependence, food, shelter, social status, etc.

It is also apparent that the defined serious delinquent is not a "different type" but rather "typed" by legal terminology which creates the connotation of being different. Certainly those guilty of auto theft and repetitive petty theft do not appear to personnel in the juvenile corrections systems to be included in the definition of serious offender. The informal knowledge of the number and frequency of such acts tend to depreciate any realistic inclusion of the perpetrators as serious offenders. The statistical image of the serious offender is skewed in terms of a more meaningful definition which centers on acts against persons. Acts against persons are relatively few in number and often are perpetrated by a relatively small number of offenders. It would appear that a realistic defini-

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tion of the serious offender is crucial to the development of appropriate public policy in this area.

THE JUVENILE JUSTICE SYSTEM

In the State of Illinois, generally regarded as the founding jurisdiction of the juvenile court concept in 1889, the juvenile justice system is both amorphous and inefficient, yet far-reaching and futuristic in its structure. It is a system that functions primarily with state authority on a county level. Illinois has 102 counties, each served by a judicial circuit which may encompass one (e.g., Cook County) or more counties. There are twenty judicial circuits. Juvenile Court jurisdiction is a circuit court function executed by judges assigned to such functions by the Chief Circuit Judge on a permanent and/or rotating basis. The Juvenile Court Act gives the court the authority to hear petitions, detain, adjudicate, and make dispositions at county or State expense for dependent, neglected, and delinquent youth. Defined "status offenders" are also under the courts' jurisdiction, as is the authority to permit juveniles to be processed in Criminal Courts for serious felonies. Criminal Courts, however, must use juvenile justice system dispositions for convicted felons. In Illinois, juveniles cannot be programmed in the adult correctional system.

The Juvenile Court in Illinois is a civil court and its proceedings are civil actions distinct from the adult criminal courts. This status has been upheld by the State Supreme Court and is important as the basis for public policy development.

A panoply of services to youth are offered in Illinois on a voluntary basis by private agencies. Many such agencies, however, have been supported by the State Planning Agency with Omnibus Crime and Delinquency Prevention Act funds. A special effort known as UDIS (Unified Delinquency Intervention Services) has been directed to serious offenders at the court level with community dispositions. That program is reported to you elsewhere in the program as a special concern for this Symposium.

Delinquency prevention services are recognized and promoted at the state level by a Commission on Delinquency Prevention. The Commission assists communities and agencies in developing self-help and volunteer prevention programs.

Of considerable significance in Illinois is the existence of a Department of Children and Family Services. DCFS has statutory authority as a disposition for dependent, neglected, status offenders and delinquents up to the age of thirteen. The Juvenile Division of the Department of Corrections has jurisdiction for juvenile delinquents, juvenile felons, and an occasional misdemeanant. Commitments to the Division are not time oriented, although release from institutional facilities requires the approval of the Pardon and Parole Board. The Division provides and supervises residential programs (institutions and group homes) and field services (parole supervision and support services). The field service functions have been regionalized[*] and the regions have been empowered to receive commitments and divert placement from institutions to community programs in cooperation with committing courts. Many DOC wards have been and may be under the guardianship of DCFS. Inter-agency planning and funding on a care basis is common practice.

Probation in Illinois is a judicial function, as is detention. Probation and detention are regarded as county functions and are supported by county funds with state subsidy. Detention services are inadequate, resulting in frequent inappropriate use of secure facilities for the detention of juveniles.

As can be deduced from the above structure, Illinois does not mix delinquents and status offenders in the same correctional facilities or programs. The issue of deinstitutionalization does not refer to status offenders but rather to the application of that administrative thrust to delinquents. This structure has permitted Illinois to close seven correctional institutions since 1970. A major institutional facility is scheduled for closing in November of 1977. Juvenile Corrections population has been reduced from 2,500 in beds in 1969 to 950 in beds in 1977. A corresponding decrease has occurred in the number under parole supervision. These statistics, when compared with the demographic growth of the delinquent prone segment of the population (ages ten to seventeen), the growth of the population of Illinois (12,000,000), and the increased effectiveness of law enforcement, are inconsistent with the growing concern for the serious delinquent.

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It would appear that in the absence of validating the scope of the serious offender problem with raw data, the intense concern about serious offenders has evolved into a scathing attack on the juvenile justice system. Vocal demands are expressed for simplistic solutions to individual cases of deviant behavior and serve as the basis for questioning the validity of the philosophical premise of the juvenile justice system.

From the perspective of one responsible for the management of state correctional programs, generally agreed to be the dispositions of last resort, increased punitive dispositions are being demanded for a decreased number of youth. The raging debate in the adult criminal justice system with respect to the role and scope of the state in the matter of coping with adult crime and crime control is "spilling over" into the juvenile justice system. The "spilling over" or contamination of thought regarding the juvenile justice system views serious juvenile offenders as young adults not as juveniles. Somehow the offense eliminates the status of being a juvenile, and the offender is viewed as one subject to adult sanctions. Youth guilty of serious offenses lose the protective provision of the juvenile justice system and are regarded as having "earned" adult status.

The present juvenile justice structure, based on the precepts of the Juvenile Court Act, is threatened. Efforts are made, and generally supported, to restrict placement and release authority for certain juveniles participating in state level programs. More importantly, the efforts are channeled into legislative changes to implement more restrictive guidelines for the treatment and placement of juveniles. Presently pending in Illinois is legislation to lower the age of criminal responsibility from seventeen to fourteen. A visit to any adult facility would suggest to the careful observer that the need, from a client perspective, is to raise the age to eighteen, and to enact youthful offenders legislation which would permit the removal of immature youth from the prison environment.

Other legislation addresses authorized absence authority and placement in group homes, halfway houses, and similar less restrictive programs. All of the legislation is designed to restrict these programmatic variables.

Clearly the official system, based in civil law with the protective tenets of the *parens patriae* doctrine that serves as the foundation of the juvenile justice system, is in conflict with a considerable amount of public attitude which appears to be the correct response to information conveyed by the media. Media communication is not faulted for being in error or deceitful. Unfortunately, the issue appears to be a problem of balance. Negative incidents and violence are newsworthy. The humdrum activity of most juveniles, even those who participate in serious offenses, are not newsworthy and seldom are reported. Official crime statistics indicate a decline in violence and serious crime. Concern for violent crime, however, has been escalated to the level of near hysteria; so much so, that many are willing to give the State totalitarian authority in the criminal justice area.

PRESENT PROGRAMMING

In Illinois, the structure described above supports a number of residential facilities and community support services administered by the Juvenile Division of the Department of Corrections. Approximately 2,300 youth receive services—1,000 in residential programs and 1,200 in community placement status. As previously indicated, these numbers represent a decrease of approximately two-thirds since 1969.

Programmatically, efforts are made to provide an array of treatment modalities in addition to educational, vocational, recreational, medical (including psychiatric), dental, and general support services. The treatment modalities include: a coed setting; a positive peer culture program located at the Illinois Youth Center DuPage; a behavior modification program based on positive reinforcement located at IYC-Valley View; a structured Intensive Reintegration Program designed to serve seriously malfunctional youth with mental health problems; several small facilities specializing in community vocational experiences; small facilities emphasizing academic programming and vocational programming with area public vocational schools and community colleges.

The field service component of the Division is regionalized into four units. One unit encompasses Cook County which includes Chicago. Others combine a number of the counties in the State into northern, central, and southern regions. Regions are empowered to receive youth committed to the Division, and in cooperation with the committing court, arrange placement in regional community

facilities rather than transfer to statewide institutions. This intradivisional diversion has resulted in the effective deinstitutionalization of a number of commitments and in the promotion of a host of regional programs and services on the community level.

The interaction with our staff has been beneficial in unifying a treatment approach to the wards of the court. The increased communication has resulted in a meaningful dialogue on a case basis in the interest of youth.

The inevitable failures, however, often result in a generalized depreciation of the system, despite the statistical insignificance of the number of failures. It is difficult for administrators to avoid extreme caution and conservative decisionmaking, for fear that what appears to be appropriate for a particular case may jeopardize programmatic benefits for a large numbers of youth. This attitude infiltrates the various mechanisms designed to make release or placement decisions, i.e., staffing recommendations, hearing board decisions, parole board decisions, etc.

PUBLIC POLICY ISSUES

It is apparent that the concept of the juvenile justice system is a major public policy issue. The system is under question. The traditional goals and objectives are being subjected to intense scrutiny and review. Protection, services, and the promotion of concern for the errant and offenders are not governmental functions desired by a significant number of people. Justice as a virtue is tainted and often is equated with the state's role to exact retribution and sanction.

From this ferment, several specific issues have emerged. They are:

NATIONAL STANDARDS

A growing concern for the need to have recognized and accepted national standards has led to a flurry of activity in this area. Major efforts include the project effort of the Institute of Judicial Administration—American Bar Association to establish comprehensive standards for the juvenile justice system. The project's work is to be made available in a 23-volume set of standards, attesting to the monumental scope of the effort. Advance information indicates that several of the standards will be extremely controversial. The Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention of the Advisory Council of the Juvenile Delinquency Prevention Office—LEAA has been engaged in a major effort to develop juvenile justice standards. The Delinquency Prevention Act of 1974 mandated that the Administrator of the Juvenile Delinquency Prevention Office develop standards resulting in a third major effort—the Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice. The work of the latter group has been forwarded to the Office of the President for acceptance. The final disposition of this set of standards in terms of federal acceptance is not yet known.

Soon to be initiated is an effort by the Commission on Accreditation of Corrections—ACA to develop standards for juvenile justice appropriate to the anticipated accreditation process. It is expected that the work of the Accreditation Commission will result in a major effort to develop meaningful standards.

No less significant effort in the area of standards is federal case law recently litigated in such cases as *Morales* vs. *Turman* (Texas), *Nelson* vs. *Heyne* (Indiana), and *Morgan* vs. *Sproat* (Mississippi). These cases and others have created a substantial set of standards recognized by federal court authority as appropriate for the juvenile justice system.

STATE STANDARDS

In the absence of court decree, existing state statutory guidelines for the juvenile justice system are subject to the dilemma of enlightened federal case law and the demands of the punitive approaches generally espoused as current public sentiment. The sentiment is expressed by some professionals in the field and by many with political motivation. Without a doubt, the justice system has become a major political issue. The emotional impact of the care and treatment of offenders lends itself to great debate at the state level. The lack of consistent standards at the state level highlights the need for recognizable national guidelines.

Administrators of state agencies involved in the justice system traditionally have been formulators of public policy. They have been the primary source of

legislative thought resulting in statute enactment, No longer is this generally true. The elevation of the justice system to the realm of political concern has effectively removed policy-making in this area to non-practitioners on the state level.

DEINSTITUTIONALIZATION

One of the effects of the trends described is contradictory to the policy of deinstitutionalization. The effort in recent years to remove numbers of youth from institutional settings has been dramatically successful. An almost 50% reduction in numbers of youth in state institutions has been achieved during the period 1970 to present.[9] Changes in the definition of juvenile delinquency, the creation of new legal categories (MINS, PINS, CHINS, etc.) and concerted efforts to divert from the system and develop more community-related services have contributed to the marked decline in youth committed to state programs in institutions. The serious offender, however, has remained the primary responsibility of state correctional agencies.

The change in the behavioral profile of the serious offenders has created significant program implications for correctional administrators. Efforts to be responsive to community concern are often in conflict with youth program needs. While it is generally recognized that the program needs of serious offenders need not differ from those of other youth, the clamor for control has resulted in a host of program modalities designed to serve those guilty of serious offenses. These programs invariably include a strong control mechanism, usually described as "intensive." Administrators are faced with the problem of developing programs consistent with treatment perspectives with a highly structured and restrictive setting. The task is difficult if not impossible.

Other policy issues relate to the interpretation of standards or goals as the basis for staff training: the appropriate placement and treatment of the mentally ill juvenile offender; the fiscal implications of "intensive" programming; the development of dual program structures for the serious offender and other categories of youth, particularly in small states; the reintegration of serious offenders into community life; and, long-range planning for state agencies involved in the juvenile justice system. Underlying all of the problematic issues is a common, unanswered thesis—the role of government in the juvenile justice system. Is its primary function to protect juveniles and provide a human service with positive program goals, or is its primary purpose the imposition of sanctions for law violations? These questions have not been answered for the adult criminal system. The issue is more sharply drawn into focus when ascribed to juveniles. Whether or not the juvenile justice system reflects *parens patriae* rather than retribution and sanction is basic to the future planning for all human services. The issues need public debate and discussion. That has not been happening in a rational manner. State agency administrators and others can attend symposia and discuss operational problems. There needs to be a clarion call, however, for as many people as possible to participate in the philosophical debate from which will emerge public policy.

OUTLOOK

Given the present state of the art of reintegrating serious offenders into the mainstream of community life, one can predict continued skepticism about the juvenile justice system. The transmittal of information regarding the failures of the system is not likely to change. The preponderance of public information regarding failures can only serve to feed the negative attitudes which have been created about the system. Hopefully, some means of transmitting more balanced information can be devised.

The intensity of public concern will continue to stimulate enough interest to ensure change in the near future. The issue is not whether or not the system should be changed, but rather what form the changes will be when they take place. Should they be procedural? Should they be based on new and different values? Should there be a value base to the justice system that reflects national ethic? Is the issue of the serious juvenile offender important enough to develop a set of standards and goals that differ from those standards and goals set for other juveniles? Can we have standards and goals for all juveniles which provide enough public policy latitude to effectively cope with the serious offender

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and public protection? These questions and others very similar must be answered in the near future if there is to be consistent and meaningful public policy for the juvenile justice system. State agency administrators through the National Association of Juvenile Delinquency Program Administrators have indicated an interest in open debate and discussion about the system. How we decide to treat the serious juvenile offender will be an indication of the future of the juvenile justice system. It may also be an indication of the future of all human services in the United States.

FOOTNOTES

[1] Edward Warner, "Youth Crime," *Time*, July 11, 1977, pp. 18–28.
[2] Ibid., p. 18.
[3] William Simon and Joseph Puntil, "Youth and Society in Illinois," in *Summary and Policy Implications* (A Study of Self-reported Criminal Behavior of Adolescents conducted by the Illinois Institute of Juvenile Research), p. 2.
[4] Ibid.
[5] Ibid., p. 5.
[6] Ibid., p. 6.
[7] Norman Tutt, *Violence* (London: Her Majesty's Stationery Office, 1976), p. 19.
[8] Samuel Sublett, Jr. and J. Robert Weber, "An Illinois Strategy for the Development of Community Corrections," in *Resolution*, vol. 1 no. 2 (Winter, 1975) p. 23.
[9] Robert Vinter, et al., *Juvenile Corrections in the States: Residential Programs and Deinstitutionalization* (a report by the National Assessment of Juvenile Corrections Project, Univ. of Michigan, 1975), p. 13.

THE SERIOUS OR VIOLENT JUVENILE OFFENDER—IS THERE A TREATMENT RESPONSE?

(By Shirley Goins)

The criminal justice system expresses a growing concern for providing programs which will be more effective in the rehabilitation of delinquents than presently accepted methods. The assumption is that this present justice system is sufficiently bad; there must be alternatives created that will be better than just implanting the offender further into the system. There is evidence to support this assumption in the current literature and knowledge in the field. Nationally, there has been a vigorous movement to end the unilateral commitment of children and adults to institutional, residential settings, in favor of community-based care. In the juvenile justice system, policy-makers are joining mental health workers in denouncing all institutional care as being dehumanizing, excessively expensive, and completely ineffective in rehabilitation. The argument states that social control of deviant behavior could be better served through community-based intervention strategies, rather than by isolating norm-violators in confined settings for rehabilitation and/or treatment.[1] For years, enlightened judges and probation officers have operated on the principle that it is desirable to limit the penetration of the juvenile corrections system as far as possible in considering the disposition of any delinquent. Obviously, the nature of the offense has something to do with the disposition, but within the system, the ideology prevailed that the nature of the child's difficulty, rather than the nature of his/her offense, should determine the treatment.

There was certainly a need for change. Perhaps we may attribute the initial recognition to the Wolfgang studies, which first called attention to the ominous potential for harm contained in a small group within the Philadelphia Birth Cohort designated as chronic offenders.[2]

As we have moved forward in a more innovative pattern of planning and thinking, there are new dilemmas confronting social and state agencies in planning for treatment, based on differentiating between classes of juvenile offenders. Perhaps moving a group of youths with less serious charges from the juvenile justice system, as well as successfully diverting some less serious offenders with serious charges, has resulted in the identification of a group of youngsters now called serious or violent juvenile offenders.

If our problem is what to do with the serious juvenile offender, we must first determine the magnitude of the problem, which is somewhat difficult due to the dearth of empirical data. According to the *Uniform Crime Reports* for 1975, youth under eighteen account for almost half of the serious crimes committed in the United States. Since 1960, crimes committed by juveniles have increased in number at twice the rate of crimes committed by adults.

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The report indicates that youth under eighteen account for about a quarter of all arrests (about 2,000,000 out of a total of 8,000,000), 23.1% of all arrests for violent crimes, and 43.1% of all arrests for index crimes. Between 1970 and 1975, there was a 54% increase in the number of youth arrested for violent crimes, as compared with a 38.3% increase of those over eighteen. The only Part I offense that shows a decreased rate for juveniles during the period 1970–1975 was auto theft, which declined by almost 18%.[5]

Whether this increase reflects an actual increase in juvenile violence or a higher rate of police apprehension, the public in general has been persuaded that the streets are unsafe because of the dangerous juveniles. The F.B.I. cautions that these figures may show an increase in law enforcement activity, not necessarily the number of offenders. Still, there is some reason to think that the violent crimes committed by juveniles is a large share, perhaps a quarter, of all the violent crimes committed in our present day society. The data does not show us, however, how many serious juvenile offenders find their way into court, nor can we say how many of those who are brought to adjudication are placed under official control. Again, these are very difficult questions to answer due to this lack of data. News coverage has continuously conveyed the idea that the situation is out of control, especially in the larger cities, as well as reporting that the workload of the courts are unmanageable and the ideology of the juvenile courts is impracticable in dealing with these serious juvenile offenders.

It is certainly not unfamiliar to many of us that the institutional-prone control/treatment response system is inappropriate. However, a new ideology of hard-line approach demanding more harsh punishments for juveniles is emerging out of the current chaotic situation. The proponents of such ideology, of course, are functioning on the basic premise that increase in severity of punishment will decrease crime. Any implication of acceptance of this attitude could have an ominous impact on the management of juveniles, specifically those categorized as serious juvenile offenders. We need to consider the directions in which our thoughts are taking us regarding the serious juvenile offender and create viable options between the "nothing works" and the "harsher punishment/deterrent of crime."

What kinds of intervention should be used with serious juvenile offenders, how would they work, and how well will they work? The complexity of entering into this kind of a consideration is apparent even in defining "serious offender." Are we looking at what is defined as "dangerous?" Are we looking at what is defined as "violent?" Are we going to define all person-related crimes as serious, and are we going to use criteria of charges of convicted juveniles as criteria for labeling them "serious?" Are we also going to predict violent behavior of juveniles based on community charges?

As Norval Morris has written:

Why use the criteria of conviction? The short answer is that it is the only reliable available basis. Granted, the severe distortion due to lack of detection, arbitrariness of arrest, prosecution and conviction, and plea-bargaining, what other acceptable evidence of past violent behavior do we have?[6]

If we use the presenting offense to identify serious juvenile offenders, have we, in fact, identified "dangerous" juveniles? Perhaps yes, perhaps no; all that has been achieved is a retrospective classification of so many young people who have committed serious crimes. For some of the newly labeled "serious offenders" group, the commission of the crime is the only time in their lives in which they were, or will be, dangerous to others.[8]

The Wolfgang longitudinal cohort study previously mentioned in this report, might be an alternative approach to identification of a population of serious offenders. It is stipulated in this report that 18% of all juveniles with any type of delinquent record had five or more offenses and thus were classified as "chronic recidivists."[9] The chronic recidivists were responsible for 51% of all delinquent acts committed by the cohort group. But even within this chronic or repetitious group of offenders, only 6.2% of their offenses were serious ones.[7]

This information seems to lead us back to the conclusion that the seriousness of the offense may be the only meaningful category. But what is our ability to predict which juveniles will engage in violent crime?

The conclusion of Wenk and his colleagues was that "there have been no successful attempt to identify, within . . . offender groups, a sub-class whose mem-

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bers have a greater than even chance of engaging again in an assaultive act."[8] Literature indicates that while our ability to predict violent acts in juveniles is not very good, it is not completely nonexistent. It is possible to identify juveniles who have higher-than-average chances of committing violent crimes. From the Wolfgang study[9] and other sources, those characteristics which would be of a juvenile's committing a violent crime are his/her age, sex, race, and socioeconomic status. Educational achievement, IQ, and residential mobility are also relevant. Literature further indicates that one of the best predictors of future violent behavior in a juvenile is his/her record of past violent behavior. This is not to imply that every child who ends up in a juvenile justice system and is convicted of a crime is on his/her way to a criminal career.

It is indicated by Wenk that nineteen out of twenty juveniles with a violent act in their history did not commit another violent act, at least within the first fifteen months after release.[10] There is also another very serious question which must be considered if we are going to use a criterion of conviction. What of the child with whom the juvenile justice system is suddenly confronted, who has no history of violent behavior but who has committed a severe crime? We must ask ourselves: Are these categories real and are they relevant to defining a treatment response; is there a single set of treatments that can relate to a category of "serious juvenile offenders?" The real myth in this field. I would submit, is any single factor explanation or any single factor solution to youth problems. There is simply no single cause of serious violent behavior; and if there is a single approach solution, it has yet to be discovered.

There have been some cursory evaluations of a few programs and techniques for working with the "serious juvenile offender."

As indicated by the Rand Report,[11] their findings were predictable but important: 1) "The data adequate to support finely grained judgments about the relative efficacy of the various treatment modalities does not exist;" 2) They did not encounter any programs that were concentrated solely on behavior-changing efforts with this population; and 3) "Limited success" was noted with each of the four treatment modalities that they explored. The report further indicates that there were characteristics that were in all of these programs, including: a) client choice; b) participation; c) learning theory features; d) wide range of applied techniques; and e) heurisic management.

One of the programs discussed in the Rand Report in which they noted some success was the community-based treatment program, the Unified Delinquency Intervention Services (UDIS). Even though UDIS is still young and seen by some as being experimental, it does address itself to the more serious offenders in Illinois.

Although many of the diversion programs of the past are based on humanitarian interest, experience has demonstrated that humanitarian intentions alone could not guarantee either more humane treatment or the protections of the rights of the child. Legal rights for juvenile offenders and delinquency prevention goals if the components of the juvenile justice system perpetuate policies and prophesies that tend to undermine the goals sought. Also, whatever rationale is publicly espoused for judicial and administrative intervention in the lives of youth is often massively buried in public doubts about the value of services for treatment of juvenile delinquents and their families. The negative political implications of fundamental institutional change often lead administrators of justice for children to tolerate what the components of system reform say is no longer tolerable. These general observations lead to four basic premises underlining the programs of the UDIS Project:

1. Any money expended to deliver diversionary services to adjudicated delinquents will be poorly used without, at the same time, consistent and vigorous efforts to identify and correct basic problems in management of juvenile justice which violate the constitutional, legal, or human rights of the children.

2. The fulfillment of the purposes of the juvenile court require adequate community based treatment services to minimize the unwarranted confinement of juvenile offenders, or else the court in large measure is reduced to a punitive tool of a society lacking other alternatives.

3. The administrators of components of juvenile justice systems have to take certain responsibility for the defects of the system so that to serve in good conscience without the active pursuit of institutional change becomes a moral and psychological impossibility.

Note: Footnotes at end of article.

4. The administrative structure of UDIS is so designed as to prevent and make difficult administrative capitulation to pressures for surrender to bureaucratic self-interest, political interest, and bureaucratic isolation of agencies.[13]

A real issue in juvenile justice administration is public accountability. Some funds for the UDIS Project are used to make major steps forward in institutionalizing public accountability about attacking problems about which there have been public interest and sensitivity. The goal is to achieve new methods of corrobative institutional change among juvenile justice agencies within the State of Illinois in the process of enabling probation violators to avoid illegal behavior.

The term "diversion" as traditionally used in the juvenile justice system, refers to the exercise at discretionary authority by probation and/or court administrative personnel and/or judge to substitute informal handling for formal procedures on alleged violations. Diversionary programs are usually selective about the alleged offenders to be removed in the formal justice system. Most "diversion" programs focus on youngsters charged with misdemeanors, "status" offenses, and first or second offenses. Pre-adjudicative diversionary programs are primarily designed to prevent a deep penetration into the system.

In contrast to the judicial pre-adjudicative diversionary program, the UDIS Project primarily serves repeated offenders already on formal probation period, and referrals are at the post-adjudicatory stage. The juvenile/family courts throughout the state have performed an official adjudication in the cases to determine innocence and/or involvement. Having determined involvement, the disposition of the case by the judge is to UDIS. The judge uses the UDIS Project to divert delinquent probation violators from commitment to the Illinois Department of Corrections. A basic criterion for the judge making a dispositional decision with expected placement of youth with UDIS is that the only other alternative for the adjudicated youth is commitment to the Illinois Department of Corrections.

Thus, the term "diversion" as used in this Project means diversion away from unnecessary institutionalization of the adjudicated delinquent who has been involved in serious offenses. "Diversion" also means provision of special assistance and individualized program and services for the juvenile offender, thus giving to some judges throughout the State of Illinois clearly defined options to the Illinois Department of Corrections.

The program, as conceived, related to three areas that were proposed by the National Advisory Commission on Criminal Justice Standards and Goals for priority actions in reducing crimes:[13]

1. Preventing Juvenile Delinquency. Minimizing the involvement of young offenders in the juvenile and criminal justice system and reintegrating delinquents and youth offenders into the community.
2. Improving Delivery of Social Services. Public agencies should improve the delivery of all social services, particularly to those groups that contribute higher than average proportions than their number to crime statistics.
3. Increasing Citizen Participation. Citizens should actively participate in activities to control crime in their communities, and criminal justice agencies should actively encourage citizen participation.

The Project also relates to the following recommendations and standards made by the National Advisory Commission on Criminal Justice Standards and Goals:[14]

1. Distribute public service on the basis of need.
2. Expand job opportunities for disadvantaged youth.
3. Broaden after school and summer employment programs.
4. Develop career preparation programs in schools.
5. Provide effective, supportive services in schools.
6. Offer alternative education programs for deviant students.
7. Provide community programs for diversions by the courts.
8. Seek alternatives to new state corrections institutions.
9. Insure correctional cooperation with community agencies.
10. Seek public involvement in corrections.

Historically, the Unified Delinquency Intervention Services Project began receiving referrals in October of 1974, as a result of a year-long planning effort within the Illinois Department of Children and Family Services in conjunction with the Illinois Law Enforcement Commission. In a larger context, the Project

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represented a further step in a nationwide movement for the deinstitutionalization of delinquent youth by use of diversion mechanisms and programs.

The movement has been based on a number of factors. Philosophically, it had its roots in the labeling or societal reaction perspective on deviance and social control and the findings of evaluation research on the effectiveness of correctional institutions. Pragmatically, the move toward deinstitutionalization is informed by the growth of delinquency and youth crimes and the findings of cost-effectiveness studies comparing institution with community-based treatment. In Illinois, the climate within the juvenile justice system was already favorable for a project such as UDIS. For years, the Chicago Police Department had been diverting a majority of apprehended youth by use of station adjustments in lieu of referrals to Juvenile Court. The Court itself had made use of a number of internal diversion mechanisms including, more significantly, heavy reliance on probation. Recent changes in the Juvenile Court Act prescribe commitments of youths under thirteen years of age or youths charged with status offenses or violations of court orders, and require a recent social investigation before commitment. A formal screening process, which had been discontinued in 1968, was reinstituted in Cook County in 1973, and there was a strong emphasis on family therapy training for field probation officers. In addition, the leadership of the court was sensitive to the deficiencies of the juvenile justice system and was willing to explore new approaches to dealing with youth in trouble with the law.

The Department of Corrections (DOC) in the past four years has been characterized by: a) reduction in the number of state institutions; b) reduction in the state institutional population; c) increase in community programs; d) increase in the number of youth in the community and community programs; and e) reduction in the number of commitments by the court.

Philosophically and programmatically, Illinois has been moving from the medical-treatment model to the reintegration-justice model: reduction in the number of institutions; shorter institutional stays; increased community resources; greater purchase-of-services; more youth in the programs in the community; and a department youth advocate-ombudsman.

UDIS, however, was a significant departure from the established correctional practices in Illinois, and was viewed with some trepidation by the juvenile justice system agencies. UDIS is one of the projects that was spearheaded by what was seen then as three men from outside of the established political and justice systems: a new Governor, a new Executive Director of the Illinois Law Enforcement Commission (who was greatly interested in prison reform and deinstitutionalization), and a new Director of the Illinois Department of Children and Family Services (who had organized and implemented the deinstitutionalizational efforts in the State of Massachusetts).

It is significant to note that prior to UDIS accepting the first referrals to the program in October of 1974, the Illinois Department of Children and Family Services changed directors. The program did administratively function for nine months under the auspices of the new director. However, in September of 1975, it was decided that the UDIS Project was outside the statutory authority of the Illinois Department of Children and Family Services, and was then administratively transferred to the Illinois Department of Corrections. In terms of organizational dynamics, there was some concern that UDIS would be swallowed up in the correctional bureaucracy and would become just another program. This did not occur, because of the recommendations of a correctional task force whose membership was comprised of the leading juvenile justice experts in Cook County. UDIS is seen as a major entity in the Illinois Department of Corrections, Juvenile Division structure.

I have spent time recounting the history of the Project for basically two reasons: to highlight the importance of timing in attempting to operationalize a new concept of programming for juvenile offenders; and—even though I alluded to the second point only briefly—to indicate the threat that is perceived by the established institutionalized process in the criminal justice system, even though there is evidence available that there is a drastic need for change.

The Unified Delinquency Intervention Services is a cooperative effort of nine juvenile courts throughout the State of Illinois and the Illinois Department of Corrections, with pending expansion to eleven other counties in October, 1977. UDIS was originally designed to serve youth "who have reached the point of last-resort intervention prior to institutional commitment." This included those

who were at risk of being committed or recommitted to the Illinois Department of Corrections, Juvenile Division. It included probation and parole violators, and repeat delinquent offenders. The emphasis of the Project is on utilization of community resources to maintain the offender in a free society rather than rely on incarceration. The purchase-of-services arrangement utilized involves the coordination of many social agency resources. The theoretical assumptions implicit in the design of UDIS are that crime and delinquency are social phenomena which originate and are maintained in the community, and therefore are best dealt with by the community itself.

The major goals of the Project are as follows:

1. Establishing an adequate network of community-based services.

2. Reducing commitments to the larger institutional facilities of the Department of Corrections, Juvenile Division, by 35% of the commitment rate out of Cook County, and 50% of the commitment rate throughout the rest of the state.

3. Providing services at a cost much less than institutional placement with Juvenile Division.

The great majority of the UDIS clients are referred directly from the Juvenile Court, with a few youths who are in danger of being recommitted or returned from parole being referred from the Illinois Department of Corrections. Therefore, the greater percentage of youth are not wards of the state, but participate in the Project as a condition of their probation, as ordered by the juvenile court judges. Although many arrests have been adjusted at local police stations, and petitions dropped (without prejudice), at least two findings of delinquency have been made for each UDIS participant.

UDIS has incorporated a combination of program approaches in dealing with those youth already identified as being alienated from the social system. These program approaches lead to a multi-impact program structure, which serves to answer the needs of the individual youth who are referred to the Project. This structure includes developing:

New services and delivery system to youth;

Programs which address themselves on a highly individualized basis to some youth, with a goal of changing behavior and developing and strengthening coping mechanisms and defenses; and

Programs providing identified services needed by the youth's family, thereby creating opportunities at the community level for impact on those forces which impinge on the behavior of the youth.

These services are provided by community-based agencies which were existing at the time of the initiation of the Project, or by new programs specifically created to work with UDIS. The Project has approximately seventy-five purchase-of-service contracts, with a range of services that include individual counseling, family counseling, educational and tutoring services, vocational testing and job placement, advocacy services, specialized foster care, group home placements, temporary living arrangements, wilderness-stress programs placement, and the Intensive Care Unit providing residential services. The length of involvement of the youth with the UDIS Project is approximately three to six months, with continued involvement in some instances for a period of nine to twelve months.

UDIS considers itself a multi-impact agency, whereby the youth and the family can be served simultaneously by numerous agencies to answer needs that have been determined by an assessment at the time of the acceptance of the youth by the Project. UDIS struggles to create non-traditional resources that respond to the need of the youngsters that are in no way a duplication of previously experienced services which were not successful. UDIS utilizes a brokerage systems model, utilizing a case management process and a total purchase-of-care for services.

UDIS is now dealing with more serious offenders than had been envisioned in the program-design stage. Since the Project became operational, there was a trend toward the involvement of the more serious offender. At the completion of the initial Project year (October, 1974 to September, 1975), a total of 221 youth had been served; of these, 55% were offenders who had been charged with major felonies, including murder, rape, armed robbery, arson, and burglary. Twenty-nine (13%) of these offenders had committed crimes against persons, while 183 (83%) were property offenders. As is noted in the monthly report from the Northwestern University Tracking System, these percentages remained unchanged at the end of July, 1977. UDIS has accepted 745 youth between October 1, 1974 and July 31, 1977; of these, 55% had been charged with major felon-

ies, including murder, rape, armed robbery, arson, and burglary. Two hundred sixty-seven (36%) of the charges were crimes against persons, and 441 (59%) were property offenders.[15]

One way of analyzing the outcomes to determine if the treatment response is appropriate in dealing with the stated problem is to compare the stated goals with the measurable progress. UDIS had set out to establish a network of community-based services. The network has been developed over a wide range, varying from programs offered by traditional agencies, to new services developed by community organizations specifically for UDIS clients.

UDIS intended to reduce commitments to the large, more traditionalized institutional facilities by 35% in Cook County, and by 50% in the other counties throughout the State of Illinois. In Cook County, at the time of the inception of the program, the commitments averaged between eighty and ninety per month; the average over the last twelve months has been approximately forty-two. There is certainly a possibility that other developments have related to this reduction (for example, the alteration of judicial and correctional attitudes), so that the decision to commit has been less frequent. In any event, I feel the important point is that clearly UDIS has had significant impact on the lowering of the commitment rate.

Another goal stated by UDIS was to provide service at a cost less than institutional placement in the Illinois Department of Corrections' institutions. A calculation, based on all Project administrative personnel and service cost, excluding no cost directly connected to the Project (dividing the number of dollars available and spent, by the number of youths given service), the cost per youth per year was $7,000. This cost compares favorably with the institutions of the Department of Corrections, Juvenile Division, with an average annual per capita cost as stated to be approximately $22,000 for the Fiscal Year 1976.

There are other considerations which might be worthy of mentioning in lieu of the fact that we are discussing a community-based corrections program. Four sets of issues have been central in the two years of UDIS existence. The first of these is the extent to which UDIS has been receiving youth who would otherwise have been committed to the Department of Corrections. There is a frequent tendency in diversion programs for a dragnet effect to have occurred, the dragnet effect being the inclusion in the alternative program of clients who would not otherwise have been sent to the correctional program. UDIS provides resources to youth who the probation department say they can no longer serve. Probation officers might then be tempted to increase the number of youth who are no longer able to be served, referring what would be noncommittable youth who would benefit from a group home placement, intensive advocacy services, or some other UDIS-contracted resource. As a project which has to prove its ability to work with serious delinquents in noninstitutional settings and amidst a considerable amount of skepticism from referral sources, UDIS might be tempted to accept questionable referrals in order to bolster its track record and to build and maintain caseloads. Many of the service providers with which UDIS contracts are new agencies dependent to a great extent on UDIS funding for their survival. Their self-interest, then, might tempt them to pressure UDIS to accept more cases. There were significant reasons for fears about a UDIS dragnet effect.

According to the preliminary investigation of the American Institute of Research doing a longitudinal study of UDIS, these fears have not been justified. Commitments to the Department of Corrections have declined substantially since UDIS began, and even though the amount of the decline contributed to UDIS is not clear at this time, it is certainly seen as having a very definitive impact. A statistical comparison of UDIS referrals and DOC commitments indicate a similar profile, and over 90% of the UDIS youth have been found delinquent on at least two petitions. Information given from the probation officers, judges, case managers and vendors, and reviews of police, DOC and UDIS files, have indicated that both UDIS and DOC youth have been heavily involved in delinquent behavior and appear generally to be a single universe.

The second major issue is one of long standing in the juvenile justice system: Should serious delinquent youth be maintained in the communities to which they would eventually return, or should they be removed from their families and friends on a supposition that old patterns of association and behavior must be

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broken or more structure and supervision be given? The thrust of the UDIS Program was working with youth in an effort to match individual client need with service resources. This strongly inclines UDIS to move toward the "least drastic alternative" criterion. As operationalized, UDIS has instituted temporary removal of some UDIS youth from their homes and communities and has added structure and control when it was deemed appropriate. The greater percentage of the youth have been worked with at the local level. All current data indicates that this has been done without increasing the risk to the public.

The third set of issues pertains to the severity of the UDIS client and the capability of UDIS staff to deal with them. Program design, formal criteria for referral, and the predilections of UDIS staff lead to the selection of youth who are more deeply entrenched in delinquent behavior. This leads to criticisms of two types 1) Is UDIS capable of handling these youth; and 2) Should the youth be rewarded for their delinquent behavior? Criticisms regarding the severity of the cases which UDIS accepts comes from both court staff and vendor agencies. UDIS staff are sometimes viewed as relatively young, inexperienced, ignorant of the juvenile justice system, but somewhat street-wise. Their ability to manage their clientele has been somewhat suspect. However, in defense of UDIS staff, some probation officers have noted that it is important that the case managers be allowed to assume a nonauthoritarian relationship with the youth since the authoritarian role is already filled by the probation officer, and since most youth are presumed to be in need of a non-threatening relationship. This role is eventually filled for most UDIS youth by an advocate. In fact then, the case manager tends to move back and forth between the roles of advocate and service broker and frequently finds him/herself in the middle, attempting to negotiate the competing demands of the involved parties. The working relationship of the probation officers is generally good and mutual respect fairly high, with the tacit understanding that the probation officer must always assume the "heavy" role and the case manager the advocacy role. As stated earlier, UDIS represents an opportunity structure for youth accepted into the program. In addition to an advocate and services such as counseling and family therapy, these youth and their families are given opportunities to obtain vocational education, continued advanced academic education, and programs which are designed to build ego strength to help them be reintegrated back into the community.

The whole purpose of UDIS is to deal with intractable youth—those seen as less salvageable and less deserving than the less entrenched youngsters—and to thus directly reduce institutionalization. By intervening at this stage, it is hoped that long-term incapacitation benefits will be realized. If UDIS were to accept less entrenched youth, the focus would demand giving up the current UDIS population or a substantial portion of it. Since 61% of the total of 745 youth who have participated in UDIS have egressed satisfactorily (15% still being active and 12% having been terminated for various reasons, leaving only 12% who have been committed to the Department of Corrections),[14] any consideration of change or criticism of the type of client that UDIS is accepting would seem to be at least premature, if not unwarranted.

The fourth major issue in the history of UDIS is the quality of vendor services and the concurrent service system. The backbone of UDIS is the purchase-of-service mechanism used to recruit and develop an array of services at the community level matched to the needs of the youth. Since services of a particular type or a particular area have not always been available from established agencies, UDIS has encouraged the development of new agencies primarily designed for UDIS youth. This has led to the charge that since the new agencies are dependeent on UDIS funding for their existence, they hesitate to refuse referrals or to criticize UDIS operations.

Advocacy services are an important part of those services purchased. And as always, such services are suspect. Advocates are generally required to spend ten to fifteen hours per week with each youth, and there have always been isolated reports that this certainly does not occur. According to the initial American Institute of Research Report, however, there is a great deal of commitment and contact by agencies with whom UDIS is contracting.

A more serious possibility, however, relates to structural strains in these programs, namely the ability to maintain the integrity of the advocacy function. The fundamental principle of advocacy seems to be the consistent representa-

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tion of the youth's interest against the court and other established agencies and systems. It is problematic that such a stance can be maintained when the agencies depend on state money and referrals from the state agency for their survival. There seems to be a fundamental tension between the charge of advocates to represent the client and their interest in guiding the client.

Some have made exactly the opposite criticism of the advocacy function. They are inclined to raise the issue that the commitment of advocates or the vendor agencies or case managers to advocacy sometimes result in their covering up of delinquent behavior by the youth. This is viewed as a violation of the UDIS promise to take public safety into account. How can an agency function as part of a juvenile justice system charged with ensuring public safety while at the same time stand in opposition to their system by representing their client's interest? Only continual, avid monitoring can respond to these criticisms. This contradiction is not unique to UDIS. There has always been a problem with any agency charged with both social control and social service functions.

UDIS appears to have good potential as a model for community-based corrections programs. It has demonstrated that it can offer alternatives to confinement for the serious juvenile offender without increasing the risk to the public. Success must be monitored, but if it continues, it should pose a major charge to traditional correctional assumptions about risk categories and classifications systems.

The UDIS success is certainly attributable to several factors: the increased confidence by the judiciary; the aggressive advocacy work of the Project staff; emphasis on resource development; attention to procedural detail; the utilization of a tracking and monitoring system; the cooperation and support of the purchase-of-care services; the continuing program and fiscal support by the Illinois Department of Corrections; and last but not least, the flexibility of all program staff.

FOOTNOTES

[1] Excerpt from *Juvenile Justice,* National Council of Juvenile Court Judges, vol. 27, no. 2 (May, 1976).
[2] Marvin E. Wolfgang, Robert Figlio, and Thorsten Sellin, *Deliquency in a Birth Cohort* (Chicago: University of Chicago Press, 1972).
[3] Federal Bureau of Investigation, U.S. Department of Justice, *Uniform Crime Reports—1975* (Washington, D.C.: U.S. Government Printing Office, 1976).
[4] Norval Morris, *The Future of Imprisonment* (Chicago: University of Chicago Press, 1974).
[5] Dale Mann, *Intervening With Convicted Serious Juvenile Offenders,* Prepared under a grant from the National Institute for Juvenile Justice and Delinquency Prevention, L.E.A.A., U.S. Department of Justice (Rand Corp., 1976).
[6] Wolfgang, Figlio, and Sellin, *Delinquency in a Birth Cohort.*
[7] Ibid., p. 102.
[8] E. Wenk, J. Robinson, and G. Smith, "Can Violence Be Predicted?" *Crime and Delinquency* 18 (1972).
[9] Wolfgang, Figlio, and Sellin, *Delinquency in a Birth Cohort.*
[10] Wenk, Robison, and Smith, "Can Violence Be Predicted?"
[11] Dale Mann, *Intervening With Convicted Serious Juvenile Offenders.*
[12] UDIS Grant Application to Illinois Law Enforcement Commission, n.d.
[13] See National Advisory Commission on Criminal Justice Standards and Goals, A *National Strategy to Reduce Crime* (Washington, D.C.: U.S. Government Printing Office, January 23, 1973)—reiterated goal of Juvenile Justice Delinquency Prevention Report of Task Force (Washington, D.C., 1976).
[14] Ibid.
[15] Northwestern University Tracking System Report (June-July, 1977).
[16] Ibid.

The Legal Response to the "Hard-Core" Juvenile—The Offender or the Offense

(By Barry C. Feld)

I. INTRODUCTION

At the gateway between the deterministic and rehabilitative predicates of the juvenile justice process and the autonomous individual and punishment assumptions of the adult criminal justice system is a mechanism for reference for adult prosecution.[1] The criminal justice system presumes responsible actors who possess free will, make blameworthy choices, and are punished in proportion to the gravity of the offense.[2] Their punishment may have a general preventive effect on other potential offenders as well. The retributive and deterrent justifications of the adult process attend primarily to the offense committed.

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The evolution of the juvenile court led to a separate system of justice based on markedly different assumptions about the disposition of young offenders. While there have been a number of interpretations of this development,[3] the universal existance of separate systems for juvenile offenders reflects a minimum societal consensus that youthful law violators should receive separate and the offense is accorded little significance since it provides scant insight into the criminal law, the juvenile court's primary justification is its commitment to the "rehabilitative ideal," the individualized treatment of the offender.[4] At least in theory, the best interests of the individual offender take precedence and the offense is accorded little significance since it provides scant insight into the child's social or psychological needs. Assuming greater malleability on the part of children, judicial intervention is motivated by a desire to help the child rather than to punish. Informal procedures and a rejection of the rigors of adversarial trials reflect the emphasis on individualized treatment.[5]

While the juvenile court attempts to rehabilitate all the young offenders appearing before it, a small but significant proportion of miscreant youths resist its benevolent offices. Persistent and frequent offenders or those who commit exceptionally serious offenses call into question the primary emphasis on rehabilitation.[6] They are typically older delinquents nearing the maximum age of juvenile court jurisdiction.[7] Frequently recidivists, they have not responded to prior intervention, and successful treatment may not be feasible during their minority.[8] Despite their chronological minority, they are perceived to be as mature and sophisticated as adult offenders.[9] They account for a disproportionately large amount of the total volume of juvenile criminal activity.[10] In light of their persistent delinquent careers, further efforts at rehabilitation could entail a misallocation of scarce treatment resources *vis-a-vis* other, more tractable clients of the juvenile court. Retaining these troublesome youths within the juvenile justice system could perhaps negatively influence the less criminally sophisticated youths with whom they are housed.[11] Finally, there is the political reality of juvenile justice that certain highly visible, serious offenses evoke community outrage or fear which only the punitive sanction of an adult conviction can mollify.[12]

How to respond to the persistent or serious juvenile offender is one of the most intractable issues of juvenile justice. It is a bitter irony that the decision to transfer the difficult juvenile offender to the adult justice system simultaneously raises virtually every other issue associated with juvenile justice, i.e., questions about the efficacy of treatment for these or any offenders, questions about the exercise of broad discretion in the transfer process, and attendant dangers of abuse or discrimination. Moreover, transferring a juvenile for adult prosecution constitutes an admission of failure by the juvenile court; for a system predicated on the "rehabilitative ideal" this is a difficult, indeed dangerous, admission.[13]

Yet the availability of mechanisms for adult waiver are an important safety valve ultimately preserving the juvenile justice system. In the absence of transfer procedures, there could be almost irresistible pressures to lower the maximum age of juvenile court jurisdiction. While lowering the maximum age would reach many of these older, more sophisticated juvenile offenders, it would also sweep many other, presumably rehabilitatible youths into the adult criminal process as well.

The differences between the juvenile system's treatment of the offender and the adult system's punishment on the basis of the offense, raises the question of who should decide to prosecute a juvenile offender as an adult and on what basis. These questions involve both procedural and substantive issues: By what official and by what procedures should the "hard-core" offender be separated from other delinquents, and on what basis, using what criteria, supported by what evidence, should this decision be made?

II. WAIVER MECHANISMS

There are presently three mechanisms for removing juvenile offenders to the adult justice process.[14] The most common is via a judicial hearing in which a juvenile court judge transfers on a discretionary basis considering primarily the youth's amenability to treatment and the public safety. The vast majority of states and virtually every commentator and professional organization have

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endorsed judicial waiver as the most consistent with juvenile court philosophy by providing an individualized examination of the offender.[15]

A second mechanism vests the transfer decision in the prosecutor's office. By granting juvenile and adult criminal courts concurrent jurisdiction over offenders of certain ages or over particular offenses, the prosecutor by deciding where to file charges effectively determines the forum that hears the matter.

A third type of transfer decision is made by the legislature in its definition of juvenile court jurisdiction. By excluding certain categories of offenses from juvenile court jurisdiction, the legislature automatically places youths charged with those offenses into the adult criminal courts. There are several permutations and combinations of these three mechanisms—excluding certain categories of offenses from juvenile court jurisdiction while allowing for judicial waiver for other types of violations.

The judicial, prosecutorial, and legislative waiver mechanisms each reflect different ways of asking and answering the same questions: Who are the serious, "hard-core" youthful offenders, on what basis are they identified, and how shall the juvenile and adult systems respond to them? Each mechanism uses different information to determine the appropriateness of handling certain juvenile offenders as adults. They highlight the treatment versus punishment values of the juvenile court by its examination of the offender, while the other be accorded the offender and the offense. Judicial waiver reflects the treatment values of the juvenile court by its examination of the offender, while the other mechanisms reflect the punishment values of the criminal law by their greater emphasis on the offense. Unfortunately, each approach suffers from limitations associated with deficiencies in the present state of treatment technology, the inexactitudes of the social sciences, and the inability to make rational and just predictions about future serious misconduct.

A. JUDICIAL TRANSFER

Judicial transfer from a juvenile court of original jurisdiction is the most common waiver mechanism. The differences in philosophical assumptions about individualized treatment of the offender and punishment for the offense makes the waiver decision the most significant disposition available to a juvenile court. While juvenile court jurisdiction over an adjudicated offender may continue for the duration of minority, this will be a significantly lesser period than the twenty years to life imprisonment for comparable adult felony convictions. Juveniles also enjoy private proceedings, confidential records, and protection from the stigma of a criminal conviction.[16]

The Supreme Court in *Kent* v. *United States*,[17] concluded that the loss of these statutory rights through a waiver decision was a "critical stage" requiring procedural safeguards including a hearing, assistance of counsel, access to social investigations and other records, and written findings and conclusions that can be reviewed by a higher court.[18] In the aftermath of *Kent*, many states revised their waiver procedures. Although decided in the context of a District of Columbia statute, the language of the opinion, especially in conjunction with subsequent decisions such as *Gault*, suggests the underlying constitutional basis for procedural due process in the waiver decision. The Supreme Court's most recent juvenile court decision in *Breed* v. *Jones* that jeopardy attaches to juvenile court proceedings and bars subsequent criminal reprosecution provides additional impetus to make the waiver decision early and accurately.[19]

While *Kent* was decided on procedural grounds, the Court adverted to the substantive bases of the waiver decision as well. Although an enumeration of reference criteria was unnecessary for its decision, the Court pointed out that "[t]he statute sets forth no specific standards for the exercise of this important discretionary act, but leaves the formulation of such criteria to the judge."[20] In an appendix to its opinion, the Court indicated some of the substantive criteria that a juvenile court might consider and these have been accepted by a number of jurisdictions either as legislative standards or as judicial gloss.

With the procedural issues essentially resolved, the most significant remaining controversies concern the substantive bases of judicial waiver decisions

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and the evidentiary showings to support them. Some have argued that the transfer decision should reflect solely the individual offender's needs:

Since transfer of jurisdiction is a juvenile court decision, it must be made relative to the ends for which the juvenile court was established: treatment, rehabilitation, and the best interests of the child. It is only when these objectives cannot be accomplished within the juvenile justice system that there can be any rational basis for transferring the child to criminal court.[31]

Whether or not a child can respond to the rehabilitative efforts of the juvenile court leads to an inquiry into the youth's amenability to treatment.[32] This involves a very subtle social investigation of the youth, his/her psychological make-up, family, social environment, social experiences, prior delinquencies, and response to prior treatment.[33] The evidence adduced is typically the result of a social investigation.

Reference proceedings are initiated because of serious or persistent misconduct on the part of a juvenile. The youngsters' offense requires the court to decide whether the public safety will be adequately protected if juvenile jurisdiction is retained. Factors considered include whether it was a serious offense involving violence against the person, the prior record of the offender, the availability of secure juvenile facilities and the like.[34] A serious offense requires the court to make a prediction about the offender's future dangerousness as a juvenile.

While legislatures and courts have enumerated the factors to consider in a reference decision, they do not rank-order factors or assign a controlling weight to any one. Rather, they encourage judges to exercise the widest discretion in making these individualized inquiries.

1. Amenability to Treatment

A youth's amenability to treatment and/or dangerousness are the two most prominent factors considered in a judicial waiver decision. Such inquiries frequently require courts to engage in essentially subjective and speculative reviews prior to making a decision which may bear little relationship to the information presented.[35]

The question of amenability to treatment raises the fundamental issue of juvenile jurisprudence. It is problematical whether anyone is amenable to treatment in the sense of diagnosis, classification, identification of causal factors producing criminal behavior, and application of coercive intervention strategies to change these factors and lead to improved social adjustment.

The question of "what works" is one of the most controversial currently raging in penal debates. Whether juvenile offenders are amenable to treatment and specifically whether persistent, repetitive, and serious offenders are, is an empirical question as well as one for judicial speculation. Martinson's review of the effectiveness of penal programming in reducing inmate recidivism led to the rather pessimistic conclusion that "with few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism."[36] Although proponents of the juvenile court resist these conclusions, a more recent program survey to identify effective methods for treating serious juvenile offenders also failed to discover any effective intervention strategies.[37]

Basing the waiver decision on amenability to treatment presupposes that at least some offenders may be treatable. These findings question the availability of an effective coercive change technology. Even assuming the possibility of effective coercive intervention for some individuals, there is the related question of diagnosis and classification. The juvenile court has to decide whether the particular individual confronting it is one of those who may be responsive. The absence of an empirically grounded offender typology denies the court the predictive knowledge required to make a diagnositic classification. While a juvenile's involvement in serious misconduct may indicate a need to intervene, there is very little evidence that there are behaviorally distinct categories of juvenile offenders, validated criteria to identify them, or distinctive treatments appropriate for those who commit serious offenses.

In short, juvenile court judges attempt to assess a youth's amenability to treatment even though: a) there is little evidence indicating that delinquents or criminals are responsive to coercive intervention programs; b) there are no

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distinct behavioral categories, typologies, or classificatory schema that identify those who may be responsible to intervention; and c) there are no methodologically validated indicators that permit diagnostic classification of serious offenders.

The uncertain inquiry into amenability also raises "right to treatment" issues. A right to treatment follows from the denial to juveniles of the full panoply of criminal procedural safeguards afforded adults.[28] The lack of procedural equality is justified by the rehabilitative treatment the juvenile is supposed to receive. Providing rehabilitative treatment is the *quid pro quo* tradeoff for less stringent procedures. Incarceration without treatment is punishment and punishment requires criminal procedural safeguards.[29] (The multitude of right to treatment issues concerning the definition of minimally adequate treatment, the evaluation of treatment services, and the role of the judiciary in their delivery are obviously beyond the scope of this discussion.)

The right to treatment concept interacts with the waiver decision. If a court denies waiver because it finds a youth is amenable to treatment and the youth subsequently exhausts all available juvenile treatment resources, theoretically the offender must be released. Continued incarceration without treatment would constitute punishment which, if imposed without the adult safeguards, violates the youth's right to due process. In the event that the juvenile's treatment is unsuccessful, *Breed* clearly bars later prosecution as an adult for the same offense. Providing yet another form of treatment of dubious efficacy would be the principal alternative to release.

A related aspect of the right to treatment/nonamenability interface occurs when a court concludes that there is a substantial basis for believing that a youth would respond to a particular form of treatment but that the required treatment is not available. While some jurisdictions resolve this dilemma by basing the amenability decision on available resources, in the absence of such a provision, the court may be placed in the anomalous position of simultaneously finding that a youth is amenable to treatment, but certifying him/her because the required treatment is not available.[30] This raises the question whether a legislature can force waiver by not providing the treatment resources implied by the creation of a juvenile court.[31]

2. Dangerousness

An alternative basis for waiver is the conclusion that retaining the youth within the juvenile justice system would be inimical to the public safety. This requires the court to decide whether the youth is dangerous. Like the quest to identify the treatable, the search to predict the potentially dangerous has involved social scientists as well as courts.[32] And like the evaluations of treatment, these studies question a court's ability to predict human behavior in the future, especially that which is unusual or violent.[33] The concept of dangerousness "presupposes a capacity to predict future criminal behavior quite beyond our present technical ability." [34] Courts typically rely on the circumstances of the youth's present offense often in combination with his/her prior record to make this judgment.

It is not clear that the commission of one heinous or serious offense is sufficiently indicative of a propensity toward future violence to warrant certification, yet it is frequently in this context that certification is sought. While several court decisions bar waiver on the basis of a single offense, most jurisdictions permit certification in conjunction with an extensive prior record. The two factors most often cited by juvenile judges deciding whether to waive jurisdiction are the seriousness of the offense and the past history of the juvenile." [35] To the extent that a present serious offense plus an extensive prior record provides a predictive basis for certification, an empirically grounded matrix could be adopted by the legislature to obviate the need for judicial speculation and define the amount of youthful deviance the community must accept.

There is a further danger of judicial prediction of dangerousness stemming from present tendencies to overpredict and identify as dangerous many who do not become so: the dilemma of the "false positive." In the context of waiver, judicial speculation may relegate an excessive number of juveniles to the adult process.

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The uncertainties associated with assessing amenability and dangerousness have prompted several significant statutory changes. Under an earlier California statute, for example, a court was required to decide whether a minor would be "amenable to the care, treatment and training program available through the facilities of the juvenile court," taking into consideration the minor's present offense, prior record, and treatment efforts and prospects for rehabilitation as a juvenile.[36] A recent amendment creates a statutory presumption that a minor charged with one of an enumerated list of felonies against the person "is not a fit and proper subject to be dealt with under the juvenile court" *unless* the court affirmatively finds to the contrary.[37] This change uses the allegation of a serious crime to shift the balance against a finding of amenability by increasing the significance attributed to the offense. It is a significant departure from the rehabilitative philosophy of the juvenile court, interposing a legislative policy judgment about amenability, dangerousness, and the risks of serious offenders. An Indiana statute incorporates similar provisions.[38]

3. Discretion, Vagueness, and Discrimination

Although predicting amenability and dangerousness entails a highly speculative judgment, courts have enormous discretion in this task. If legislatures specify the criteria that courts should consider, they do so in broad generalities that provide minimal practical guidance. Appellate courts, likewise refrain from specifying the factors a waiving court must consider or assigning them weights.[39]

The absence of clear guidelines pose problems of administration. Standardless statutes delegating enormous discretion to enforcement officials have been invalidated as "void for vagueness." Broad grants of discretion are susceptible to abuse in their implementation and permit decisions to be made on the basis of extraneous considerations. A principal defect of overly broad, standardless discretion is the inability of reviewing courts to discover whether the law is being administered properly or on the basis of impermissible factors.

Judicial waiver statutes have been challenged under the void for vagueness doctrine either because they provide no standards for the decision or because the criteria of amenability and dangerousness lack precision.[40] Where the legislature provides no standards, courts have little difficulty invalidating waiver statutes. As the Court in *People* v. *Fields* held, "If the legislature is to treat some persons under the age of 17 differently from the entire class of such persons, excluding them from the beneficent processes and purposes of our juvenile courts, the legislature must establish suitable and ascertainable standards whereby such persons are to be deemed adults."[41] Courts have ruled that statutory waiver standards framed in terms of amenability, dangerousness, or the best interests of the child are sufficiently precise to pass constitutional muster, especially if the courts add, as judicial gloss, the criteria appended to the *Kent* decision.[42] Even when upholding their constitutionality, however, courts have still decried their lack of standards. "It is disquieting to me to learn that judicial action is taken without governing standards available to the public. To me their absence permits judicial decision by whim or caprice and lends to unequal treatment under the law."[43] In view of the preceding analysis of the amenability and dangerousness determinations, however, these holdings must be questioned.[44]

An obvious test of the adequacy of statutory standards is whether they can be applied in similar factual situations and produce similar results. Although Minnesota's Supreme Court held that its waiver statute afforded sufficiently precise standards,[45] a study committee appointed by the Court to examine certification issues found otherwise. This committee found that in practice the juvenile courts' discretion frequently yielded disparate results. It found striking urban-rural disparities in waiver administration with rural counties using certification "to allow the imposition of a sanction such as a fine or short jail sentence upon juveniles who committed relatively minor offenses."[46] An analysis of a sample of counties showed that the urban offenders who were certified committed more serious offenses and had more extensive prior records than did their rural counterparts. While a statute that explicitly provided for different juvenile treatment on the basis of urban-rural distinctions would probably run afoul of equal protection, the discretion afforded by an admittedly broad statute *de facto* accomplishes the same result.[47]

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Overly broad discretionary statutes also afford opportunities for even more invidious discrimination based on characteristics such as race. While minority and lower class offenders are disproportionately overrepresented as juvenile court clients, this disparity is even more manifest in the context of waiver. Black youths are certified disproportionately even in relation to their overrepresentation in the juvenile court client pool.[48] While these racial differentials may reflect real differences in offender patterns, one must question whether such overly broad statutes are capable of evenhanded, nondiscriminatory administration.

Judicial waiver focusses on the offender and tries to make individualized judgments about amenability to treatment and dangerousness. This inquiry requires courts to ask questions that cannot be answered with any degree of precision or uniformity. To accommodate the asking of unanswerable questions about the offender, courts enjoy an extraordinarily broad range of discretion. This standardless discretion cannot be applied systematically or evenhandedly and results in a variety of abuses and discrimination.

B. PROSECUTORIAL WAIVER

A second mechanism for removing serious offenders from the juvenile system is prosecutorial waiver.[49] As distinguished from legislative waiver whereby the legislature requires adult prosecution of juveniles charged with certain offenses, "pure" prosecutorial waiver allows the prosecutor to choose between a juvenile or criminal court which shares concurrent jurisdiction.[50] The prosecutor's decision where to file the charges determines the forum that will hear the issues. These statutes seldom provide any guidelines for the prosecutor in making the jurisdictional determination.

Unlike judicial waiver, the prosecutor's forum decision is not subject to appellate court review in keeping with the general position that prosecutorial discretion is nonreviewable.[51] In *Cox* v. *United States*, the Court held the federal delinquency statute providing for prosecutorial waiver, noting that:

Judicial proceedings must be clothed in the raiment of due process, while the processes of prosecutorial decision-making wear very different garb. It is one thing to hold that when a state makes waiver of a juvenile court's jurisdiction a judicial function, the judge must cast about the defendant all of the trappings of due process, but it does not necessarily follow that a state or the United States may not constitutionally treat the basic question as a prosecutorial function, making a highly placed, supervisory prosecutor responsible for deciding whether to proceed against a juvenile as an adult.[52]

The prosecutorial waiver mechanism has been criticized extensively.[53] The most frequent complaint is the denial of procedural due process safeguards mandated by *Kent* for judicial waivers. Moreover, every objection to judicial waiver is equally if not more applicable to prosecutorial waiver. If a prosecutor waives on the same bases as a court, i.e., amenability or dangerousness, he/she is necessarily involved in the same speculative judgments. Since these unreviewable determinations avoid any due process proceedings, the availability of the social information that might aid the decision is reduced. The unreviewability of the decision increases the likelihood of error since it cannot be checked by appellate review. "The speed with which these decisions are often made in the prosecutor's office, the absence of standards, and the potential for conscious abuse or negligent misapplication of the statute results in decision-making that is fraught with the dangers of arbitrariness."[54] Finally, a prosecutor as a law enforcement official is likely to be more sensitive to political pressures and public concerns than a juvenile court, to the obvious detriment of the minor.[55]

Fortunately, prosecutorial waiver is the least common transfer procedure employed and its use appears to be declining. Federal delinquency proceedings which formerly relied on prosecutorial waiver now employ judicial waiver to deal with serious juvenile offenders and other jurisdictions have adopted similar amendments.[56]

C. LEGISLATIVE WAIVER

The third waiver mechanism simply excludes certain offenses from juvenile court jurisdiction by legislative definition. While some jurisdictions exclude only

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capital offenses or those punishable by life imprisonment, others exclude broader categories of offenses.[57] While these are prosecutorial waivers in the sense that the charging decision determines the forum, it is the legislature that makes the policy choice that youths alleged to have committed certain offenses are beyond the redemption of the juvenile court.

Challenges to these statutes argue that they deny juveniles the procedural due process safeguards that *Kent* requires, that offense categorization constitutes an arbitrary legislative classification that violates equal protection, and that divesting the juvenile court of jurisdiction on the basis of the charge is contrary to the presumption of innocence. In the leading case of *United States* v. *Bland*,[58] the Court recognized that the statute was intended to circumvent the *Kent* waiver hearing but held that the prosecutor's charging decision was unreviewable and not subject to the due process constraints. It rejected the argument that the statute undercut the presumption of innocence since the charge determines only the forum, not guilt. It rejected the argument that legislative exclusion of certain offenses was an arbitrary classification by noting that "courts may not declare a legislative discrimination invalid unless, viewed in the light of *facts made known or generally assumed*, it is of such a character as to preclude the assumption that the classification rests upon some rational basis within the knowledge and experience of the legislators."[59] (Emphasis supplied.) The Court concluded that jurisdictional classification on the basis of offense was a rational categorization.

There is no constitutional right to a juvenile court *per se;* the beneficiaries of the juvenile justice system exist solely as a matter of legislative grace and the legislature can define the court's jurisdiction in virtually any rational fashion it chooses.[60] Just as the legislature can define "child" by establishing the maximum age over which the juvenile court has jurisdiction, it can presumably exclude persons below the statutory maximum if this classification meets traditional tests of legislative rationality. Excluding certain offenses from the juvenile court reflects a legislative policy judgment either that no person charged with that offense is amenable to treatment, or that they require more extensive treatment than is warranted, or in the alternative that such offender is so conclusively dangerous as to require an adult disposition. While judicial waiver requires an individualized inquiry into amenability and dangerousness utilizing all available information, legislative waiver uses the offense alone to reach its conclusion.

While legislative waiver has been judicially upheld, these statutes pose several significant problems. By basing adult court jurisdiction on the prosecutor's charge rather than the ultimate conviction, jurisdictional divestiture is completed without any basis for subsequently assessing that decision. If a juvenile prosecuted as an adult is convicted of a lesser offense which would render him/her subject to juvenile court jurisdiction, he/she is not transferred back to the juvenile court for disposition.[61] Since the referral decision is based on the legislative conclusion that those who commit certain offenses are by definition inappropriate for juvenile court, it follows that if they are formally found not to fit into that class, then they should be transferred back to juvenile court. In the absence of such a provision, these statutes lend themselves to prosecutorial abuse via overcharging.[62]

There is a second, more significant problem with legislative waiver. While courts have concluded that excluding certain offenses from juvenile court jurisdiction is a reasonable legislative classification, in light of the empirical evidence regarding "hidden delinquency"[63] and the progression of delinquent careers, it is not clear that exclusion of even serious first offenses is either rational or desirable. It is not clear, for example, that a first time serious offender is any more dangerous or unresponsive to treatment than any other first offender.[64] The finding of *Delinquency in a Birth Cohort* indicate that a first offense, even a serious one, is not predictive of either future offenses or their seriousness and that the most significant differences occur between those juveniles with one or two delinquencies and those with five or more.[65] Accordingly, legislative waiver on the basis of a single, serious offense is an overly inclusive categorization that does not rationally identify those few youths engaged in persistent or serious delinquencies.[66]

In an effort to account for the persistence of offenses, as well as their seriousness, some jurisdictions authorize legislative waiver only for repeat offenders.

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Rhode Island, for example, provides that "[a] child sixteen (16) years of age or older who has been found delinquent for having committed two (2) offenses after the age of sixteen (16) which would render said child subject to an indictment if he were an adult shall be prosecuted for all subsequent felony crimes by a court which would have jurisdiction of such offense if committed by an adult." [67] Similarly, Colorado provides that two prior felony convictions create a *prima facie* case for waiver.[68] Waiver on the basis of a present serious offense plus a significant prior record provides a legislative matrix that is much more likely than the "one-shot" statutes to identify the persistent juvenile offenders who pose the serious threat. Most of the empirical evaluations of judicial waiver proceedings indicate that those judicially waived had substantial prior involvements with the juvenile court.[69] The Juvenile Justice Standards Project recommends an even more stringent criterion of previous adjudication of a violent crime as a prerequisite to judicial waiver.[70] By systematizing the reference matrix, a legislature can take account of the same present offense plus prior record that judicial waiver uses in the context of a dangerousness prediction while avoiding the inconsistencies and discrimination associated with the latter process.

III. CONCLUSION

The various mechanisms for responding to the serious juvenile offender suffer from limitations. The two principal alternatives, judicial versus legislative, focus respectively on the offender and the offense. While individualized justice may be a desirable ideal, a rule of law can only tolerate individualization on rational bases. The individualization occasioned by judicial inquiry into amenability and dangerousness creates a frame of relevance so broad that virtually any decision is possible. The extensive and excessive discretion afforded to make these judgments lends itself to a variety of abuses without any demonstrable benefits. While the present legislative emphasis on offenses suffers from some defects, these problems are more remediable than those of vagueness and discretion.

Regardless of rhetoric, certification is sought because of a youth's criminal activities rather than his/her treatment needs. The threats they pose to the public suggest that at that point the values of the criminal process focussing on the offense should take precedence over the remote possibilities of rehabilitation. It is, appropriately, for the legislature to define what level of criminal activity the community must tolerate before the agencies of social control can respond to the conduct rather than the actor. The present legislative waiver provisions are overly inclusive and encompass many youthful offenders that the community should tolerate. They also deny the juvenile court the opportunity to attempt to rehabilitate potentially salvageable youths. Those jurisdictions that provide for a combination of present offense plus prior record are narrowing the focus to identify those relatively few, persistent, and serious offenders that the community should not be expected to endure.

Adult prosecution based on a combination of present offense plus prior record is more easily administered and likely to produce more just and consistent results than discretionary judicial waiver. Obviously, however, relying on a matrix of present offense plus prior record increases the significance of every discretionary decision throughout the juvenile justice process from police, to intake, to prosecutor, to the court itself. While legislative waiver addresses one aspect of discretion, any rational effort to deal justly with the serious offender must provide mechanisms for controlling exercises of discretion in every decision in the system.

FOOTNOTES

[1] See generally, Stamm, *Transfer of Jurisdiction in Juvenile Court*, 62 Kentucky L. Rev. 122 at n. 10 (1973), for a compilation of the law review articles on the subject as of 1973. Good general references include Schornhorst, *The Waiver of Juvenile Court Jurisdiction*, 43 Indiana L. Journal 583 (1968); Notes, *Juveniles in Criminal Courts*, 32 University of California Los Angeles L. Rev. 988 (1976); Vittiello, *Constitutional Safeguards for Juvenile Transfer Procedure*, 26 DePaul L. Rev. 23 (1976); Note, *Sending the Accused Juvenile to Adult Criminal Court: A Due Process Analysis*, 42 Brooklyn L. Rev. 309 (1975); Notes, *Decision to Refer Juvenile Offenders for Criminal Prosecution as Adults to be Made on Basis of "State of Art" of Juvenile Corrections*, 60 Minnesota L. Rev. 1097 (1976); Notes, *Waiver of Juvenile Jurisdiction and the Hard-Core Youth*, North Dakota L. Rev. 655 (1976). An even more extensive current bibliography is contained in A.B.A.–I.J.A. Juvenile Justice Standards Project, *Transfer Between Courts* (Cambridge: Ballinger, 1977), pp. 55–60.

[2] Herbert Packer, *The Limits of the Criminal Sanction* (Stanford: Stanford Univ. Press, 1968); Hart, *The Aims of the Criminal Law*, 23 Law and Contemporary Problems 401 (1968).

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[3] Anthony Platt, *The Childsavers* (Chicago: University of Chicago, 1969); Fox, *Juvenile Justice Reform: An Historical Perspective*, 22 Stanford L. Rev. 1187 (1970).
[4] Francis Allen, *The Borderline of the Criminal Law* (Chicago: University of Chicago, 1964), p. 25.
[5] *McKeiver v. Pennsylvania*, 403 U.S. 528, 546–8 (1971); Paulsen, *Fairness to the Juvenile Offender*, 41 Minnesota L. Rev. 547 (1957); *Kent v. United States: Constitutional Content of Juvenile Cases*, Supreme Court Review 173 (1966).
[6] Allen, *Boarderland*, pp. 52–3.
[7] Shornhorst, p. 592; Note, *Problems of Age and Jurisdiction in Juvenile Court*, 19 Vanderbuilt L. Rev. 833, 858 (1966).
[8] Keiter, *Criminal or Delinquent*, 18 Crime & Delinquency 528 (1971); Shornhorst, p. 593.
[9] Sargent and Gordon, *Waiver of Jurisdiction*, 9 Crime & Delinquency 122 (1963); Stamm, p. 153.
[10] Marvin Wolfgang, Robert Figlio, and Thorsten Sellin, *Delinquency in a Birth Cohort* (Chicago: University of Chicago Press, 1972), p. 88 report that 18% of the delinquents accounted for over half of the delinquencies of the cohort. Children and Youth in Crisis, *The Violent and Hard-Core Offender in Hennepin County* (Henn. Cty. Planning Agency, 1976).
[11] Note, *Youthful Offenders and Adult Courts*, 121 University of Pennsylvania L. Rev. 1184 (1973).
[12] Stamm, p. 155; Sargent and Gordon, p. 125: Note, *Juveniles in Criminal Court*, 23 University of California L. Rev. 992 (1976).
[13] Stamm, p. 145; Note, *Juveniles in Criminal Court*, p. 992.
[14] Stamm, p. 138; Schornhorst, p. 596; Note, *Rights and Rehabilitation in the Juvenile Court*, 67 Columbia L. Rev. 281 (1967); Note, *Waiver of Juvenile Jurisdiction and the Hard-Core Youth*, p. 688.
[15] See Footnote 1 *supra;* Mlyniec, *Juvenile Delinquent or Adult Convict—Prosecutor's Choice*, 14 American Crim. L. Rev. 57 (1967); Minn. Stat. Ann. Section 260.125; N. Dak. Cent. Code Section 27–30–34 (1974); Note, *Representing the Juvenile Defendant in Waiver Proceedings*, 12 St. Louis L. Journal 463–4 (1968); A.B.A.–I.J.A. Juvenile Justice Standards Project, *Transfer Between Courts.*
[16] Stamm, p. 143; Note, *Juveniles in Criminal Court*, p. 995; Schornhorst, p. 586.
[17] *Kent v. United States*, 383 U.S. 541, 556 (1966).
[18] Paulsen, *Kent v. United States*, p. 167; Vittiello, p. 23.
[19] One of the few remaining procedural issues concerns the requirement of a probable cause determination prior to transfer. While many jurisdictions require such hearings by statute, Me. Rev. Stat. Ann., tit. 15 Section 2611(3) (1964), where they are not required, appellate courts have declined to find them constitutionally mandated; *State v. Duncan*, — Minn.—, — N.W.2d — (1977); *Juvenile v. Commonwealth*, 347 N.E.2d 677 (1976); *Breed v. Jones*, 421 U.S. 519 (1975). These courts note, however, that if the present offense provides the primary basis for certification, there must be some procedure for connecting the juvenile with it. The A.B.A.–I.J.A., *Transfer Between Courts*, p. 35 recommends such a procedure as a prerequisite to waiver.
[20] 383 U.S. 541, 566 (1966).
[21] Stamm. p. 134.
[22] Stamm. p. 157. This is a criterion used by 24 of 36 jurisdictions providing for judicial waiver, A.B.A.–I.J.A., *Transfer Between Courts*, p. 37.
[23] Stamm, p. 157 catalogues the factors considered in this determination. See also, Schornhorst, pp. 603–5; Note, *Juveniles in Criminal Court*, p. 1000.
[24] Vittiello, p. 34.
[25] See, e.g., Vittiello, p. 31, who observes that "it is questionable whether 'amenability to treatment'. . . is sufficiently self-defining to provide the juvenile courts with adequate guidelines." Similarly, Stamm, p. 159, observes that "the phrase 'amenability to treatment' is just as susceptible to subjective interpretations and subsequent abuse as the older standards."
[26] Martinson, *What Works—Questions and Answers About Prison Reform*, 35 Public Interest 22 (1974).
[27] Dale Mann, *Intervening with Convicted Serious Juvenile Offenders* (Santa Monica: Rand, 1976). See also, Adams, *Evaluative Research in Corrections: Status and Prospects*, 38 Federal Probation 14 (1974); Gold, *A Time for Skepticism*, 20 Crime & Delinquency 20 (1974); Robinson and Smith, *The Effectiveness of Correctional Programs*, 17 Crime & Delinquency 67 (1971); Leslie Wilkins, *Evaluation of Penal Measures* (New York: Random House, 1969).
[28] *McKeiver* v. *Pennsylvania*, 403 U.S. 528 (1971) (jury trial note required for juvenile delinquency adjudication).
[29] See, e.g., *Morales* v. *Turman*, 364 F. Supp. 166 (E.D. Tex., 1973); *Nelson* v. *Heyne*, 491 F.2d 352 (7th Cir., 1974); *Marterella v. Kelley*, 349 F.Supp. 575 (SDNY, 1972); *Inmates v. Affleck*, 346 F.Supp. 1354 (DR.I., 1972); Note, *Judicial Recognition and Implementation of a Right to Treatment for Institutionalized Juveniles*, 49 Notre Dame Lawyer 1051 (1974): Simpson. *Rehabilitation as the Justification of a Separate Juvenile Justice System*, 64 California L. Rev. 996–999 (1976); Wald and Schwartz, *Trying a Juvenile Right to Treatment Suit*, 12 American Crim. L. Rev. 125 (1974).
[30] *In re Welfare of JEC* v *State*, — Minn. —, 225 N.W.2d 245 (1975). The Minnesota Supreme Court questioned whether reference was proper "where the finding of lack of amenability to treatment or danger to the public is based upon the correctional authority's failure to provide favorable treatment facilities." Note, *Decision to Refer Juvenile Offenders for Criminal Prosecution as Adults;* Vittiello, p. 37. But see, *In re Welfare of IQS*, 244 N.W.2d 30 (1976).
[31] Stamm, p. 158; Note, *Decision to Refer Juvenile Offenders for Criminal Prosecution as Adults*, p. 1105.
[32] Donald Gottfredson, "Assessments and Prediction Methods in Crime and Delinquency," *Task Force: Juvenile Delinquency and Youth Crime* (1967), p. 171.
[33] See, e.g., John Monahan, "Prediction of Violence," in Chappel and Monahan (eds.). *Violence and Criminal Justice* (Lexington: Heath, 1975), pp. 15–31; Monahan and Cummings, *Social Policy Implications of the Inability to Predict Violence*, 31 Journal

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of Social Issues 153 (1975); Wenk, Robinson, and Smith, *Can Violence be Predicted*, 18 Crime & Delinquency 393 (1972).

[34] Norval Morris, *The Future of Imprisonment* (Chicago: University of Chicago Press), p. 62.

[35] Note, *Due Process and Waiver of Juvenile Courts Jurisdiction*, 30 Washington & Lee L. Rev. 598 (1973).

[36] Calif. Welf. & Inst. Code Section 707.

[37] Calif. Welf. & Inst. Code Section 707(b) (1976).

[38] Ind. Code 31-5-7-14(b) [9-3214].

[39] *Donald L. v. Superior Court*, 7 Cal. 3d 542, 601, 498 P.2d 1098, 1104 (1972).

[40] *Donald L. v. Superior Court*, 7 Cal. 3d 542, 498 P.2d 1098 (1972); *People v. Browning*, 45 Cal.App.3d 125, 119 Cal.Rptr. 420 (1975); *In re FRW*, 61 Wis.2d 193, 212 N.W.2d 130 (1970).

[41] *People v. Fields*, 199 N.W.2d 217, 222.

[42] *Clemons v. State*, 317 N.E.2d 859 (Ind.App. 1974); *In re FRW*, 61 Wis.2d 193, 212 N.W.2d 130 (1973).

[43] *United States v. Cavinese*, 339 F.Supp. 545, 551 (1965).

[44] Boches, *Juvenile Justice in California*, 19 Hastings L. Journal 96 (1967) has described the "amendability" standard as "hopelessly vague." *Jimmy H. v. Superior Court*, 3 Cal.3d 709, 714, 478 P.2d 23, 35 (1970).

[45] *In re Welfare of IQS*, 244 N.W.2d 30, 36 (1976).

[46] *Supreme Court Juvenile Justice Study Committee* (1976), p. 21. See also, Table 13 for an urban/rural offense comparison.

[47] *Long v. Robinson*, 436 F.2d 1116 (4th Cir., 1971) (invalidating a statute setting a different juvenile court age limit for the city of Baltimore and the rest of the state).

[48] Bazelon, *Racism, Classism, and the Juvenile Process*, 53 J. American Jud. Society 373 (1970); Keiter, *Criminal or Delinquent? A Study of Juvenile Cases Transferred to the Criminal Courts*, 19 Crime & Delinquency 532 (1971); Hays and Solway, *The Role of Psychological Evaluation in Certification of Juveniles to Stand Trial as Adults*, 9 Houston L. Rev. 709 (1972). The Minnesota Supreme Court Juvenile Justice Study Committee, pp. 68–69, reports that black juveniles accounted for 15.1% of the offenses committed in Hennepin County but 44.8% of those in certification proceedings.

[49] Mlyniec, p. 29.

[50] Neb. Rev. Stat. Sections 43-202(3)(b), 43-202.01 (Supp. 1975); Wyo. Stat. Ann. Section 14-115.4(c) (Supp. 5, 1973).

[51] See, e.g., *Oyler v. Boles*, 368 U.S. 448 (1962); *Inmates of Attica v. Rockefeller*, 477 F.2d 375 (2d Cir., 1973); *U.S. v. Cox*, 342 F.2d 167 (5th Cir., 1965); K. Davis, *Discretionary Justice* (1971), pp. 216–222; Note, *Prosecutorial Discretion—A Re-evaluation of the Prosecutor's Unbridled Discretion and Its Potential for Abuse*, 21 DePaul L. Rev. 485 (1971).

[52] 473 F.2d 223, 236.

[53] Mlyniec, p. 29; Note, *Youthful Offenders and Adult Courts: Prosecutorial Discretion v. Juvenile Rights*, 121 Univ. Penna. L. Rev 1184 (1973).

[54] Mlyniec, pp. 36–37.

[55] Vittiello, p. 48.

[56] Act of June 25, 1948, ch. 645, 62 Stat. 857, repealed by 18 U.S.C. Section 5032 (Supp. IV, 1974); Note, *Waiver of Juvenile Jurisdiction and the Hard-Core Youth*, p. 659, n. 30. See also, Va. Code Ann. Section 16.1-176 (Supp. 4, 1974) amending the previous prosecutorial waiver statute to provide for a judicial hearing.

[57] Colo. Rev. Stat. Ann. Sections 19-1-103(9)(b)(1) and 19-1-104(4)(b)(1) (Supp. 1975); Ind. Stat. Ann. Sections 33-5-7-3(B)(1) and 31-5-7-4(a)(1) Burns, (1975).

[58] 472 F.2d 1329; Note, *Juvenile Justice—Statutory Exclusion from the Juvenile Court Process of Certain Alleged Felons*, 53 Boston University L. Rev. 212 (1974); Note, *Youthful Offenders and Adult Courts: Prosecutorial Discretion v. Juvenile Rights*; Note *Prosecutorial Discretion and the Decision to Waive Juvenile Court Jurisdiction*; Note, *Sending the Accused Juvenile to Adult Criminal Court*; Note, *Waiver of Juvenile Jurisdiction and the Hard-Core Youth*.

[59] *United States v. Bland*, 472 F.2d 1329 (1972).

[60] Ibid.; *People v. Jiles*, 43 Ill.2d 145, 148, 251 6.E.2d 530, 531 (1969).

[61] D.C. Code Section 16-2301(3)(1970); Note, *Juvenile Justice—Stationary Exclusion from the Juvenile Process of Certain Alleged Felons*.

[62] Note, *Juvenile Justice—Statutory Exclusion from the Juvenile Process of Certained Alleged Felons*, p. 222.

[63] See, e.g., Travis Hirschi, *Causes of Delinquency* (1969), p. 236; Gold, *Undetected Delinquent Behavior*, 3 J. Research Crime & Delinquency 27 (1966).

[64] Stamm, p. 154. Comment, *Representing Juvenile Delinquents in Waiver Proceedings*, 12 St. Louis L. Rev. 440 (1968); Vittiello, p. 39; Note, *Sending the Accused Juvenile to Adult Criminal Court*, p. 344.

[65] Wolfgang, Figlio, and Sellin, Ch. 6.

[66] Research Report, "Alternative Definition of 'Violent' and 'Hard-Code' Juvenile Offenders: Some Empirical and Legal Implications" (St. Paul, Minn.: *Gov's Comm. on Crime Prevention and Control*, 1977), pp. 12–20, attempted to project the likely number of juveniles who would be identified by alternative legislative waiver definitions and concluded that relatively restrictive definitions counting both present offense and a pattern of prior records would best discriminate between serious and nonserious delinquents.

[67] R.I. Stat. Section 14-1-7.1 (Supp. 1975).

[68] Colo. Rev. Stat. Sections 19-3-108(2)(c); 19-1-104(b)(III) (Supp. 1975).

[69] See, Note, *Problems of Age and Jurisdiction in Juvenile Court*; Note, *Waiver of Jurisdiction in Wisconsin Juvenile Courts*, Wisconsin L. Rev. 551 (1968); Keiter *Criminal or Delinquent? A Study of Juvenile Cases Transferred to the Criminal Courts*; Note, *Certification of Minors to the Juvenile Court: An Empirical Study*, 8 San Diego L. Rev. 404 (197). The Minnesota Supreme Court Juvenile Justice Study Committee (1976), pp. 72–3, reported that 64% of the urban youths for whom certification was sought had 3 or more prior delinquency adjudications.

[70] A.B.A.–I.J.A., *Transfer Between Courts*, Section 2.2C(2).

The Prediction of Violent Behavior in Juveniles

(By John Monahan)

Despite William James' admonition that we cannot hope to write biographies in advance, the juvenile justice system expends a great deal of energy attempting to identify today the child who tomorrow will be violent. Decisions regarding who should be processed by the juvenile justice system rather than diverted from it, who should be waived to the adult courts, and when juvenile detention should end, often are based on explicitly or implicitly held beliefs about future violent behavior. While the predictive/preventive approach to the adult justice system has fallen on hard times with the rise of the "just deserts" model of sentencing, no comparable waning of interest in prediction can be found in the juvenile system. The prediction of future behavior is an integral part of the "rehabilitative ideal," and the "rehabilitative ideal" is the essence of juvenile justice.

This paper will selectively review the most important research on the prediction of violent behavior in juveniles as well as supporting research done with adults, and will discuss several findings relevant to the accuracy of those predictions and their use in juvenile justice.[1]

There are two overlapping but clearly distinct perspectives on the prediction of violent behavior in juveniles. The first focusses upon the childhood precursors of adult violence. It asks the question, What factors in the upbringing or development of a child lead to his/her adopting a violent life style as an adult?

The second perspective uses a more telescoped time frame. It does not ask what factors or characteristics of a juvenile predict his/her adult crime, but rather what predicts future crime as a juvenile. The question addressed from this point of view is whether or not a given juvenile, if released from detention, or if not detained at all, will commit a violent act next month or next year, rather than farther down the path of life.

While it is this latter, time limited perspective which I believe has the most important implications for public policies at this time in history, most psychological and sociological research has focussed on the life span development approach, and it is this that we shall look at first.

It is one of the more established pieces of psychiatric folklore that the childhood triad of pyromania (fire setting), enuresis (bed-wetting), and cruelty to animals is clinically predictive of adult violence.[2] While the child who awakes from his/her bed to set fire to the cat is indeed a problem, there exists no research to support the belief that he/she will later turn to murder as an avocation.

One survey reviewed 1,500 references to violence in psychiatric literature, interviewed over 750 professionals who dealt with violent persons, and retrospectively analyzed over 1,000 clinical cases to ascertain the best childhood predictors of adult violence.[3] The authors reported that the four "early warning signs" most frequently mentioned in the literature, the interviews, and the case studies were fighting, temper tantrums, school problems, and an inability to get along with others. The child, in other words, is indeed father or mother to the grown-up.

Plainly, the most influential study assessing the childhood correlates of later criminal behavior—most influential until the Wolfgang, Figlio and Sellin cohort study[4]—was *Unraveling Juvenile Delinquency*, published by Sheldon and Eleanor Glueck in 1950.[5] While not concerned specifically with violent criminality, the Gluecks claimed that three factors—supervision by the mother, discipline by the mother, and cohesiveness of the family—were predictive of later crime in young adolescent boys. This research is among the most methodologically criticized in all of criminology, and there appears to be a consensus that the practical utility of the Glueck factors is marginal at best.

Earlier this year, Lefkowitz, Eron, Walder, and Huesmann published the results of a longitudinal study entitled, *Growing Up To Be Violent*.[6] This research followed a sample of over 400 males and females in Columbia County, New York from the time they were eight until they were nineteen. They used peer ratings, parent ratings, self-report, and a personality test to measure violent aggression. Lefkowitz and his coworkers found that "aggression at age 8 is

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the best predictor we have of aggression at age 19 irrespective of IQ, social class, or parents' aggressiveness" (p. 192). Several other variables, among them the father's upward social mobility, low identification of the child with his/her parents, and a preference on the part of boys for watching violent television programs, were significantly predictive of aggression at age nineteen. Boys who, in the third grade, preferred television programs such as "Gunsmoke" or "Have Gun, Will Travel" were rated by their peers ten years later as three times as aggressive as boys who, in the third grade, preferred "Ozzie and Harriet," "I Love Lucy," or "Lawrence Welk."

The authors suggest government intervention to restrict violent television programs to being shown only after 11:00 p.m. and to enforce "the rights of the public not to be taught (by the "news media") that violence pays" (p. 209). They do not consider whether this prevention program would require repeal of the First Amendment.

Research on the prediction of more immediate violence in juveniles is more difficult to come by. The most comprehensive study was reported by Wenk et al. in 1972.[7] These researchers studied violent recidivism in over 4,000 California Youth Authority wards. Attention was directed to the record of violence in the youth's past, and an extensive background investigation was conducted, including psychiatric diagnoses and a psychological test battery. Subjects were followed for fifteen months after release, and data on 100 variables were analyzed retrospectively to see which items predicted a violent act of recidivism. The authors concluded that the parole decision-maker who used a history of actual violence as his sole predictor of future violence would have nineteen false positives in every twenty predictions, and yet "there is no other form of simple classification available thus far that would enable him to improve on this level of efficiency" (p. 399). Several multivariate regression equations were developed from the data, but none was even hypothetically capable of doing better than attaining an 8 to 1 false to true positive ratio.

This finding—that violent behavior is drastically overpredicted—is paralleled in the research on the prediction of violent behavior in adults. Wenk et al. reported two studies undertaken in the California Department of Corrections. In the first study, a violence prediction scale which included variables such as commitment offense, number of prior commitments, opiate use, and length of imprisonment, was able to isolate a small group of offenders who were three time more likely to commit a violent act than parolees in general. However, 86% of those identified as violent did not in fact commit a violent act while on parole.

In the second study, over 7,000 parolees were assigned to various categories keyed to their potential aggressiveness on the basis of their case histories and psychiatric reports. One in five parolees was assigned to a "potentially aggressive" category, and the rest to a "less aggressive" category. During a one-year follow-up however, the rate of crimes involving actual violence for the potentially aggressive group was only 3.1 per 1,000 compared with 2.8 per 1,000 among the less aggressive group. Thus, for every correct identification of a potentially aggressive individual, there were 326 incorrect ones.

Kozol, Boucher, and Garofalo[8] have reported a ten-year study involving almost 600 offenders. Each offender was examined independently by at least two psychiatrists, two psychologists, and a social worker. A full psychological test battery was administered and a complete case history compiled. During a five-year follow-up period in the community, 8% of those predicted not to be dangerous became recidivists by committing a serious assaultive act, and 34.7% of those predicted to be dangerous committed such an act. While the assessment of dangerousness by Kozol and his colleagues appears to have some validity, the problem of false positives stands out. Sixty-five percent of the individuals identified as dangerous did not in fact commit a dangerous act. Despite the extensive examining, testing, and data gathering they undertook, Kozol et al. were wrong in two out of every three predictions of dangerousness.

Data from an institution very similar to that used in the Kozol et al. study have been released by the Patuxent Institution.[9] Four hundred and twenty-one patients, each of whom received at least three years of treatment at Patuxent were considered. Of the 421 patients released by the court, the psychiatric staff opposed the release of 286 of these patients on the grounds that they were still

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dangerous and recommended the release of 135 patients as safe. The criterion measure was any new offense (not necessarily violent) appearing on F.B.I. reports during the first three years after release. Of those patients released by the court against staff advice, the recidivism rate was 46% if the patients had been released directly from the hospital, and 39% if a "conditional release experience" had been imposed. Of those patients released on the staff's recommendation and continued for outpatient treatment on parole, 7% recidivated. Thus, after three years of observation and treatment, between 54 and 61% of the patients predicted by the psychiatric staff to be dangerous were not discovered to have committed a criminal act.

In 1966, the U.S. Supreme Court held that Johnnie Baxstrom has been denied equal protection of the law by being detained beyond his maximum sentence in an institution for the criminally insane without the benefit of a new hearing to determine his current dangerousness (*Baxstrom* v. *Herold*, 1966). The ruling resulted in the transfer of nearly 1,000 persons "reputed to be some of the most dangerous mental patients in the state [of New York]" from hospitals for the criminally insane to civil mental hospitals. It also provided an excellent opportunity for naturalistic research on the validity of the psychiatric predictions of dangerousness upon which the extended detention was based.

There has been an extensive follow-up program on the Baxstrom patients.[10] Researchers find that the level of violence experienced in the civil mental hospitals was much less than had been feared, that the civil hospitals adapted well to the massive transfer of patients, and that the Baxstrom patients were being treated the same as the civil patients. The precautions that the civil hospitals had undertaken in anticipation of the supposedly dangerous patients —the setting-up of secure wards and provision of judo training to the staff— were largely for naught. Only 20% of the Baxstrom patients were assaultive to persons in the civil hospitals or the community at any time during the four-year follow-up of their transfer. Further, only 3% of the Baxstrom patients were sufficiently dangerous to be returned to a hospital for the criminally insane during the four years after the decision. Steadman and Keveles followed 121 Baxstrom patients who had been released into the community (i.e., discharged from both the criminal and civil mental hospitals). During an average of two and one-half years of freedom, only nine of the 121 patients (8%) were convicted of a crime and only one of those convictions was for a violent act. The researchers found that a Legal Dangerousness Scale (LDS) was most predictive of violent behavior. The scale was composed of four items: presence of juvenile record, number of previous arrests, presence of convictions for violent crimes, and severity of the original Baxstrom offense. In subsequent analyses, Cocozza and Steadman found that the only other variable highly related to subsequent criminal activity was age (under fifty years old). In one study, seventeen of twenty Baxstrom patients who weer arrested for a violent crime when released into the community were under fifty and had a score of five or above on the fifteen-point Legal Dangerousness Scale. Yet the authors conclude:

For every one patient who was under 50 years old and who had an LDS score of 5 or more and who was dangerous, there were at least 2 who were not. Thus, using these variables we get a false positive ratio of 2 to 1 * * *. Despite the significant relationship between the two variables of age and LDS score and dangerous behavior if we were to attempt to use this information for statistically predicting dangerous behavior our best strategy would still be to predict that none of the patients would be dangerous.[11]

The Supreme Court's Baxstrom decision promoted a similar group of "mentally disordered offenders" in Pennsylvania to petition successfully for release in *Dixon* v. *Pennsylvania*, 1971. The results of the release of 438 patients have been reported by Thornberry and Jacoby,[12] and are remarkably similar to those reported by Steadman. Only 14% of the former patients were discovered to have engaged in behavior injurious to another person within four years after their release.

Finally, Cocozza and Steadman[13] followed 257 indicted felony defendants found incompetent to stand trial in New York State in 1971 and 1972. All defendants were examined for a determination of dangerousness by two psychiatrists, with 60% being predicted to be dangerous and 40% not so. Subjects were followed in the hospital and in the community (if they were eventually re-

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leased) during a three-year follow-up. While those predicted to be dangerous were slightly but insignificantly more likely to be assaultive during their initial incompetency hospitalization than those predicted not to be dangerous (42% compared with 36%), this relationship was reversed for those rearrested for a crime after their release, with 49% of the dangerous group and 54% of the not-dangerous group rearrested. Predictive accuracy was poorest in the case of rearrest for a violent crime, "perhaps the single most important indicator of the success of the psychiatric predictions." Only 15% of the dangerous group, compared with 16% of the not-dangerous group, were rearrested for violent offenses. While these data are susceptible to alternative interpretations,[14] the authors believe that they constitute "the most definitive evidence available on the lack of expertise and accuracy of psychiatric predictions of dangerousness" and indeed, represent *"clear and convincing evidence* of the inability of psychiatrists or of anyone else to accurately predict dangerousness."

The conclusion to emerge most strikingly from these studies is the great degree to which violence is overpredicted. Of those predicted to be dangerous, between 54 and 99% are false positives—people who will not in fact be found to have committed a dangerous act. Violence, it would appear, is vastly overpredicted, whether simple behavior indicators or sophisticated multivariate analyses are employed, and whether psychological tests or thorough psychiatric examinations are performed.

Several factors have been suggested which might account for the great degree of overprediction found in the research.[15]

1. Lack of corrective feedback to the predictor. The individual is usually incarcerated on the basis for the prediction and so it is impossible to know whether or not he/she actually would have been violent.

2. Differential consequences to the predictor of overpredicting and underpredicting violence. False negatives lead to much adverse publicity, while false positives have little effect on the predictor.

3. Differential consequences to the individual whose behavior is being predicted. A prediction of violence may be necessary to insure involuntary treatment.

4. Illusory correlations between predictor variables and violent behavior. The often cited correlation between violent behavior and mental illness, for example, appears to be illusory.

5. Unreliability of violence as a criterion event. There is little consensus as to the definition of violence, and great unreliability in verifying its occurrence.

6. Low base rates of violence. The prediction of any low base-rate event is extremely difficult.

7. Low social status of those subjected to prediction efforts. Overprediction may be tolerated in part because of class biases in the criminal justice and mental health systems.

What are we to make of all this? Several points seem germane to current policy debates.

1. THE ABILITY TO PREDICT WHICH JUVENILES WILL ENGAGE IN VIOLENT CRIME, EITHER AS ADOLESCENTS OR AS ADULTS, IS VERY POOR.

The conclusion of Wenk and his colleagues that "there has been no successful attempt to identify within * * * offender groups, a subclass whose members have a greater than even chance of engaging again in an assaultive act" is as true for juveniles as it is for adults. It holds regardless of how well trained the person making the prediction is—or how well programmed the computer—and how much information on the individual is provided. More money or more resources will not help. Our crystal balls are simply very murky, and no one knows how they can be polished.

2. IT IS POSSIBLE TO IDENTIFY JUVENILES WHO HAVE HIGHER-THAN-AVERAGE (BUT STILL LESS-THAN-EVEN) CHANCES OF COMMITTING VIOLENT CRIME.

While our ability to predict violent acts in juveniles is not very good, neither is it completely nonexistent. The research discussed earlier provides us with several factors which, if present in a given juvenile, would raise his or her

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probability of committing a violent act above the base-rate or norm. It should be remembered that if one out of one hundred juveniles commits a violent act in a given year, a given juvenile could be forty-nine times more likely than average to commit a violent crime, and still have less than a fifty-fifty chance of being violent.

Chief among those characteristics, from the Wolfgang study[17] and other sources, which would affect the probability of a juvenile's committing a violent crime, are his/her age, sex, race, and socio-economic status. Also relevant would be educational achievement, IQ, and residential mobility.

3. THE BEST PREDICTOR OF FUTURE VIOLENT BEHAVIOR IN A JUVENILE IS HIS OR HER RECORD OF PAST VIOLENT BEHAVIOR.

If there is any consistency in the research, it is this: The probability of future violence increases with the frequency of past violence. It is certainly true that "not every child who commits an offense is teetering on the brink of a criminal career."[18] Wenk, for example, found that nineteen out of twenty juveniles with a violent act in their history did not commit another violent act, at least in the first fifteen months after release.[19] It is not that past violence is a good predictor of future violence, it is merely the best predictor available. And, if the research suggests that prediction is problematic even in the case of individuals with a history of a violent act, it is emphatic that prediction is foolhardy for those juveniles or adults without violence in their backgrounds. In the words of one psychiatrist who believes that violence can be predicted: "The difficulty involved in predicting dangerousness is immeasurably increased when the subject has never actually performed an assaultive act . . . No one can predict dangerous behavior in an individual with no history of dangerous acting out."[20] This point can hardly be overemphasized in discussions of public policies to control violent crime by juveniles.

4. THE POOREST PREDICTORS OF VIOLENT BEHAVIOR IN JUVENILES ARE THOSE THAT RELATE TO PSYCHOLOGICAL FUNCTIONING.

With the possible exception of IQ, psychological variables have not proven to be particularly useful as prognosticators of violent behavior in juveniles. While Lefkowitz et al.[21] did find positive correlations between a child's lack of identification with his/her parents, preference for violent television programs, and father's upward social mobility, and later violence, these correlations explained only about 10% of the variance of adult aggression.

As Mischel[22] noted in his classic review of psychological prediction:

> A person's relevant past behaviors tend to be the best predictors of his future behavior in similar situations. It is increasingly obvious that even simple, crude, demographic indices of an individual's past behaviors and social competence predict his future behavior at least as well as, and sometimes better than, either the best test-based personality statements or clinical judgments.

No psychological test has been developed which can *post*dict, let alone *pre*dict, violence in either juveniles or adults.[23]

5. ACTUARIAL TABLES MAY BE SUPERIOR TO CLINICAL JUDGMENTS IN PREDICTING VIOLENT BEHAVIOR IN JUVENILES.

The two generic methods by which violent behavior (or any other kind of event) may be anticipated are known as clinical and actuarial prediction. In clinical prediction, a psychologist, psychiatrist, parole board member, or other person acting as a "clinician," considers what he or she believes to be the relevant factors predictive of violence, and renders an opinion accordingly. This was the method used in the Zozol, Steadman, Thornberry and Jacoby, and Patuxent studies reviewed earlier. The clinician may rely in part upon actuarial data in forming the prediction, but the final product is the result of an intuitive weighting of the data in the form of a professional judgment. Actuarial (or statistical) prediction refers to the establishment of statistical relationships between given predictor variables such as age, number of prior offenses, etc., and the criterion of violent behavior. This method was used in the Wenk et al. series of studies and the Glueck research. The prediction variables may include

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clinical diagnoses or scores on psychological tests, but these are statistically weighted in a prediction formula.

One of the "great debates" in the field of psychology has revolved around the relative superiority of clinical versus actuarial methods. It is one of the few such debates to emerge with a clear-cut victor. With the publication of Paul Meehl's classic work in 1954 [24] and its many subsequent confirmations,[25] actuarial methods have come to be recognized as the generally superior way of predicting behavior.

While actuarial tables have not yet proven their superiority in predicting violent behavior in juveniles, the impression persists that clinicians have "taken their best shot" at prediction and that it has been so wide of the mark that the future lies with actuarial methods, especially those building on the work of Wolfgang, Lefkowitz, and others.

6. ONE REASON CLINICAL PREDICTION PERSISTS IN JUVENILE JUSTICE IS THAT IT ALLOWS SOCIALLY SENSITIVE PREDICTOR VARIABLES TO BE HIDDEN.

If, after the commission of a violent act, the best predictors of future violence are simple demographic characteristics of the juvenile, and if actuarial tables may be more accurate than expert judgments, then why is there still such reliance upon psychiatric or psychological assessments of violence potential in the juvenile justice system? Surely a judge is as capable as a psychologist to check off whether a youth is male or female, black or white, thirteen or seventeen, rich or poor, or how many times his/her parents have moved. Why doesn't he or she just make explicit the variables being considered in the prediction and eliminate the psychiatric middle-man? In all likelihood, the judge's prediction would be as good—or as bad—as the "expert's."

The reason that the predictive factors are not made explicit seems clear. They are too socially "hot" to handle.

Assume for a moment that the four best predictors of violent behavior in juveniles, *after* a violent act has been committed, are age, sex, race, and SES. Assume that is, that these four factors, which do show up consistently in the research, are not merely artifacts of racist, sexist, ageist, or capitalistic biases in the juvenile and criminal justice systems—although such biases undoubtedly do exist to some extent and to that extent attenuate the strength of the correlation. Assume that, for whatever reason, the relationships still exist when the biases of the system partialled out.

Can one imagine a juvenile court judge, presented with two youths, one black and one white, who have committed the same violent act and who are comparable in all other respects, sentencing the black child to a longer period of detention than the white one, and admitting publicly that he or she was doing it because blacks have a higher actuarial risk of violent recidivism than whites? The Supreme Court would be quick to overrule such an appallingly "suspect" and unconstitutional prediction system, even if it could be shown to be statistically accurate. The same, one hopes, would be true if the prediction were made on the basis of socio-economic status, with the poorer juvenile dealt with more harshly precisely because he/she is poor, and poverty is statistically associated with violence.

The case is less clear with sex and age. If two youths, comparable in all but their sex, came before a juvenile court judge, could the judge explicitly give more lenient treatment to the female because the actuarial table, like the insurance company tables, says that females are much less likely to recidivate than males? Or that thirteen year-olds are less likely to commit another violent crime than seventeen year-olds?

The "virtue" of clinical prediction is that a judge or youth authority board does not have to deal with these highly sensitive social questions, but can camouflage the issues by deferring to clinical expertise. The clinician is then free to take all these variables into account—indeed, *must* take these variables into account if the prediction is to be any good—and no one will be the wiser. The sensitive issues will never be raised because they are hidden in the depths of "professional judgment," while in fact that judgment is made on the basis of the same factors that might be unconstitutional if used in open court. In this sense, clinical prediction represents a "laundering" of actuarial prediction, so that the sensitive nature of the predictor variables cannot be traced.

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A related reason for not putting our actuarial cards on the table is that it is unclear which way the deck should be cut. Some of the factors which lead to an increase in predictive accuracy also imply a decrease in moral culpability. If one used poverty or race as variables in a predictive/preventive scheme, for example, one would deal more harshly with the poor and the nonwhite. If, on the other hand, one was attempting to match the sanction—not to a utilitarian calculus but rather to the moral desert or culpability of the offender—it could be argued that a history of adversity and discrimination should attenuate rather than exacerbate the sanction. One cannot, in other words, maximize public safety and moral justice at the same time. The juvenile court itself is a good example of this. We deal more leniently with a sixteen year-old violent offender than with a fifty year-old one, on the moral ground that the older man should know better and is more "deserving" of punishment, while, in fact, the chances of violent recidivism are much higher in the sixteen year-old. If our primary purpose was to prevent violent acts, it is the juvenile, rather than the adult, we would subject to lengthy incarceration.

7. DESPITE ITS PRIMITIVE STATE OF DEVELOPMENT, IT IS HIGHLY UNLIKELY THAT PREDICTION WILL CEASE TO PLAY A MAJOR ROLE IN JUVENILE JUSTICE.

One cannot attempt to rehabilitate juvenile offenders without first predicting which of them is in need of rehabilitation—which is to say, which of them will be violent if not rehabilitated—and one desists with rehabilitation primarily on the basis of prediction that the risk of violence has decreased. To cease prediction is to cease rehabilitation, and to cease rehabilitation is to cease the juvenile justice system. The alternative to prediction and the rehabilitative ideal is a system of sanctions based upon moral desert, and that is how we sanction adult offenders.

I would suggest that the next step in the reform of juvenile justice is an increased honesty in how predictive decisions are made. Let us cease to sweep the troublesome issues under the psychologist's rug, and be open about the value issues which confront us. Let us publish our actuarial tables and have the legitimacy of each predictor item litigated both in courts of law and in the court of public opinion. I do not know which way the decision would fall. I do not even know which way I would vote. But, I do believe that the outcome of this legal and social debate would clarify what it is we wish to accomplish in juvenile justice, and the price we are willing to pay for it.

FOOTNOTES

[1] For a more detailed discussion of some of the issues raised in this paper, the reader is referred to D. Gottfredson. "Assessment and Prediction Methods in Crime and Delinquency," in *Task Force Report: Juvenile Delinquency and Youth Crime* (Washington, D.C.: President's Commission on Law Enforcement & Administration of Justice, 1967); J. Monahan, "The Prevention of Violence," in J. Monahan (ed.), *Community Mental Health and the Criminal Justice System* (New York: Pergamon Press, 1976), pp. 13–34; and J. Monahan. "The Prediction of Violent Criminal Behavior: A Methodological Critique and Prospectus," in National Research Council (ed.), *Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates* (Washington, D.C.: National Academy of Sciences, in press).

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FOOTNOTES—Continued

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From Boy to Man—From Delinquency to Crime

(By Marvin E. Wolfgang)

PURPOSE AND BACKGROUND

The purpose of this paper is to examine the relationship between juvenile and adult offense probabilities, offense types, and offense seriousness. Although the probability statements may sound predictive, I am not suggesting a juvenile-to-adult predictive model to be used by criminal justice. The lucid and comprehensive summary of prediction studies in criminology by John Monahan[1] stands firm in its conclusions beside any data I present here. I therefore wish at the outset to caution against unwarranted prediction inferences being made from the findings I report. On the other hand, there are some strong assertions, supported by statistical analysis, to be made about adult offensivity and adult assaults based on juvenile offensivity and juvenile assaults. The degree of boldness of the claims is a function of the rigor of the data and the robustness of the methodology, not the subjective leaps beyond the confines of the data.

The material presented here is derived from the birth cohort study conducted at the Center for Studies in Criminology and Criminal Law at the University of Pennsylvania. The first display of this work was published as *Delinquency in a Birth Cohort* in 1972.[2] That study involved analysis of a cohort of males born in 1945 who lived in Philadelphia at least from their tenth to their eighteenth birthdays. Through the use of school, police, and Selective Service files, we were able to locate and gather data on 9,945 boys. Since 1968 we have followed a 10% random sample of the original cohort. The sample drawn consisted of 975 subjects who were representative of white and nonwhite delinquents and nondelinquents. After three years of diligent searching for the sample subjects, many could not be found. The process resulted in a working sample of 567 respondents who were interviewed on a variety of items regarding educational, marital, occupational history, earlier gang membership, and social psychological variables. The interview was approximately one to two hours; no one located refused to respond. Of relevance to this particular paper, questions were asked about "hidden" offenses, those which were committed but for which the subjects were not arrested. Each person was asked if and how often he had committed any of twenty-four specific crimes before age eighteen and after his eighteenth birthday. These items cover a full range of offenses from the very minor (disturbing the peace) to the very serious (homicide and rape). All subjects were interviewed around the time of their twenty-fifth birthday and all names were checked through police files at the time of their twenty-sixth birthday. However, during the process of the follow-up, a special report was produced that used Philadelphia police file checking at age twenty-two. And since the interviews, we have investigated the 975, the 10% sample, for previous arrests and dispositions up to age thirty. Hence we have several data banks about continued criminality to which I shall refer. They all include knowledge about juvenile (under age eighteen) official arrest record and juvenile self-reported offenses. For adults (eighteen and over) there are the following files:

Note: Footnotes at end of article.

1. 18–22: official arrest records,
2. 18–26: official and self-reported offenses,
3. 18–30: official arrest records.

Special computer runs are still being made since we received reports on our subjects up to age thirty. Some of these runs had been made at earlier ages; this is the main reason that some of my findings are drawn from different files at this time.

Methodologically, there is one additional comment to be made, and that is about the application of weighted seriousness scores for each of the offenses committed by our cohort subjects. Derived from the work Thorsten Sellin and I had done previously and reported in *The Measurement of Delinquency*,[3] a psychological scaling study, the seriousness scores denote relative mathematical weights of the gravity of different crimes.

I shall not discuss here issues about reliability and validity of the sample, nor of the official or self-reported material. In our forthcoming book we cover these topics in detail. In short, however, we believe that the traditional scientific requirements of validity and reliability are satisfactorily met; we have been as comprehensively self-critical as possible and have had the benefit of distinguished colleagues.

Although there are many complex and intricate kinds of relationships and multivariate analyses to be made among the many variables available in the longitudinal birth cohort study, including results from a restraint or incapacitation model on offenders up to age thirty, and special analyses comparing official and self-report data and socio-economic status, I shall focus on some transition probability data that yield information about moving from a juvenile to an adult status, with mostly descriptive bivariate analyses.

SOME FINDINGS

Table I shows the relationship between juvenile and adult offender status by race in the analysis of five years into adulthood, or from ages eighteen to twenty-two.[4] Nearly 60% of the birth cohort had no record of arrest, but 41% did. Of this latter arrest-record group, 35% had a record before age eighteen; 22% only as juveniles; 14% before and after age eighteen. But it is important to note that only 5% (4.82) had an arrest record *only as adults*, or after age eighteen.

TABLE I.—NUMBER AND PERCENT OF COHORT SUBJECTS BY OFFENDER STATUS AND RACE

	Race					
	White		Nonwhite		Totals	
Offender status	Number	Percent	Number	Percent	Number	Percent
I. Subjects with no arrest record	473	66.71	103	38.72	576	59.08
II. Subjects with arrest record	236	33.29	163	61.28	399	40.92
A. Before age 18 only	147	10.73	67	25.19	214	21.95
B. Before and after age 18	58	8.18	80	30.07	138	14.15
C. After age 18 only	31	4.37	16	6.01	47	4.82
Total	709	100.00	266	100.00	975	100.00

It is also important to point out the differences between whites and nonwhites in this array. Cohort subjects who had an official arrest record after age eighteen, or as adults, are not statistically different. That is, about 5 percent of whites and 6 percent of nonwhites obtain an arrest record only after age eighteen. *But* the socially and statistically significant fact is that blacks, or nonwhites, are four times more likely to have an arrest record before and after age eighteen than are whites.

Moreover, when we examine the mean number of offenses for subjects with both juvenile and adult arrest records (6.37) we note it is about three times greater than for those who have only a juvenile record and more than three times as great for those with an adult record (1.94). Table II on the following page shows these facts dramatically and clearly. Nonwhites, both as juveniles and as adults, have mean offense numbers much higher than whites: nonwhite juveniles, 7.41; white juveniles, 4.93; nonwhite adults, 3.06; white adults, 1.35.

Note: Footnotes at end of article.

TABLE II.—NUMBER AND PERCENT OF OFFENSES BY OFFENDER STATUS AND RACE

Offender status	Whites				Nonwhites				Totals			
	Subject number	Offenses[1]		X[2]	Subject number	Offenses[1]		X[2]	Subject number	Offenses		X[2]
		Number	Percent			Number	Percent			Number	Percent	
Juvenile offender[3]	147	291	47.01	1.98	67	180	21.90	2.69	214	471	32.69	2.20
Adult offender	89	328	52.99	3.68	96	642	78.10	6.69	185	970	67.31	5.41
Arrest record before 18	(58)	(286)	(46.20)	(4.93)	(80)	(593)	(72.14)	(7.41)	(138)	(879)	(61.00)	(6.37)
Arrest record after 18	(31)	(42)	(6.79)	(1.35)	(16)	(49)	(5.96)	(3.06)	(47)	(91)	(6.31)	(1.94)
Total	236	619	100.00	2.62	163	822	100.00	5.04	399	1,441	100.00	3.61

[1] Percent across.
[2] X=mean number of offenses per offender.
[3] Arrest record before age 18 only.

Table III on the following page is a display of the number of arrests per subject after age eighteen by the number of arrests prior to age eighteen. Of the 185 subjects arrested as adults, 138 had a previous juvenile arrest as well. But most juvenile offenders (61 percent) avoid the stigma of arrest upon reaching adulthood; this finding is sepecially true for those with only one or two official offenses before age eighteen. Of the 222 taken into custody once or twice before age eighteen, 72 percent had no further arrests as adults.

Racially, again, there are significant differences. Only 28 percent of whites taken into custody as juveniles had an arrest as adults; for nonwhites the percent is 54. We should also note that of the 394 offenses recorded for ages eighteen to twenty-two, one-third were UCR index offenses having an element of injury, theft, or damage. Seventy-five percent of these index offenses as well as 78 percent of the non-index offenses were committed by men who had a juvenile arrest record. It is nonwhites who commit most of these serious offenses as adults: 84 percent with injury, 69 percent with theft, 75 percent with property damages. In fact, from ages nine through twenty-two, nonwhites account for nearly 80 percent of all offenses involving physical injury to victims.

TABLE III.—NUMBER OF ARRESTS PER SUBJECT AFTER AGE 18 BY NUMBER OF ARRESTS PRIOR TO AGE 18

[Percent across]

Number of arrests per subject prior to age 18 (N=Subjects)	Number of arrests per subject after age 18											
	None		1		2		3		4		5	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
None (N = 623)	576	92.46	28	4.99	12	1.93	2	0.32			5	1.80
1 (N = 158)	116	73.42	28	17.72	8	5.06	3	1.90	1	0.63	2	1.27
2 (N = 64)	44	68.75	11	17.19	6	9.37					3	4.69
3 (N = 37)	20	54.05	6	16.22	4	10.81	4	10.81	1	2.70	2	5.41
4 (N = 23)	10	43.48	4	17.39	3	13.04	3	13.04	2	8.70	1	4.35
5 (N = 70)	24	34.28	22	31.43	3	4.29	12	17.14	3	4.29	6	8.57
Totals (N = 975)	790	81.03	99	10.15	36	3.69	24	2.46	7	.72	19	1.95

TABLE IV.—AGE OF OFFENDERS AND NONOFFENDERS, BEFORE AGE 18, AGE 18, AND OVER

	Age 58 and over		
	Offender	Nonoffender	
Under age 18:			
Offender	149(A)	193(B)	342(A+B).
Nonoffender	77(C)	555(D)	632(C+D).
	666(A+C)	748(B+D)	974(E).

Probabilities for being a:

(1) Juvenile offender (<18)=.3511$\left(\frac{A+B}{E}\right)$

(2) Offender ($\leq$26)=.4308 $\left(\frac{A+B+C}{E}\right)$

(3) Adult offender only (>18 to $\leq$26)=.2320 $\left(\frac{A+C}{E}\right)$

(4) Adult offender, having been a juvenile offender=.4357 $\left(\frac{A}{A+B}\right)$

(5) Adult offender, not having been a juvenile offender=.1218 $\left(\frac{C}{C+D}\right)$

Consider offense probabilities up to age twenty-six. Table IV [5] shows these data. As was reported in *Delinquency in a Birth Cohort*, the probability of being an officially recorded juvenile offender before age eighteen was .35. The chances of being an adult offender (up to age twenty-six) without having been a juvenile offender is .12, relatively low. But the likelihood of being an adult offender, once having been a juvenile offender at all, is .43. In fact, the overall probability of having an officially recorded arrest record by age twenty-six is .43.

What happens up to age thirty? As might be expected, the probabilities of having an official arrest record increase up to .47. Thus it may be said that an urban male's chance of having at least one arrest contact with the police by age thirty is nearly 50 percent. These probabilities, by offense number, are displayed in Table V.[6]

TABLE V.—PROBABILITIES OF RECIDIVISM BY OFFENSE NUMBER: ALL OFFENSES AND INDEX OFFENSES

	Probability of any offense	Probability of index offense
Offense number:		
1	0.473	0.217 (459)
2	.662	.266 (304)
3	.717	.321 (128)
4	.798	.356 (174)
5	.828	.333 (144)
6	.847	.328 (122)
7	.836	.353 (102)
8	.892	.385 (91)
9	.879	.325 (80)
10	.900	.416 (72)
11	.889	.406 (64)
12	.781	.460 (50)
13	.900	.555 (45)
14	.955	.442 (43)
15	.814	.371 (35)
16	.771	.370 (27)
17	.889	.417 (24)
18	.833	.300 (20)
19	.909	.722 (18)
20	.889	.625 (16)

As Table VI clearly shows, the mean seriousness scores increase with age. As age increases up to thirty, the seriousness of offenses increases. In the juvenile years seriousness scores remain relatively low and stable. In the early adult years

Note: Footnotes at end of article.

(18 to 21) the scores increase by about 2.5 times and they continue to increase in the next two age categories (22 to 25, 26 to 30) by more than 100 points with each increment in age.

TABLE VI.—*Mean offense seriousness scores by age categories*

Age:	Mean Offense seriousness score
≤13	114 (216)
14 to 17	110 (842)
18 to 21	299 (469)
22 to 25	405 (331)
26 to 30	517 (239)
Overall	246 (2,097)

Let us return to the interviewed subjects with arrest records known at age 26. Here there is also information about self-reported offenses. One of our concerns was the validity-reliability issue among our interviewed males. This is a complex topic, but there is one aspect that might profitably be shown here. Table VII compares recidivists (2–4 officially recorded offenses) and chronic offenders (5 or more offenses) on three dimensions. The mean number of total career offenses indicates that interviewed and noninterviewed offenders do not differ from one another *within offender category.* That is, interviewed recidivists average 2.58 offenses while noninterviewed recidivists commit 2.72. Chronic interviewed offenders had 11.89 average number of offenses; chronic noninterviewed 11.54. The average career number of index offenses committed by interviewed and noninterviewed groups within offender categories also shows no substantial differences. These findings lend credence to the self-reported offenses obtained in the interviews.

TABLE VII.—COMPARISON OF INTERVIEWED-NONINTERVIEWED OFFENDER GROUPS ON MEAN NUMBER OF CAREER OFFENSES, MEAN CAREER INDEX OFFENSES AND MEAN CAREER OFFENSE SERIOUSNESS SCORE

	Recidivists [1]		Chronics [1]	
	Interviewed	Non-interviewed	Interviewed	Non-interviewed
All offenses	2.58 (85)	2.72 (75)	11.89 (54)	11.54 (90)
Index offense	.49 (85)	.72 (75)	4.13 (54)	4.07 (90)
Seriousness score	546 (85)	717 (75)	720 (54)	960 (90)

[1] None of the differences within offender categories (recidivist or chronic) is significant beyond the 0.05 level.

By having information on all officially recorded offenses outside as well as within Philadelphia and up to age thirty, we can show more data on the types of offender statuses. Table VIII tells us that 459, or 47.3 percent of the cohort sample have an official record of police contact by age thirty. Of the entire sample, 6 percent were chronic offenders by age eighteen; now 14.8 percent are chronic by age thirty. Expressed another way, 18 percent of all offenders were chronic by age eighteen, but now 31.4 percent of all offenders are chronic by age thirty.

Note: Footnotes at end of article.

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TABLE VIII

Offender category	Violator status: Delinquent only	Adult only	Both	Totals
1-time offenders	63.2 (98)	36.8 (57)	0 (0)	100.0 (155)
Recidivists	35.0 (56)	24.4 (39)	40.6 (56)	100.0 (160)
Chronics	11.1 (16)	13.2 (19)	75.7 (109)	100.0 (144)
Mean percentage	37.0	25.1	37.9	100.0
Total	(170)	(115)	(174)	(459)

The chronic offender group has been further divided into those who committed their fifth offense before age eighteen (early chronics) and those whose fifth offense occurred after age eighteen (late chronics). Table IX shows their differences. Early chronics have a mean number of official offenses (14.1) that is considerably higher than that of late chronics (8.7). But there is a higher likelihood that late chronics are involved in a personal offense involving injury. Early chronics are more often involved in property offenses. The differences are not great but the offenses of the late chronics also have higher seriousness scores because of the injury offenses.

TABLE IX.—OFFENSE CLASSES BY EARLY AND LATE CHRONICS: PERCENTAGE OF OFFENSES

	Early chronic (N=72)	Late chronic (N=72)
Total offenses	1,012	626
Mean number	14.1	8.7
Personal	9.6 (97)	14.5 (91)
Property	27.6 (279)	23.5 (147)
Nonindex	62.8 (636)	62.0 (338)
Injury	11.7 (118)	13.3 (83)
Theft	31.3 (317)	28.6 (179)
Weapon	5.7 (58)	8.6 (54)
Damage	12.9 (131)	8.3 (52)
Seriousness score:		
1 to 100	45.5 (460)	33.9 (212)
101 to 400	36.9 (373)	36.3 (227)
400+	13.6 (138)	19.6 (123)

Using self-reports of offensivity, there is a relationship between juvenile and adult high seriousness groups, and Table X shows this assiciation when subjects are classified by their delinquent and nondelinquent status.[7] Thus, 82 percent of officially designated nondelinquents reported a low level of self-revealed UCR index offenses as juveniles *and* as adults. At the other extreme, 62 percent of officially recorded delinquents reported a high level of UCR index offenses both as juveniles and adults. (In both cases, X^2 is significant at the .0001 level.)

NOTE.—Footnotes at end of article.

TABLE X.—RELATIONSHIP BETWEEN THE UNIFORM CRIME REPORTS INDEX SERIOUSNESS GROUPS FOR THE REPORTED JUVENILE AND ADULT OFFENSES CONTROLLING FOR OFFICIAL DELINQUENCY STATUS

	Delinquency status, juvenile index group					
	Nondelinquent			Delinquent		
Adult index group	Low	High	Row total	Low	High	Row total
Low (percent)	81.6	48.5	67.3	73.5	38.3	52.0
	182	82	264	50	41	91
High (percent)	18.4	51.5	32.7	66.5	61.7	48.0
	41	87	128	18	66	84
Column total (percent)	56.9	43.1	100	38.9	61.1	100
	223	169	392	68	107	175

Note: Chi-square=46.4 (sig. at .0001); 19.3 (sig. at .0001).
Gamma=0.65; 0.63.
Summary gammas: Zero-order gamma=0.66; first-order partial gamma=0.65.

Further confirmation of the continued high seriousness of offenses by adults who had committed serious offenses as juveniles is displayed in Table XI on the following page, which is restricted again to index crimes. Over the offense career, the combination of officially recorded and self-report offenses results in an annual mean for *injury and property* offenses of 1.1 for all offenders. When one-time offenders are removed, the mean annual number of *index* offenses is 1.21; for chronic offenders the mean is nearly two such offenses per annum. Recidivists, or those with two to four official contacts, have a much shorter official career (4.28 years) than do chronic offenders (9.26 years). Self-reported offense means are generally three times higher than official means.

The same table provides age-specific index offense estimates for ages fourteen to thirty. (We have given estimates of self-reported offenses from ages twenty-six to thirty by using the mean number of index offenses reported between eighteen and twenty-five.) The means refer to index offenses committed by offenders who have come into contact with the juvenile or adult criminal justice system for *any* offense. Official injury offenses are low in the juvenile years, increase in the early adult years, and then remain stable and relatively high. However, self-reported injury offenses are high in juvenile years and lower and stable in adult years. Official property offenses are relatively stable over all ages, but self-reported property offenses are highest in the juvenile years and decrease in adult years. The ratios between self-reported and official acts are highest in the juvenile years, or about eight to eleven index offenses committed for everyone officially recorded. The ratios for those males eighteen to twenty-five ranges between three and six self-reported offenses for each officially recorded act.

Using our birth cohort data up to age thirty, James Collins, from the Criminology Center at the University of Pennsylvania, worked on a report concerned with an incapacitation or restraint model. This study indicates that for each index offender incarcerated in the 14-to-17-age span, four to five index offenses would be prevented. For each adult offender incarcerated for a year between ages eighteen and twenty-five, about three to three and one-half index offenses would be prevented. The general model shows that restraint of the chronic offender would have the greatest per capita impact. The probability that an offender, after his fourth offense, will recidivate is about .80 and the likelihood that his next offense will be an index one, over the next sixteen offense transitions, is, on the average, .426, ranging from .300 to .722.

TABLE XI.—MEAN OFFICIAL AND SELF-REPORTED INDEX OFFENSE ESTIMATES FOR OFFENDER CATEGORIES AND OFFENDER AGES: INJURY OFFENSES (X_I, X_i), PROPERTY OFFENSES (X_p, X_p) AND INJURY AND PROPERTY OFFENSES COMBINED (X_T, X_T)

Offender category—Age	(1) X_I	(2) X_I	(3) X_p	(4) X_p	(5) X_T	(6) X_E	(7) X_T+X_T
All offenders	0.11	0.27	0.25	0.47	0.35	0.74	1.10
(459)	(212)		(501)		(713)		
All except one-time offenders	.10	.28	.24	.59	.34	.87	1.21
(304)	(206)		(478)		(684)		
Recidivists	.03	.22	.11	.34	.14	.55	.69
(160)	(21)		(73)		(94)		
Chronics	.14	.40	.30	1.03	.44	1.42	1.86
(144)	(185)		(405)		(590)		
14	.06	2.00	.32	2.18	.38	4.08	4.45
(98)	(5)		(26)		(33)		
15	.02	2.02	.51	3.04	.52	4.17	4.69
(139)	(2)		(63)		(65)		
16	.09	2.18	.39	3.04	.47	4.38	4.86
(170)	(13)		(58)		(71)		
17	.12	2.25	.40	3.02	.52	4.13	4.64
(117)	(12)		(40)		(52)		
18	.21	1.43	.28	1.56	.49	2.52	3.01
(96)	(19)		(26)		(45)		
19	.15	1.66	.39	1.49	.54	2.44	2.98
(96)	(13)		(33)		(46)		
20	.19	1.38	.33	1.50	.52	2.45	2.97
(88)	(14)		(25)		(39)		
21	.17	1.42	.33	2.10	.50	3.02	3.51
(69)	(10)		(20)		(30)		
22	.24	1.42	.49	1.32	.73	2.48	3.21
(56)	(10)		(21)		(31)		
23	.36	1.42	.54	1.80	.91	2.79	3.70
(63)	(20)		(30)		(50)		
24	.22	1.28	.35	1.71	.57	2.50	3.06
(62)	(12)		(19)		(31)		
25	.27	1.39	.38	2.14	.64	2.92	3.56
(54)	(12)		(17)		(29)		
26	.32		.59		.91	[1] 2.61	3.52
(47)	(12)		(22)		(34)		
27	.66		.19		.86	[1] 2.61	3.47
(43)	(24)		(7)		(31)		
28	.38		.49		.87	[1] 2.61	3.48
(31)	(11)		(14)		(25)		
29	.32		.29		.61	[1] 2.61	3.22
(33)	(10)		(9)		(19)		
30	.47		.24		.71	[1] 2.61	3.32
(17)	(8)		(4)		(12)		

[1] A self-reported summary estimate is computed for ages 26–30. It is the mean number of self-reported index offenses for all adult years 18–25.

CONCLUSION

Serious offenses are committed frequently by a relatively small number of offenders: up to age thirty in a birth cohort (approximately 14%). Serious offenses, officially known and self-reported, committed by juveniles, have a higher probability of being committed by these same persons as adults. Race is significantly associated with this finding, which is to say that proportionately many more nonwhites than whites will be involved in this serious juvenile/serious adult offender status grouping. But the transition stability also occurs among the proportionately smaller number of whites. The chronic offender continues to be the most important category with which the criminal justice system should deal in its concern about serious, particularly personal injury, offenses.

Perhaps as meaningful as anything to emerge from this longitudinal study thus far and in the context of this conference is that with respect to chronicity of offenders, the juvenile/adult statutory dichotomy has little justification. At whatever age the chronic offender begins his fourth or fifth offense, he will commit further offenses with very high probabilities, and, on the average, the next offense will be an index offense nearly half the time. It may be, therefore, that if the severity of the sanction is proportionate to the gravity of the crime and to the cumulative history of serious crime, the sanction should be similar for chronic serious offenders whatever their age.

FOOTNOTES

[1] John Monahan, "The Prediction of Violent Behavior in Juveniles," paper presented at the National Symposium on The Serious Juvenile Offender, Department of Corrections, State of Minnesota, Minneapolis, Minnesota, September 19–20, 1977.
[2] Marvin E. Wolfgang, Robert Figlio, and Thorsten Sellin, *Delinquency in a Birth Cohort* (Chicago: University of Chicago Press, 1972).
[3] Thorsten Sellin and Marvin E. Wolfgang, *The Measurement of Delinquency* (New York: John Wiley and Sons, Inc., 1964).
[4] Data reported in Tables I through III are derived from work performed on our birth cohort material by Albert P. Cardarelli, whose dissertation at the University of Pennsylvania appears as "Socio-Economic Status and Delinquency and Adult Criminality in a Birth Cohort," 1974.
[5] This table is reproduced from Marvin E. Wolfgang, "Crime in a Birth Cohort," *Proceedings of the American Philosophical Society* (October 25, 1973) 117:5: 404–411 at 409.
[6] Data reported in Tables V through IX, and Table XI are derived from work performed on our birth cohort material at the Center for Studies in Criminology and Criminal Law at the University of Pennsylvania by James J. Collins, Jr. whose dissertation, "Offender Careers and Restraint: The Probabilities and Policy Implications," 1977, was supported by a grant from the National Institute of Law Enforcement and Criminal Justice, LEAA, Department of Justice, Grant Number 76NI–99–0089.
[7] Data reported in Table X are derived from work performed on our birth cohort material at the Center for Studies in Criminology and Criminal Law by Paul E. Tracy as part of his dissertation entitled "a Self-Report Study of Delinquent and Criminal Behavior," forthcoming, 1977.

Summary and Conclusions

(By Joe Hudson and Pat Mack)

The ideas identified in the introductory statement have been elaborated upon in the subsequent papers. Our purpose here is to summarize the major themes running through these papers, to identify further program and research needs, and to suggest some likely future developments.

A dominant, yet often inexplicit, theme at the Symposium, as well as in these collected papers, has to do with several different aspects of the social context of the juvenile justice system. First, our present situation seems to be characterized by a serious questioning of the facts upon which our interventions are based. At the same time, there is great concern expressed by the citizenry about the problems of crime and delinquency. While few social problems generate more concern than crime and delinquency, the difficulty is that there is little evidence regarding how to proceed. While one might expect that at this point in the operation of the juvenile justice system, facts would direct our activities, the only fact that is probably clear is that we are led more by personal beliefs than by valid and reliable information. Even the few "facts" that are available are interpreted differently by the police, prosecutors, corrections officials, criminologists, and the general public.

An example of this is the Robert Martinson review of the research dealing with the effectiveness of corrections treatments.[1] The police use Martinson's findings to demonstrate the need to lock up people longer because treatment is not seen as working. Legislators use it to cut budgets so that a variety of services become vulnerable if defined as "treatment." Promoters of determinant sentencing use it as a reason to support their concept. Furthermore, treatment people either say that the report does not apply to their method, or that professionals should not be surprised because treatment has never had the necessary resources, or finally, that Martinson is changing his report to say that some programs do, in fact, work and that he would have undoubtedly included their program under this definition if only he had studied it. The same types of responses are made in relation to the group of youth variously defined as serious juvenile offenders—what works, what does not work, how should it be evaluated and by whom, who should be the primary recipient of the service and the sanction, how should services be provided, by whom, and what is to be the nature of the service and sanction? While professionals in the field must increasingly acknowledge that they are generally guided by what they believe rather than by established facts, there is now the suggestion that even our few facts are established on quicksand. Furthermore, what is held as factual, and consequently used in directing interventive activities, may change over time. For example, practioners may attempt to use some research findings that indicate single parenting contributes to delinquency. A variety of delinquency prevention programs may then be established to diminish the expected impact of

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the missing father. At the same time, however, social values may change and single parenting may begin to take on different dimensions. With divorce a more acceptable choice, research used in support of the original interventions needs to be re-evaluated to the changing social condition.

What is commonly referred to as the juvenile justice "system" is a key part of the social context which bears directly upon how we define and intervene with young people in conflict with the law. The suggestion that the system is a "non-system" is now generally accepted but commonly forgotten. Different actors responsible for dealing with the young offender do not share the same assumptions nor agree upon the same established facts, nor do they commonly converse so as to at least begin to establish some common perspective as to what it is they are all about.

A related theme in these papers is the problem of identifying a serious offender and the size of this population, and determining whether the extent of the problem is increasing or decreasing. Historically, corrections officials have tended to identify serious offenders as those causing problems in corrections institutions—in the case of young people, those usually defined as runaways and incorrigibles—as well as those youth who are assaultive and sexually aggressive within the institution. In fact, however, youth labeled this way by corrections officials may seldom have behaved in such ways within the community. One of the terrible ironies of this is that while similar behavior in the community was often used to revalidate institutional diagnoses, the absence of such behavior had little or no bearing on the label. The street runs only one way, with the result that a pyramid of pathology is all too likely to develop.

Several specific attempts at defining the serious juvenile offender were made during the Symposium. While these definitions vary, they all make reference to community legal violations rather than to adjustment problems in corrections institutions. It seems, however, that our talk and our practice may proceed down parallel tracks, so that while our definitions of this population may exclusively refer to community legal violations, much of our practice is focussed upon dealing with the institution problem youth. Even given a clear definition of the population, however, there would seem to be only inadequate ways of counting offenders. Few quality control procedures have been implemented to insure the accuracy of the statistics, and there is almost no grounds for comparing the present situation with the recent past.

A theme which was dealt with extensively at the Symposium concerns the present status of making predictions about violent behavior. The ability to make such predictions is central to the rehabilitative ideal, as this allows professionals to diagnose and to intervene with some kind of rehabilitative process or, alternatively, to have youth who cannot be "saved" transferred into adult courts so as to achieve the goal of public protection. While the idea may be logically impeccable, its practical utility is frightening. Regardless of the predictors used, there will be a tremendous overprediction. Furthermore, the best predictors of future violence seem to be relatively enduring characteristics of the offender—race, sex, socio-economic status, prior court appearances—and these pose problems for the way in which we deal with such youth. First, because such information cannot be socially or politically defended as a basis for dealing differentially with youth and, secondly, because there is little or no chance of maintaining the use of such predictors through the legal appellate process.

This leads to what was probably the major theme at the Symposium: a questioning of the basic assumptions underlying the operation of the juvenile justice system. Marvin Wolfgang made the comment at the Symposium that we seem to be experiencing a wave of "neo-classical revivalism" and this seems to be an accurate reading of recent developments. The basic tenets of positivism, which reached perhaps its purest form in the juvenile court, are being seriously questioned and the modifications being proposed tend to borrow from the classical and neo-classical schools of criminology. In this respect, it is interesting to note some apparent similarities in the conditions of the administration of law in 18th century Europe and in recent practices in the juvenile justice system—imprisonment on the flimsiest of evidence, unlimited discretion exercised by judges and corrections officials, and arbitrary and inconsistent

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sentencing. It was against this type of background that Beccaria wrote his classic essay,[3] and it is against a generally similar type of background in juvenile justice that we now appear to be standing.

What are some of the central ideas of the classical school of criminology? How do they contrast with the positive school? In what form are they being raised today about the way we deal with young people in conflict with the law? First, in contrast to the positive school and the emphasis on determinism (whether biological, psychological, or sociological) classicists suggest that the administration of law be based on viewing the individual offender as deliberately and willfully engaging in criminal behavior. To the classical school, man is assumed to be a rational creature exercising free will and, therefore, consistent and fair punishments are required proportionate to the criminal damage inflicted. In contrast, positivists have minimized the importance of punishment and have emphasized treatment. In so doing, they have paid less attention to the criminal act and have focussed on the individual needs of the criminal actor.

In this respect, many of the papers and much of the discussion at the Symposium dealt with the notion of moving the juvenile court system away from an emphasis on coercive treatment and rehabilitation and all that it entails, toward a system of "just deserts" emphasizing consistency and fairness in sentencing along with a re-definition of the goals and procedures to be followed. Several of the papers suggest that, by its very nature, a system of individualized justice based upon "treatment needs" of youth rather than the nature of the offense committed will be inequitable and inconsistent. In this respect, adherants of the just deserts approach take seriously the classical notion articulated by Professor Hart that justice:

> * * * consists in no more than taking seriously the notion that what is to be applied to a multiplicity of different persons is the same general rule, undeflected by prejudice, interest, or caprice.[3]

As one looks at developments in the juvenile justice system over the past few years, there seems to have been a general erosion of the *parens patriae* doctrine. Appellate decisions surrounding the presentation of evidence, the confrontation of witnesses, and the more precise descriptions of offenses, have all made the juvenile court a more formal place. Furthermore, efforts at removing status offenders from juvenile corrections institutions as well as diversion programs designed to keep them from the court all give clear guidance and parameters to our "system of caring." The erosion of the traditional juvenile justice system has also proceeded to the other end of the spectrum with the serious juvenile offender. While binding-over procedures have always been available, more and more states are looking toward some kind of definite and pre-determined institutional period of time based upon the nature of the offense committed and not necessarily in relation to the perceived needs of the delinquent child.

One of the clearest and most thoughtful expositions of classical ideas in recent juvenile justice literature has come from Professor Sanford Fox.[4] Among the three reasons offered by Fox in support of the "child's right to punishment" is that coerced rehabilitation is based upon the myth that we really know how to treat and rehabilitate. Fox suggests that this is the least important reason for supporting the elimination of the rehabilitative ideal and suggests that a more important reason is that the rehabilitative ideal has the great potential for abuse. In fact, he suggests that a wide variety of instances can be documented citing the inappropriate exercise of administrative discretion over young people. Finally, and most importantly, Fox is deeply concerned about the scientific possibilities of coercively attempting to change behavior—whether in the form of aversive conditioning procedures, chemicals, or physical manipulation of the mind and body. Not only is Fox against the rehabilitative approach, he is clearly in support of the punishment approach on the grounds that punishment implies definite limits on what can be appropriately done to the offender and also calls attention to itself as a necessary evil to be used by society as a last resort.

Consequently, he suggests that the use of a punishment model, rather than one of treatment, will help to insure that the smallest possible number of young people will be dealt with in the juvenile system. While the arguments

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raised by Professor Fox are open to serious question and disagreement, and while a variety of differing proposals have been offered for changes in the juvenile justice system, such ideas and proposals do reflect a growing body of thought, opinion, and practice.

Illustrating the changing views about the juvenile justice system and its goals and procedures are the striking statutory changes being made in state juvenile codes around the country. 1977 Washington State legislation, for example, explicitly provides for "punishment commensurate with the age, crime, and criminal history of the juvenile offender."[5] This statute stands in contrast to the more common and traditional juvenile justice statutes which stress treatment and rehabilitation. For example, the Minnesota statute dealing with juveniles explicitly states that the purpose of the juvenile justice system is to substitute "* * * for retributive punishment methods of training and treatment directed toward the correction and rehabilitation of young persons found delinquent or guilty of a crime."[6] In the thirty years between the 1947 Minnesota statute and the 1977 Washington legislation, a great change appears to have occurred.

A related theme at the Symposium was the need to temper past excessive claims that if only given more resources, the problem of youth crime would be resolved. Such claims are under increasing attack both because of the lack of research support for the effects of our interventions and because of questions about the logical sense of expecting that much can be done by the corrections system. James Q. Wilson, for example, has noted that:

If a child is delinquent because his family made him so or his friends encouraged him to be so, it is hard to conceive what society might do about this. No one knows how a government might restore affection, stability and fair discipline to a family that rejects these characteristics; still less can one imagine how even a family once restored could effect a child who by now has left the formative years and in any event has developed an aversion to one or both of his parents.[7]

In short, the juvenile justice system may be on necessary but insufficient way of dealing with serious youth crime. Clearly, however, none of the papers suggest that society should avoid responsibility for providing a full range of programs and services for juvenile offenders, nor that the state should stop attempting to improve the social and economic status of its citizens. What several of the papers do suggest, however, is the need to recognize that the way we deal with young people can frequently further damage them. While in many cases, most people would agree that the state must and should intervene, it is being increasingly acknowledged that such actions should be undertaken with the aim of causing the least harm to the young person rather than with the expectation of doing the greatest good. This argument was made in 1967 by the President's Commission on Law Enforcement and Administration of Justice, and was used by that body to support both retaining a separate justice system for juveniles and minimizing the extent to which youth penetrate such a justice system. As a consequence, a wide variety of "diversion" programs have been implemented in various jurisdictions. In a host of cases, unfortunately, such purportedly diversionary programs have been used to supplement existing sanctions. In many respects, the opposite effect of the one intended has been achieved.[8] If this can be taken as an indication of the ability of the justice system to achieve its goals, perhaps we should reverse the process used and aim for the opposite of what we want to achieve.

In conclusion, and with the obvious risk of oversimplifying the Symposium discussions, we would suggest that the following points summarize some of the major considerations raised:

1. The *parens patriae* doctrine is under serious attack both from the courts and from state legislatures.

2. The idea of coercively treating juveniles is being seriously reconsidered. At the same time, however, a clear definition is missing regarding what constitutes treatment and what the specific role of the state should be with regard to such youth.

3. The exercise of political power on behalf of young people in this country seems to be diminishing. Until recently, the population of this country has been composed of a large proportion of young people. As the greying of America

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Note: Footnotes at end of article.

takes place and as elderly citizens are victimized or fear becoming victims of crime, the removal of the offender from society is likely to become an increasingly more politically palatable option. Given this, some balance needs to be struck between what is seen as the protection of society and what is in the best interests of the young person.

4. Given the apparent movement toward a model of just deserts and assuming the gradual abandonment of the rehabilitative ideal, the programming options available in state delinquency institutions need to be clarified so as to avoid producing a worsened version of state-raised youth.

5. A greater volume of resources need to be allocated to research activities concerning the serious juvenile offender, and the quality of such reserach must be improved relative to the questions asked and the procedures used.

FOOTNOTES

[1] Robert Martinson, "What Works—Questions and Answers About Prison Reform," *The Public Interest* 35 (Spring, 1974): 22–54.
[2] Cesare Beccaria, *On Crimes and Punishment* (New York: Bobbs Merrill, 1963).
[3] H. L. A. Hart, *The Concept of Law* (Oxford, England: Clarendon Press, 1961), p. 102.
[4] Sanford J. Fox, "The Reform of Juvenile Justice: The Child's Right to Punishment," *Juvenile Justice*, August, 1974, pp. 2-9.
[5] See, for a discussion of this legislation: Kevin Krajick, "A Step Toward Determinacy For Juveniles," *Corrections Magazine* vol. 3, no. 3 (September, 1977), pp. 37–42.
[6] Minnesota Statutes 260.11.
[7] James Q. Wilson, "Crime and the Criminologists," *Commentary*, July, 1974, pp. 47, 48.
[8] See, for example, Paul Lerman, *Community Treatment and Social Control* (Chicago: University of Chicago Press, 1975); and Robert D. Vinter, George Downs, and John Hall, *Juvenile Corrections in the States: Residential Programs and Deinstitutionalization*, National Assessment of Juvenile Corrections, The University of Michigan, November, 1975.

RECIDIVISM STUDY OF VIOLENT OFFENDERS

(By Michael Brennan, Juvenile Division, Circuit Court of Cook County, Illinois)

SOME BASIC DEFINITIONS

Recidivism—a finding of delinquency, violation of probation, or conviction in criminal court for a youth under 17 who already had a finding of delinquency.

Recidivism Rate—the percentage of those with findings of delinquency who get new findings. The new findings are for violent *or* non-violent offenses, unless otherwise noted.

This study ignored new charges without findings since it was decided to use a strict interpretation of recidivism.

New Findings—either of delinquency or of violation of probation. Findings up to April 1, 1977 were counted. Status offenses are excluded.

Offense—For purposes of tabulation each petition, regardless of the number of counts, is counted as one offense. If a petition has findings both for a violent and a non-violent offense, it is counted as violent.

Violent Offenses—For purposes of this study, violent offenses are limited to rape, robbery, homicide, assault, and battery.

Base Group—In 1974, over 800 youths had findings of delinquency for violent offenses. Over 200 of these went to the Department of Corrections. Those remaining numbered 606. Except where otherwise noted, *these 606 are the base group*. They are traced from their finding in 1974 through March, 1977 for findings on new offenses.

Base Offense or *Base Finding*—the violent offense for which there was a finding of delinquency in 1974. If a youth had two such findings in 1974, the *first* one is the base finding.

II. OVERALL RECIDIVISM RATES

Overall recidivism rates are proportions of the base group with new findings *at any time until April 1977*. Several such rates are presented. They vary according to violence and seriousness of new offense, and age of offender. (In these overall rates for any recidivism and for violent recidivism, each offender is counted only once, even if he committed two new offenses.)

A. General

Of the 606 juveniles in the base group, 84 had findings for new offenses, violent or non-violent. In other words, the proportion with any overall recidivism was 1 in 7, or 14 percent.

B. Age

The overall recidivism rate was lower for older juveniles:

Most (337)[1] of the base group were 15 or older January 1, 1974, and so had much less time than the others to commit new offenses as juveniles. These had an overall recidivism rate of 1 in 20, or 5 percent of that age group.

Those under 15 on January 1, 1974 had an overall recidivism rate of 1 in 4, or 25 percent of that age group.

C. Violent Recidivism

For almost half (41) of all 84 recidivists, the new findings were for violent offenses. This makes a violent recidivism rate of 7 percent, or 1 in 14, of the total base group.

D. Multiple Recidivism

Eleven recidivists had findings for more than one new offense: 10 had 2 new findings; 1 had 3 new findings. They make for a multiple recidivism rate of 2 percent, or 1 in 50, of the base group.

E. Seriousness of Recidivism Offense

In 18 instances the new offense was more serious[2] than the base (1974) offense. Thus only 3 percent, or 1 in 33, became involved in offenses more serious than that for which they were originally referred.

III. RECIDIVISM BY PREVIOUS COURT HISTORY AND AGE

A. 368 of the juveniles in the base group had at least one earlier petition. But for many (238 of 606), the 1974 findings was on their first petition.

These first-petition cases will be called *first offenders*. They may have been arrested or referred to court before, but the 1974 finding was the first petition that was filed.

Those in the base group who had at least one earlier petition before their 1974 finding will be called *repeaters*. Repeaters need not have had earlier *findings*, but they had at least one earlier petition that was filed.

B. Among the 9 to 13 year olds, there is a striking difference in overall recidivism rates which emerges between the 68 first offenders and the 75 repeaters. In this age group, among the *first offenders*, about *1 in 5 (19 percent)* are recidivists; among the *repeaters*, *1 in 3 (33 percent)* are recidivists.[3]

Without controlling for age, the recidivism rate of first offenders was only a little lower than that of repeaters:

First offenders—12 percent recidivist,

Repeaters—15 percent recidivist.

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[1] One youth who turned 17 before 1974, although his findings was in 1974, is not counted here.

[2] The standards for deciding which offenses were more serious are as follows: (1) Those offenses defined in law as necessarily involving (more) physical harm or contact. Thus rape or battery is considered more serious than robbery or assault; (2) Those as serious as the 1974 finding, but with more counts. There were two such cases; (3) Aggravated battery was considered more serious than (simple) battery; aggrevated assault, more serious than (simple) assault.

[3] The difference between these two groups could happen by chance about 1 time out of 10.

D. Although first offenders were a little younger than repeaters, the recidivism rate for older juveniles (14-16) was almost the same for first offenders and for repeaters.[4]

When isolating groups with higher recidivism rates, age must be considered. But age alone explains no recidivism. For example, 12 year olds and 15 year olds had about the same ratio, if one allows for the fact that a 12 year old has more time to commit a new offense before turning 17. Youths less than 15 on January 1, 1974 had about the same overall rate for each age group. (As noted earlier, this averaged 25 percent.) Deviations from this average are either small or because of the small number of persons a given age, could easily have resulted from chance.

IV. YEARLY RECIDIVISM RATE

The yearly recidivism rate is the proportion of the base group committing new offenses in a given year. (A multiple recidivist is counted each year he committed a new offense, but only once a year.)

The base group for a year excludes anyone turning 17 before or during that year.

The yearly recidivism rate increased throughout the years studied. Most notably, from 1975 to 1976[5], the proportion committing new offenses increased as follows:

[In percent]

	1975	1976
A. Recidivism rate for violent offenses	4	8
B. Recidivism rate for nonviolent offenses	5	7
Total recidivism rate for any offense	9	[1] 15

[1] The difference between the 1975 and 1976 rates could be due to chance about 1 time in 20.

V. RECIDIVISM DURING PROBATION

New offenses committed after probation began numbered 85.[6] Almost half of these (41) were committed *during* probation. The first 5 months of probation accounted for 18 of these 41.

Offenses committed in the earlier months of probation were less violent than those committed later. During the first 5 months, violent offenses were about 1 in 6 (16 percent) of those committed.

Those recidivists *after* the first 5 months of probation committed almost as many violent offenses (31) as non-violent (36).[7]

In other words, the violent proportion of recidivism was about one-third as high during the first 5 months of probation as it was later:

Recidivism first 5 months—16 percent violent,

Recidivism later[8]—46 percent violent.

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[4] For a year-by-year comparison, see the table on Page 15.

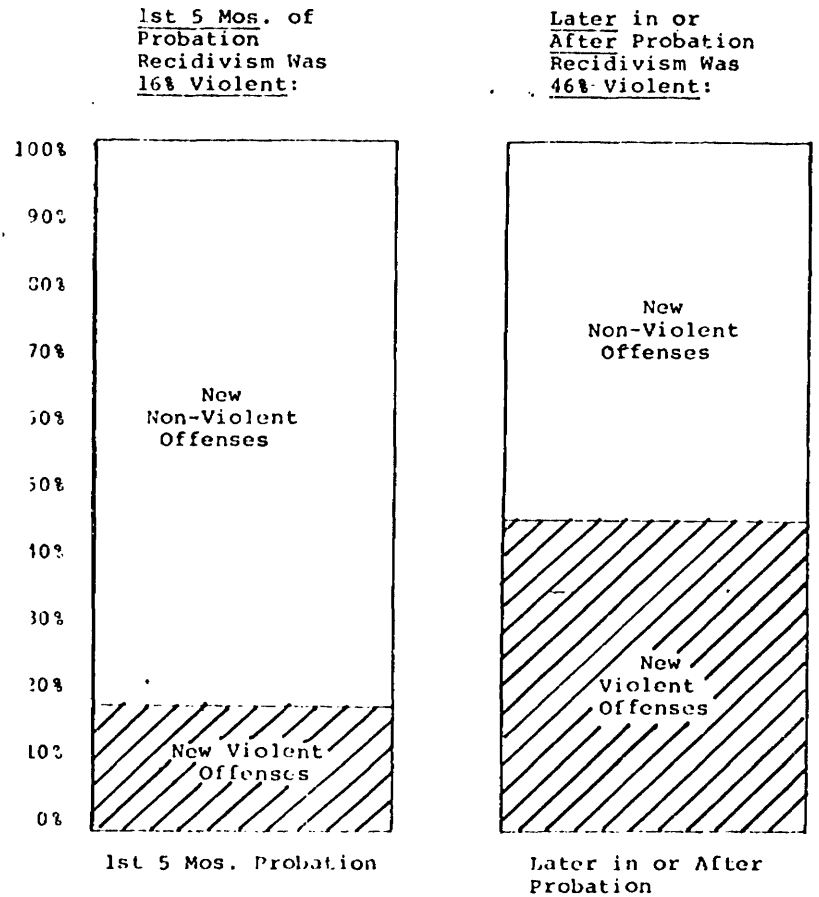
[5] 1974 and 1977 were partial years and therefore have been excluded.

[6] 11 other offenses were committed before, or without indication of probation.

[7] The difference in proportions of violent recidivism committed during the first 5 months of probation and committed later could result from chance about 1 time in 50.

[8] During the 11th to 15th months of probation, just one of the seven new offenses was violent. These numbers, however, seem too small to be considered statistically significant.

DURING 1st 5 MONTHS OF PROBATION, RECIDIVISM WAS LESS VIOLENT THAN LATER



VI. RECIDIVISM AFTER PROBATION

A. After probation was terminated, 42 recidivists committed their new offense. For these juveniles, the length of probation was as follows:

6 months or less—15 recidivists
7-12 months—16 recidivists
13 or more months—11 recidivists

B. These three groupings of recidivists have substantially different proportions of violence in their recidivism according to the length of their probation.

Most sharply differing are those with probations of 13 or more months contrasted with the two groups having shorter probations.

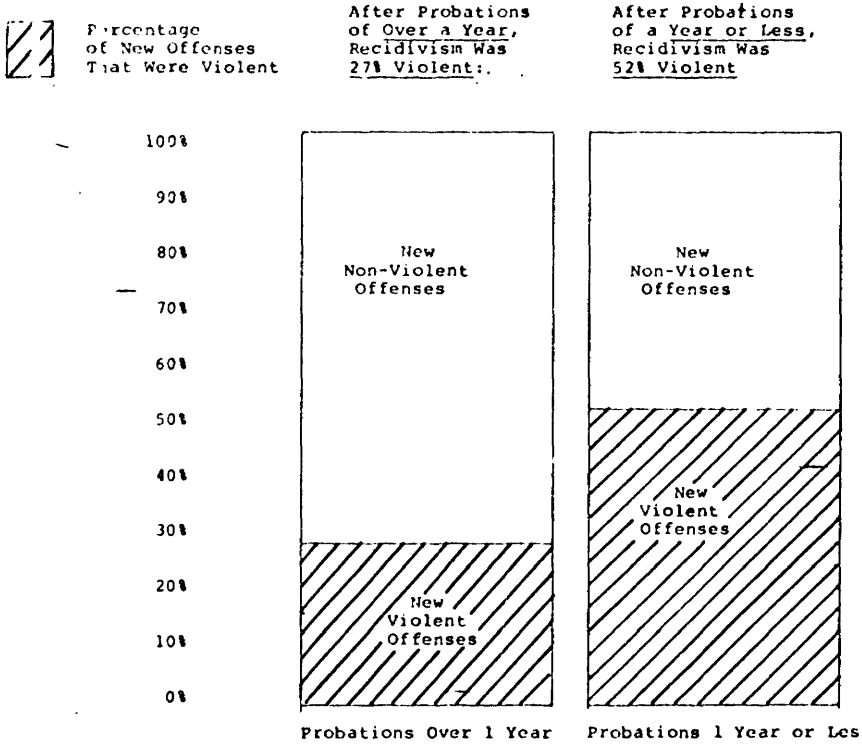
Recidivists with shorter probations (a year or less) committed mostly violent new offenses: 17 violent, 16 non-violent offenses[9] (52 percent violent). This proportion was true for first offenders as well as repeaters.

In sharp contrast are those recidivists with longer probations (13 months or more). They committed 3 violent and 8 non-violent offenses (27 percent violent).[10]

[9] Two recidivists committed two offenses each.
[10] This difference in violence between the longer and shorter probations could be the result of chance about 1 time in 5.

This is *not* simply a matter of the shorter the probation, the more violent the recidivism. Among probations of a year or less, the pattern reverses: [11]
Probations 6 months or less—41 percent violent recidivism,
Probation 7–12 months—63 percent violent recidivism.

RECIDIVISM WAS LESS VIOLENT AFTER LONGER PROBATIONS



VII. MOST COMMON NEW OFFENSES COMMITTED BY RECIDIVISTS

Recidivists committed more new burglaries (33) than any other offense. Next most frequent new offenses were robberies (22), batteries (16), and theft (11).[12]

VIII. SUMMARY

Some of the most striking discoveries of this recidivism study are as follows:

A. The overall recidivism rate was 14 percent (1 in 7).

B. Of those who were 9–14 years old January 1, 1974, 1 in 4 committed new offenses.

C. On terminated cases, recidivism was less violent if the probation had been over a year than if it were shorter.

D. If a new offense were committed while on probation, the recidivism was less violent during the first five months of probation than later.

E. The recidivism rate was highest among young (9–13 year old) repeaters (compared with young first offenders and older youths). But among older juveniles the recidivism rate was only a little higher for repeaters than for first offenders.

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[11] The odds of this being by chance (about 1 in 4) are a little higher than for the difference between probation of a year or less and longer probations.
[12] A more detailed breakdown of offenses is in Table 11 in the Appendix.

APPENDIX

TABLE 1.—*Overall recidivism rates expressed in proportions*

Proportions of the base group committing new offenses

Type of recidivism:	Proportion
Any recidivism, violent or nonviolent	1 in 7
Any recidivism, violent or nonviolent, age 15 to 16 [1]	1 in 20
Any recidivism, violent or nonviolent, age 9 to 14 [1]	1 in 4
Violent recidivism	1 in 14
Double or triple recidivism	1 in 50
Graver recidivism	1 in 33

[1] Age January 1, 1974. The base group is the youth of that age.

TABLE 2.—OVERALL RECIDIVISM RATES: NUMBERS AND PERCENTAGES

	Number of recidivists	Recidivist percentage of base group
Any recidivism, violent or nonviolent	84	14
Any recidivism, violent or nonviolent, age [1] 15 to 16	17	5
Any recidivism, violent or nonviolent, age [1] 9 to 14	67	25
Violent recidivism	41	7
Double or triple recidivism [2]	11	2
Graver recidivism [3]	18	3

[1] The percentage with new findings before April 1977.
[2] Age Jan. 1, 1974. Base groups: for 15 to 16: 337; for 9 to 14: 268.
[3] 1 triple and 10 double recidivists.

TABLE 3.—OVERALL RECIDIVISM RATE: 9–13 YEAR OLDS

First Offenders 19 percent (13 of 68 committed new offenses).
Repeaters [12] 33 percent (25 of 75 committed new offenses).

TABLE 4.—OVERALL RECIDIVISM RATE—ALL AGES

First Offenders 12 percent (29 of 238 committed new offenses).
Repeaters 15 percent (55 of 367 committed new offenses) [14].

TABLE 5.—RECIDISM RATE FOR FIRST OFFENDERS AND REPEATERS, BY AGE

	Jan. 1, 1975	First offenders: Percent recidivist	First offenders: Number of recidivists and base group	Repeaters: Percent recidivist	Repeaters: Number of recidivists and base group
Older juveniles	16	7	0 of 51 [1]	2	2 of 97.
	15	7	5 of 73	9	10 of 116.
	14	24	11 of 46	23	18 of 79.
	13	17	6 of 35	33	15 of 45.
Younger juveniles	13	13	2 of 16	40	6 of 15.
	11	33	3 of 9	33	4 of 12.
	10	33	2 of 6	0	0 of 3.
	9	0	0 of 2		(2)

[1] None of the 51 offenders who were 16 years old Jan. 1, 1974, had a new finding.
[2] No findings this age.

[12] The difference between these two groups could occur by chance about 1 time in 10.
[14] A non-recidivist repeater was dropped from this base group because he turned 17 in 1978 (though his finding was in 1974).

TABLE 6.—OVERALL RECIDIVISM RATE BY AGE[1]

Age Jan. 1, 1974	Recidivism rate (percent)	Number of recidivists	Number of youths that age
16	1	2	148
15	8	15	189
14	23	29	125
13	26	21	80
12	26	8	31
11	33	7	21
10	22	2	9
9	0	0	2
Total	14	84	605

[1] Omitted is 1 youth who turned 17 before 1974.

TABLE 7.—*New offenses: When they were committed*

Time of new offenses[1]:	Number of new offenses
During first 5 months of probation	18
During probation, after 5 months of probation were completed	23
After probation	44

[1] 11 offenses were committed before, or without indication of probation.

TABLE 8.—*When new offenses were most violent*

Time of new offenses:	Percentage of new offenses that were violent
During 1st 5 months of probation (3 of 19 were violent)	16
Later in probation (11 of 22 were violent)	50
After probation (20 of 44 were violent)	45

TABLE 9.—LENGTH OF PROBATION BEFORE THE MOST VIOLENT RECIDIVISM

Length of probation	New offenses		
	Total	Violent	Percent violent
6 mo or less	17	7	41
7 to 12 mo	16	10	63
Total: 1 yr or less	33	17	52
More than 1 yr	11	3	27

TABLE 10.—RECIDIVISM BY TYPE OF FINDING

Type of finding	Violent offense	All offenses
Conviction, criminal court	2	3
Finding of delinquency	29	56
Finding of violation of probation	11	37
Total	42	96

TABLE 11.—NEW OFFENSES, BY TYPE [1]

	Number of new offenses
Violent new offenses:	
Homicide	3
Rape	1
Aggravated battery	7
Battery	9
Aggravated assault	2
Assault	0
Armed robbery	6
Strong armed robbery	16
Nonviolent new offenses:	
Burglary	33
Theft	11
Unlawful use of weapon	4
Other	7

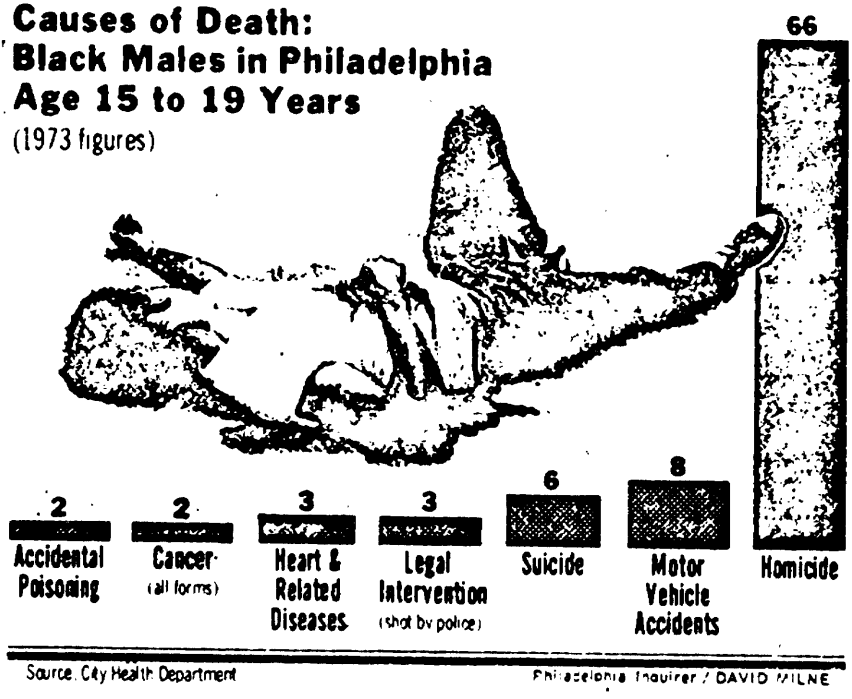
[1] Includes each count with a finding, even if more than 1 count in a petition.

CRISIS INTERVENTION NETWORK, PHILADELPHIA, PA.

(By Bennie J. Swans, Jr., Director)

The Crisis Intervention Network (CIN) was formed as a direct result of the extreme number of gang related deaths and injuries, which occurred almost daily in many communities of Philadelphia.

Prior to the development of CIN, a major newspaper, the Philadelphia Inquirer (2-23-75) reported "The Causes of Death of Black Males", Ages 15-19 year old, during 1973, 66 percent was attributed to homicides. The largest number of homicides was attributed to juvenile gang activity. During the period 1966-1974, 288 youth homicides were attributed to juvenile gangs.—This figure, horrendous as it is, does *not* include the many, many hundreds of the youngsters whe received major injuries as a result of gang-warfare.


Causes of Death:
Black Males in Philadelphia
Age 15 to 19 Years
(1973 figures)
2
Accidental Poisoning
2
Cancer (all forms)
3
Heart & Related Diseases
3
Legal Intervention (shot by police)
6
Suicide
8
Motor Vehicle Accidents
66
Homicide
Source: City Health Department
Philadelphia Inquirer / DAVID MILNE

DESCRIPTION OF PROBLEM

Over the past decade, the formation of juvenile gangs has become a significant and all too common urban phenomenon. Such gangs have been responsible for perpetrating heinous crimes against other juveniles (gang members and non-members) and often-times, against the community at large.

Juvenile experts in the field estimate there to be at least one hundred twenty-five (125) gangs in the City of Philadelphia, with an approximate following of more than three thousand five hundred (3,500) youths, ranging in ages from 9 to 25 years.

Philadelphia's law enforcement officials state that close to eighty (80) of the one hundred twenty-five (125) gangs are directly responsible for the majority of crimes committed against persons in Philadelphia, i.e. homicides, et al.[1]

During the past decade, two hundred and seventy seven (277) homicides were attributed to juvenile gangs—to say nothing of the numerous major injuries resulting from their almost daily skirmishes. Statistics compiled by the Philadelphia Police Department covering the end of the third quarter of the calendar year 1973, cites thirty-five (35) homicides; two manslaughter cases; forty six (46) rapes; three hundred thirty six (336) robberies; etc.—all attributed to juvenile gangs.

This report further stated that 42.5 percent of persons arrested for major crimes during the third quarter of 1973, were juveniles.

CHARACTERISTICS OF THE JUVENILE GANG MEMBERS IN PHILADELPHIA

The Philadelphia gang youths were killing each other at an alarming rate.

1. The youth gang ranges in age from 9 to 25 years.

2. More often than not, he is black; lives in the ghettoes; is poorly educated and aggressive. (Not aggressive in the effective sense that generates high self-esteem as a strong point.)

His most tragic character trait is his fanatical devotion to the principle of "territorial imperative" of gang "turf".

3. Gang members are assigned grades, based upon age and prowess. For example: Pee Wees, Midgets, Juniors, Seniors and Old-Heads. The Old-Heads set the standards for the group. "Old-Heads" is a term used to refer to a gang member between 18–25 who usually provides the direction and leadership. Young gang members tend to follow models set by "Old-Heads".

4. Gangs are usually names for their location, i.e., 12th & Oxford, 24th & Redner, or sometimes, by some exotic term such as Zulu Nation or Morrocos.

5. Most gang members drink wine and start doing so as early as 10 years of age.

6. At age 13 or 14, a significant number of gang members have experienced a number of encounters with the law. At age 21–23, he is a recidivist many times over.

7. Due to the number of gangs, and the reservation of specific areas as their domain or turf, the gang problem pervades most neighborhoods of the inner-city and, consequently, has become a major inner-city-problem.

8. Moreover, there is increasing evidence that gangs provide an avenue along which drugs pass to other youth. Drug use and abuse have been found to be increasing among a substantial number of gang members. This increasing use of drugs has caused many local gangs to move from theft and violence involving territorial protection as a status symbol, to armed robbery, burglary and homicide as a necessary means to support their habits. (The citing of the problem is in no way construed as one involving the majority of our inner-City-youth but, rather, to emphasize the serious disruptive and costly behavior of a few problem youth.)

PROJECT ANALYSIS

The Crisis Intervention Network was formed as a result of a successful pilot program launched in Southwest Philadelphia in 1974. The Projects' objectives are as follows:

(1) to intervene in crisis situations between hostile gangs, so as to provide immediate relief to communities plagued by youth violence.

[1] Philadelphia Police Department 1973.

(2) to establish regional parent councils as a prevention mechanism in areas where gangs exist.

There are five Crisis Teams, each consisting of five (5) Team Members and one (1) Team Leader. Each Team operates in one of the following sections of the City: (1) North Philadelphia, East of Broad Street; (2) North Philadelphia, West of Broad Street; (3) Germantown; (4) West Philadelphia; and (5) South Philadelphia.

Each Crisis Intervention Network Team is equipped with a City vehicle which has a two-way radio. Each Team Member is equipped with a beeper, which facilitates communication at all times. With the beeper, the Team Member can respond quickly 24 hours a day. When the Team responds to a crisis situation, it is a total mobilization of persons in the area.

Each geographic area of the City plagued with youth violence has a Gang Control Probation Officer assigned to work in conjunction with the Crisis Intervention Team in that area. The Probation Officers carry relatively small caseloads which consist of former gang members who continue to have an influence over their gang. The smaller caseload enables the Probation Officers to spend a greater proportion of their time within the community.

CRISIS INTERVENTION NETWORK PROGRAM RATIONALE

Crisis Intervention Network has focused its efforts on finding a solution to this problem and in so doing, attempted to curb the perpetual wasting of young life.

Since the establishment of Crisis Intervention Network, gang deaths have reduced drastically. The Crisis Intervention Network is a joint effort of several agencies to minimize gang violence. The participating agencies include the Philadelphia Board of Education, the Probation Department of the Court of Common Pleas, the Police Department, the Welfare Department, local hospitals, churches, youth, and community groups.

In 1974, the year prior to the establishment of Crisis Intervention Network, on a city-wide basis, gang deaths in the City of Philadelphia stood at 32. In the Project's initial year, gang deaths were reduced to 14 and in 1976, the total of gang deaths was six (6).

In order for any gang work program to function effectively and efficiently the type of personnel you hire is important in addition to the structure you create for them to function in. In the past most programs in Philadelphia which were created specifically to deal with gang problems, adopted approaches to the selection of their personnel and their objectives. Although, while many programs which preceded Crisis Intervention Network had much more manpower and resources available to them, their end results were much lower than anticipated.

METHODOLOGIES AND APPROACH

One of the most common approaches to the gang problem in the past was the one-worker to one gang approach. At one time in this City, over two hundred gang workers were deployed throughout Philadelphia as opposed to the thirty workers which Crisis Intervention Network now employs. Although many of these workers were dedicated and committed to the eradication of gang violence, they were able to accomplish very little in relationship to achieving that goal because of the way they were structured.

These workers did not function as a team, even when a conflict involved different gangs coming under the auspices of different workers. Essentially what happened was that a worker would be hired, told that he was assigned to work with a particular gang, and sent on the street under the assumption that he would infiltrate the gang, *develop their confidence, become a part of them, and his positive influence would outweigh the negative influences which were prevalent in the gang.* What happened in many cases was that the worker was co-opted by the gang and either consciously, or unconsciously sanctioned their involvement in negative activity. Also when it became necessary to intervene in, or mediate a dispute between rival gangs, the worker was actually looked on as part of that gang, even though he did not participate in gang warfare. Rival gangs felt that the worker was going to side with whatever gang he worked with.

Another problem in the past, was the type of people selected to work in gang-control programs. Many programs made it mandatory that a person have

a degree in order to obtain a job. Thus, many workers were going into communities to work with no previous background or experience in relating to these youth, other than the theoretical approaches relayed to them through textbooks. The worker was viewed as an outsider to the community and had to spend much or more of his time proving his credibility.

The other extreme used in hiring gang-workers was when the "leaders" themselves were hired to keep the gang "cool". Naturally his powers of intervention and mediation in crisis situations were severely limited. In many cases, he was the one buying the wine, the guns, etc. for the gang. It was always to his advantage to use the threat that if he was fired, his gang would become more aggressive. In many cases, he could do very little with his gang because other members felt that if they acted-out as they had done in the past, then they would have a chance to get paid to be "cool."

Crisis Intervention Network attempted and succeeded in using a logical approach to the hiring and structuring of their workers. The first and foremost qualification was that a worker be indigenous from the area of the City that he was to work in. He was also required to live in that area. This was done for two reasons. The first reason was that a person who was raised and lived in a community for a number of years had a better understanding and knowledge of that community's needs and problems. Also since he still lived in that community the desire to do something about changing it was that much greater.

The second reason was that since the worker might have to respond to a crisis day or night, he must live close to the neighborhood he was responding to in order to get there quickly.

A strong academic background was not a prerequisite for employment in Crisis Intervention Network, however, it was a plus for those who possessed the other skills necessary to do the job. The type of person Crisis Intervention Network was looking for was someone who was a leader in his own community, someone who could relate to both the youth in an area and the adults in an area, someone who had an understanding and knowledge of the organizations, resources, and services which were available in his community. What we had found from working the streets was that there were people in local neighborhoods who when fighting; these people in the past had never any resources available to them to enable them to anticipate or respond quickly to impending violence. Most of the workers hired by Crisis Intervention Network tended to be a little older than workers hired previously in gang-control programs. While most of them had come up through the gang structure they had been removed from it long enough not to be identified with a particular gang and also long enough to establish a track record in their respective communities as being fair and conscientious individuals.

Crisis Intervention Network structured their workers so they would operate as a team as opposed to individuals. Through the composition of the six members of a team, the team has a relationship with every gang in a geographical area. Since they function as a unit no one worker is identified as being partial to a particular gang.

The key to dealing with gang problems is anticipation, mobilization, and communication. Gang members usually do not just pick up a gun and decide where there is a shooting usually something small happened which preceeded the shooting and nobody followed up on it. In the past two youths from rival gangs would get in a fight in school. The school would deal with the problem there, usually by expelling the youth involved. Later that night, there would be a shooting in the community and no one would seem to know why. If the school had communicated the "little" problem which had occurred earlier in the day to the gang worker in the area or the recreation center in the area, or to a community group in the area, someone who could have *anticipated* that there was going to be problems in the area and prepared for it.

After a problem is anticipated there has to be a way to mobilize the community to respond to the situation. All Crisis Intervention Network teams are equipped with a City vehicle with a two-way radio and each member of the team is equipped with a beeper so he can be contacted and respond quickly 24 hours a day.

Because the team is responding as a unit, they can gather more information, cover more area, and involve more people in the intervention process.

When Crisis Intervention Network responds to a crisis we feel that it is a total *mobilization* of the people in that area.

The Central Communication Center is the heartbeat and focal point of the Crisis Intervention Network. All information on impending conflicts is channeled through the Center. Schools, recreation centers, hospitals, community organizations, probation officers, parents, and police officers can all share information and develop plans for dealing with gang problems. Rumors are the cause of many gang wars. By use of the Communications Center, many rumors can be dispelled, accurate information can be provided to all parties involved, and all workers responding to a situation have a common informational base. *Communication* is the crucial ingredient to implementing a successful operation.

The thing that makes Crisis Intervention Network a long lasting approach to dealing with gang problems is the involvement of grass-root community folks through the formation of Local Parent Councils. In every area where there is a gang turf, it is our desire to organize a body of parents. The parents are organized into three standing committees, Youth Activities Committee, Communications Committee, and Ways and Means Committee.

The Youth Activity Committee is designed to create a mechanism for adults in an area to interact with youth in an area. The Youth Activity Committee plans functions for adults to do things with youth whether it be a trip to Great Adventure, a skating party, or a rap session. When youth get to know adults in a positive role model it becomes difficult for them to act out in a negative fashion at least while in the presence of the adults. It stands to follow that the more adults you involve in interacting with youth. It stands to the greater the work force you have in responding to gang problems. When Crisis Intervention Network responds to a problem, it is not in a vacuum, there is a mobilization of those adults in the community who work with our parents councils.

The Communications Committee is designed to create communication between adults in different turf areas. In most cases where we brought in parents of gang members who were fighting each other the turf barrier that existed in the minds of the youth were also prevalent in the adults. A common expression often heard in meetings, "those kids are always coming over here picking on our kids". The Communications Committee fosters communication among parents and allows them to share information about things happening in their area.

The Ways and Means Committee is designed to allow parents to raise funds for activities. It also prevents them for being entirely dependent on anyone for resources.

DEGREE OF LOCAL SUPPORT FOR CRISIS INTERVENTION NETWORK

The Crisis Intervention Network receives considerable local support. The Project receives direct assistance and cooperation from the Managing Director, whose office is responsible for providing all essential services for the entire City, e.g., Police Department, et. al. The Project has received acknowledgements and endorsements on its success from the Governor of the State of Pennsylvania, as well as the Mayor's Office.

Many City and private agencies form the "External Management Team", which provides assistance to the Crisis Intervention Network. This "Team" consists of hospitals, Board of Education, Police Department, recreation centers, Court of Common Pleas, community groups and organizations.

The Crisis Intervention Network enjoys a very positive relationship with the media in the city. Local television stations provide public service announcements directing community persons to the Project for assistance in resolving youth violence. Public service announcements are also used to acknowledge support and outstanding work by local citizens. Local newspapers have assisted the Project by documenting positive results and achievements of the Project, and also, providing feature articles, e.g., the success of the Mayor's Summer Job Program for Youth, etc.

A great deal of cooperation and support is also received from private enterprise in the City. Various alternatives to youth violence programs are successful due to the cooperation of the business community.

Citizen recognition programs designed to acknowledge community support by presentation of awards are also supported by the business community.

REPLICABILITY OF CRISIS INTERVENTION NETWORK CONCEPT

(1) Police departments in urban areas throughout the country have reported a spiraling number of gang related homicides by youth. Some of the cities plagued with this problem are New York, Chicago, Los Angeles, Detroit, and San Francisco. A recent study by Professor Walter Miller of Harvard University, (*Violence By Youth Gangs and Youth Groups As a Crime Problem in Major American Cities*), revealed that during a 3 year period, (1972–1974), a total of 525 youths lost their lives in these large urban areas. This study also revealed that the number of gang members in these cities, including Philadelphia, ranged from 760 gangs and 28,500 members to 2,700 gangs and 81,500 between 1972–1975.

(2) The Project's methodology of operation is adequately documented and can be easily understood. The Project utilizes the basic approach of Problem-Solution. Prevention is also heavily emphasized.

The Project's Crisis Teams perform sector work which is planned in advance by supervisors. Also, daily activity reports of various kinds are maintained by each Team.

The Communications Center maintains detailed records of radio, and telephone communications from the community, Teams and other agencies.

(3) The concept and methodology of the Project contribute much to its success. One basic principle of the Project is that "gang problems" can be effectively controlled if we can do the following: (a) anticipate, (b) mobilize, (c) communicate.

A special feature of the Project is how Team Members are selected for employment. Every Member is indigenous to the area of the City in which he works and must live in said area. The reasons for this are: (d) that a person who was raised and lives in a community, has a better understanding of that community's needs and problems (e) that an employee is able to respond quickly, day or night (f) such employee has knowledge of the resources, community splinter groups and organizations and services in his area.

SEQUENTIAL STEPS TO CALL RESPONSE SYSTEM

1. Through area rotation, team members develop relationship with hierarchy of area gangs.
2. Adult and juvenile probation officers identify and establish caseload of applicable active gang leaders.
3. Develop strong parent contacts in each gang turf serviced preferably, parents of gang members or respective community leaders.
4. Obtain permission to verify and contact adult participants in efforts to intercede in youth conflict.
5. Establish communication resource list for communication center.
6. Communication center receives information on potential gang violence.
7. Evaluate validity of information thru area resource list, i.e., parents, community leaders, gang members and police district.
8. Emergency! Contact police, J.A.D., Management, middle management, middle management, and disseminate information thru car radio for team response.
9. Team responds to sources of information. Gathers additional information from sources and youth in conflict.
10. Attempt to mediate by downplaying the importance of incident leading to conflict. Try to kill participants justification for revenge. Exert positive influence on clients.
11. On-site evaluation of activity.
12. Where possible, feedback information to communication center, for additional resources i.e., adult & juvenile probation, parents, positive peers, police, if necessary.
13. Team meeting for further discussion of status or strategy.
14. Middle management review, assessment.
15. Management review, documentation, guidance and feedback.

SUMMARY

The Crisis Intervention Network was established on common sense values. In 1974, the year before Crisis Intervention Network was established on a city wide basis gang deaths in the City of Philadelphia stood at 32. In Crisis Intervention Network's initial year deaths were reduced to 14 and in 1976 the total of gang deaths were 6.

We know that most gangs and gang turfs are as old as the structures that occupy them, concluding, of course, that young adults often become victims of their environment that we, as responsible adults, no longer want a part of and that's the problem. We know too, that as a direct result of the years of racial oppression, it is often incumbent upon black males to prove their worth to their peers, often, in the most vicious terms. How many times have we seen or heard of young adults taking the lives of others, simply because of an act of embarrassment, or for that matter, from the coaxing of a friend. The problem of youth violence is the problem of the patterns and practices of a racist society, one that excludes black youngsters from enjoying the American dream. I think it's fair to raise the question. If we're serious about solutions, then we must be serious about insuring that black youngsters have a fair shot at employment, education and other related resources. Equally as important, black responsible adults have to play a role in that process so that they may aid in preventing black youth from killing one another. How many times have we witnessed black youth standing on the corner smoking dope, drinking wine, and an authority person representating the system comes up and we witness an immediate change in behavior.

On the other hand, how many times have we seen, black adults (senior citizens) try to get through a crowd of youth and decide to walk in the streets or just turn in the other direction to avoid our own children.

My point is, until we begin to make provisions for our adults to be perceived as leaders, givers and providers, the problem of youth violence and crime will continue to fluorish in our communities. I have not yet seen a parent that has wished for their child to grow up to be a gang member, a thief, or a thug. That suggests to me that parents love their children.

Just in terms of a point of clarity, I'd like to conclude by saying, I don't believe that Crisis Intervention Network is a panacea by any means.

However, I consider it a reasonable approach to diffusing the gang problems to a point where other services can be provided to allow for the healthy growth and development of blacks and other minority children throughout the country.

In conclusion, it is necessary to state that without the total cooperation given to Crisis Intervention Network by the city administration, the Managing Director's Office in particular, it would have been impossible to implement a program with the scope and magnitude of Crisis Intervention Network.

Crisis Intervention Network has been allowed to function with total flexibility, devoid of any political interference. The program was able to unite the City, the community, and respective organizations in a concentrated effort to combat youth violence.

CONFRONTING YOUTH CRIME

Report of the Twentieth Century Fund Task Force on Sentencing Policy Toward Young Offenders

Background Paper by Franklin E. Zimring

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Introduction

Crime in the United States is predominantly the province of the young. Males between the ages of thirteen and twenty—the turbulent years of adolescence—comprise about 9 percent of the population but account for more than half of all property crime arrests and more than a third of all arrests for offenses involving violence. In all Western nations, crime is concentrated among adolescents. But in the United States, where crime rates are high and violent crime is much more widespread than in other developed societies, youth crime is a special problem.

These statistics raise two basic and difficult questions:

- Why is crime so intensely concentrated in the adolescent years?
- Why is violent youth crime so much more prevalent in the United States than in other industrial democracies?

We know some, but not all, of the answers to these questions. The American adolescent, struggling with the biological and psychological pressures of growth, seeks status and reassurance in the company of his peers. Rebellion against parental authority and restrictions is combined with pressure to conform to the expectations of other adolescents. The teen years are a period of experiment, risk-taking, and bravado. Some criminal activity is part of the pattern of almost all youth subcultures. In urban areas, physical mobility and conspicuous materialism increase the volume of crime. Uneven distribution of income, racial segregation, and a culture that makes the tools of violence available contribute to the number of violent offenses by the young and the deaths and injuries that such crimes produce.

Separating Fact from Fiction

Youth crime has always been the subject of public concern; in recent years, it has become a matter of public alarm. Unfortunately, the media

and the public tend to focus on sensational cases. Misinformation and emotional rhetoric often substitute for fact in the public debate over crime.

Some basic facts:

- Most young persons violate the law at some point during adolescence; relatively few young persons are repetitive, serious criminals.
- Most youth crime is not violent crime; offenses involving property outnumber violent crimes by more than ten to one; yet violent crime by the young has increased and is a substantial social and public health problem.
- Most violent crime by the young is committed against young victims; a substantial amount of violence also spills over to other age groups, and about 10 percent of all robbery by young offenders involves elderly victims.
- Most young persons who commit serious offenses will outgrow the propensity to commit crime in the transition to adulthood; a significant minority of serious young offenders will persist in criminal careers.
- Most young offenders who commit acts of extreme violence and pursue criminal careers come from minority ghettos and poverty backgrounds; so do their victims.
- Youth crime has increased dramatically over the past fifteen years, in part because of the growth of the youth population in large urban areas that have been incubators of crime; in the next few years, youth crime rates will probably not continue to grow at the pace of recent years because the total youth population will decline and the minority youth population in most major cities will remain relatively stable.*

This Task Force is concerned with sentencing policy toward the large number and great variety of young offenders arrested each year. Our mission is broader than the reform of juvenile justice in the sense that it encompasses all adolescents accused of crimes—both those youths who are sent to criminal court and those who are sent to juvenile court.

Too often, efforts to reform juvenile justice have ignored the treatment of young offenders in criminal courts. The boundary between the juvenile court—whose task, in theory, is to provide help and guidance for those who come under its jurisdiction—and criminal court—where the young

*The sources on which these conclusions are based, and the difficulties inherent in the confident use of existing sources of data are discussed in Chapter I of the background paper,

offender is usually subject to the full range of criminal sanctions but also is entitled to a jury trial and the full range of appeals—is both arbitrary and subject to abrupt change. The maximum age of juvenile court jurisdiction varies in the United States from under sixteen to under nineteen. In the past five years, no fewer than ten of the fifty states have changed the maximum—some raising it and others lowering it. **The Task Force is convinced that no single age during mid-adolescence should be used as a sharp dividing line for sentencing policies. We have considered sentencing policy toward young offenders in both juvenile and criminal courts and recommend coordinating the policies of these two institutions so that public policy toward young offenders is based on consistent and coherent premises.**

The mission of this Task Force is also narrower than that of some other recent law reform study commissions, which have dealt with the entire range of behavior that is currently under the jurisdiction of the juvenile court.[1] This Report focuses on youth crimes with discernible victims—crimes against property and personal safety—and on the sanctioning decision rather than on the reform of procedures for fact-finding and court organization.

The rate of youth crime is largely determined by factors outside the justice system—social forces that fix the meaning of adolescence, economic opportunity, racial mobility, and cultural values in the milieu of the adolescent and in the larger social order, which he or she has done little to shape. The Task Force believes that sentencing policy is, at most, one of many conditions that determine the quantity and severity of youth crime in the United States.

Moreover, **no sentencing policy is any better than the facilities we use to deal with the young offender.** The facilities provided for the young—within and without the community—must be adequate and humane. No matter how carefully crafted, no sentencing system makes sense if the adolescent offender is sent to a mega-prison such as Stateville or Attica.

The Task Force has struggled to reconcile society's need to shelter the young with its equally strong need to deal with serious crime. We do not view the details of our proposals as a definitive solution confidently derived from first principles but as a step toward rationality and consistency in an area where there are no totally right answers.

Rethinking Basic Premises

The establishment of the juvenile court in 1899 was a dramatic innovation in social policy toward youth crime. The purpose of the juvenile court was not to dispense justice to criminals but to identify and meet the needs of

"delinquents." Because the juvenile court would exercise state power only benignly, the judge was given discretion to sentence any delinquent to anything from probation through institutional confinement—until his or her majority. And because the label of delinquency was to carry no stigma, almost any troubled youth could be found delinquent.

In practice, however, the label of "juvenile delinquent" does carry a stigma. And the power to confine and supervise can be abused. The arbitrary boundary between the juvenile and the criminal court places too much importance on a single birthday, and legislatures have differed as to when criminal responsibility should begin. A child in New Jersey is an adult in New York, and very few states make special provision for the treatment of young offenders in criminal courts.

The theory behind the juvenile court is not merely obsolete; it is a fairy tale that never came true. The court has helped some young offenders, but it has punished others. From the beginning, juvenile court judges have considered the interests of the state as well as those of the offender. It is pointless to pretend that social policy toward youth crime is based solely on the best interests of the young offender or that the best interests of the offender and those of the state are always the same. But the juvenile court need not rely on hypocritical rhetoric to justify its jurisdiction over youths charged with crimes.

Foundations for a Special Youth Crime Policy

In fashioning and justifying a discrete policy toward youth crime, the Task Force has been guided by four principles:

- culpability
- diminished responsibility resulting from immaturity
- providing room to reform
- proportionality.

Culpability. When six-year-olds steal or set fires, the legal system correctly recognizes that extreme immaturity should operate as a complete defense to criminal responsibility. In its deliberations, the Task Force did not consider the appropriate minimum age at which children should become partially responsible for threatening social behavior. **The Task Force did decide that at age thirteen or fourteen, an individual may appropriately be considered responsible, at least to a degree, for the criminal harms that he or she causes.**

The moral universe of early adolescence is complicated, but a basic sense of right and wrong is a part of that stage of development. **We feel that most young offenders of that age are aware of the severity of the**

criminal harms they inflict and that, much as they fall short of maturity or self-control, they are morally and should be legally responsible for intentionally destructive behavior. The older the adolescent, the greater the degree of responsibility the law should presume. Whether criminal behavior on the part of adolescents should be called delinquency or crime is of little consequence to this conclusion and was not a subject on which the Task Force took a position.

Diminished Responsibility. In reaching the conclusion that young offenders should be legally responsible for intentional criminal harms, the Task Force relied on its opinion that adolescent offenders have moral judgment and varying degrees of capacity for self-control. At the same time, the Task Force recognizes that adolescents, particularly in the early and middle teen years, are more vulnerable, more impulsive, and less self-disciplined than adults. Crimes committed by youths may be just as harmful to victims as those committed by older persons, but they deserve less punishment because adolescents may have less capacity to control their conduct and to think in long-range terms than adults. Moreover, youth crime as such is not exclusively the offender's fault; offenses by the young also represent a failure of family, school, and the social system, which share responsibility for the development of America's youth.

The Task Force believes that a balanced sentencing policy toward young offenders must recognize both culpability and its limits. It is unrealistic to view a sixteen-year-old as completely devoid of judgment and control; it is equally unrealistic to treat young offenders as if they have fully mature judgment and control.

Providing room to reform. **The Task Force believes that protecting young offenders from the full force of the criminal law is prudent social policy.** Many forms of youth crime are a product of the special pressures and vulnerability of adolescence. This is why adolescent rates of crime are high and why persons who have violated the law in their youth usually desist from criminality as they grow up. The Task Force assigns a high priority to providing young offenders with the opportunity to pass through this crime-prone stage of development with their life chances intact.

Providing room to reform simply means using procedures that minimize stigma, custodial confinement, and exile from society. In advocating such a policy, the Task Force does not mean to imply that young criminal recidivists should go unpunished. The treatment encountered by young offenders inevitably serves an educational function, and **the last thing the Task Force would wish young people to learn is that criminal behavior goes unpunished.** In some cases (fewer than many

suppose), protecting the young offender from being scarred by severe punishment is inappropriate. But in general, giving young offenders a chance to reform is intelligent social policy. Such a policy involves risks and costs; a considerable minority of young offenders may not outgrow their propensity to crime. But there is no evidence that secure confinement is more effective than lesser measures in dissuading young offenders from pursuing criminal careers.

Proportionality. No coherent theory of criminal justice that acknowledges punishment as an appropriate response to crime can treat bank robbers and bicycle thieves as equal for the purpose of punishment. "Proportionality" is not a magic slogan that automatically produces consensus on appropriate punishment. **But the Task Force believes that the degree of punishment available for youth crime should be proportional to the seriousness of the offense.*** The point seems obvious, but proportionality is not an integral part of the present jurisprudence of juvenile justice. We believe it should be.

The Dual System of Justice—Abolition or Reform?

At present, an adolescent accused of a crime may be processed in one of two court systems: younger adolescents are tried in juvenile court and older adolescents in criminal court. The Task Force debated the issue of whether a child-centered court is appropriate for processing serious criminal charges against fifteen- to seventeen-year-olds. The alternative to this "dual" system would be the abolition of juvenile court jurisdiction for felony charges and the referral of such charges to either the criminal court or a special court for young offenders. **We concluded that, although the principles and processes of the juvenile court require rethinking and reform, juvenile court jurisdiction over individuals in their mid-teens is preferable to alternatives.****

Shifting jurisdiction to a special "court for young offenders" would

*Peter Edelman comments: While I agree that the concept of proportionality should be applied to youth sentencing policy, I want to state explicitly that I am opposed to the full-fledged "miniaturization" of the adult system, as represented by some recent proposals. Differentiation is certainly appropriate as between violent acts and property crime, and perhaps between repeated serious property crime and other property crime, but further distinctions at the sentencing level, given the relatively short time frames that are appropriate for young offenders, seem to me highly artificial.

Justine Wise Polier wishes to associate with this comment.

**Marvin Wolfgang comments: However, for *serious* offenders, at least, the sanctioning process should be the same as that used for adults.

simply apply a new label to an institution quite similar to the contemporary juvenile court.

For the purpose of processing accused youths, juvenile court has two advantages over criminal court: the judge before whom the accused appears is likely to have a special concern for and some experience with young persons and, if detained, the accused is likely to be placed in age-segregated facilities.

Although a juvenile detention facility is typically not a satisfactory place to house a young person accused of an offense, it is far more satisfactory than a jail. And for those convicted, although "training schools" neither train nor school, they are less destructive than the crowded and dangerous mega-prisons used to warehouse older offenders. A separate court should not be needed to assure diverse correctional treatment. **Indeed, the Task Force recommends that even those young offenders who are convicted in criminal courts should be placed in age-segregated facilities.** But separate, specialized, and decent facilities are more easily achieved with the juvenile court than without it.

Jurisdictional Age and Waiver

If the juvenile court is to continue, some boundary line must be established between those who will be processed by the juvenile court and those who will be processed by the criminal court. For most arrested young persons, this line is the maximum age of juvenile court jurisdiction; a few persons still young enough to go to the juvenile court but accused of serious offenses may stand trial in the criminal court, depending on the waiver policies of the state in which they are tried.

The Task Force recommends that juvenile court jurisdiction extend to all criminal acts committed before an accused's eighteenth birthday.* Eighteen is not the end of adolescence (it may be a rough boundary between middle and late adolescence), and it should not mark the end of a special sentencing policy toward youth crime. Hence, although eighteen- to twenty-one-year-old defendants should be tried in criminal courts and eligible for higher maximum sanctions than those in juvenile court, the sanctions available for individuals in this age group should be lower than those for adults. Thus, the passage from juvenile to adult court would be a transition from one youth crime policy to another—somewhat less lenient—youth crime policy.

Any large jurisdiction that retains young offenders until age eighteen will encounter a few extremely serious offenses that will seem, to the court and

*Marvin Wolfgang dissents: If the juvenile court is kept, jurisdiction should not extend beyond, at most, age sixteen.

the community, to demand more substantial punishment than is normally available to the juvenile justice system. State law can provide for these "deep-end" cases in three ways: by lowering the maximum age of juvenile court jurisdiction (typically to under sixteen or seventeen), by increasing the sentencing authority of the juvenile court, or by providing for the transfer of cases to the criminal court.

The minimum age for criminal court jurisdiction might be lowered either for all crimes or for specific offenses such as murder and rape. Generally lowering the jurisdictional age would burden the adult system with thousands of cases in order to cope with the problems posed by a few. Offense-specific reduction of jurisdictional age would be less objectionable, but it would require categorical judgments regarding accessories as well as principal offenders. Moreover, the publicizing of atypical, sensational cases may result in amendments to a legislative list of heinous crimes, lengthening it to include crimes that are generally less serious.

Expanding the punishment power of the juvenile court also has disadvantages. First, it bases the punitive outer limits of the court on a few exceptional cases, virtually letting the tail wag the dog in setting sentencing policy. Second, it puts too great a burden on the procedural structure of the juvenile court. A court that does not provide access to jury trial should not be able to impose five- or ten-year sentences. Juvenile court is unlikely to establish a full array of procedural formalities for all cases; attempts to make it do so would be another instance of letting the few exceptional cases set policy for the bulk of the court's work.

The Task Force believes that the least harmful method of dealing with extremely serious cases is to transfer them to the criminal court. The process we recommend differs from the present practice of waiver in two respects. First, under current practice in most states, the judge makes the decision to waive at his discretion, without any explicit standard for guidance. **We would confine waiver to cases where the judge finds probable cause to believe that a serious, violent crime has been committed and further determines that, should the defendant be found guilty, the minimum punishment necessary is substantially larger than that available to the juvenile court.** The waiver decision would be automatically reviewed by an appellate tribunal (unless the defendant and his counsel elected to give up this right), which could nullify the decision to transfer to criminal court if the basis for the juvenile court's finding were not clear and convincing.

A second distinction between present practice and our proposal concerns the consequences of transfer to the criminal court. At present, waiver to criminal court means eligibility for the full range of maximum adult sentences, including life in prison or the death penalty. **Under our proposal, the juvenile transferred to criminal court would have the same**

status that we propose for young offenders eighteen to twenty-one. Juveniles in the criminal court would thus face increased maximum sanctions, but the legal system would not totally ignore their youth in setting punishment.

The Task Force also recommends that waiver be restricted to defendants who are accused of serious criminal violence and who have passed their early teens. We are unanimous in recommending that very young adolescents should not be eligible for transfer to criminal court. A majority of the Task Force favors a bar on the transfer to criminal court of any child under age fifteen.*

The Sentencing Structure

The Task Force considered a variety of models of sentencing structure. We recommend a system of sentencing in which *the legislature* fixes the maximum period of loss of liberty and supervision, *the judge* retains discretion to determine whether or not the offender should be subjected to loss of liberty and to fix the maximum duration of social control in each individual case, and *a centralized correctional authority* retains the power to select a release date short of the maximum.** Some members of the Task Force who endorse this system believe that an early

*Sister M. Isolina Ferre, M.S.B.T., dissents: I oppose waiver of juveniles to the adult criminal justice system under any conditions because, given the chaotic state of the criminal courts, neither the public nor the individual youth can benefit more from criminal court processing than from juvenile court processing.

Moreover, any use of waiver subjects juveniles to a system of justice based on "category of offense" rather than on concern with the individual and with the social and cultural aspects of the case. Such concern is the principal virtue of the juvenile justice system.

**Peter Edelman comments: While I endorse this distribution of responsibility, I also would stress that what the correctional authority should retain is the power to select a facility or program for the offender as well as a release date short of the maximum. In cases of serious violent acts, I believe that judges should have the power to require a minimum period of secure confinement; otherwise, I think the nature of the loss of liberty should be up to the correctional authority. Especially where youth are concerned, "custody," "loss of liberty," and "social control" should not be equated with institutionalization or incarceration. I take these terms to encompass placement in group homes or other community-based residences, in family foster care, or even in a youth's own home with adequate professional supervision.

Aryeh Neier dissents: I believe that the length of a sentence should depend on the underlying crime. The trial judge is best informed about that crime and, accordingly, should fix the length of the sentence. Correctional authorities, such as parole boards, currently base decisions regarding early release on predictions about the individual inmate's future behavior. Such predictions are unreliable and unfair. Elsewhere, the report rejects rehabilitation as a purpose of confinement (although it favors providing opportunities for rehabilitation to people in confinement). Allowing a correctional authority to alter release dates on the basis of a subjective judgment as to the psychological state of the inmate implies that rehabilitation is a valid objective of confinement.

release decision of the correctional authority should be subject to the approval of the sentencing judge.

In our deliberations, we considered and rejected presumptive, or legislatively fixed, sentences as inappropriate to most young offenders in both juvenile and criminal courts.* The Task Force also considered and rejected indeterminate sentences, in which a young offender's confinement ends only when a correctional authority feels that the offender has been reformed. Although rehabilitation and helping services are a necessary part of any rational scheme of dealing with young offenders, the Task Force believes that the need for services should not be used to justify placing a young offender in custodial confinement or continuing such confinement until an administrative agency considers him "cured."

In recommending an allocation of sentencing authority that retains a substantial amount of discretion for judges and correctional authorities, the Task Force recognizes that this discretion carries with it the danger of disparity in sentences. Some of the policy recommendations and the maximum sentences suggested later in the report are designed to reduce the risk of disparity. The sharing of power between the sentencing judge and a central correctional authority can lead toward less variation in sentences for similar offenders. Unfortunately, the flexibility that is the virtue of a discretionary policy can still result in abuses. But in the sentencing policy we propose, we have sought to minimize the use of secure confinement, to retain discretion, and to provide mechanisms for reducing disparity.**

Sentences for Young Property Offenders

At present, there are no legislative or administrative guidelines to govern the hundreds of thousands of property offenders who are referred to the juvenile court and few principles to guide criminal courts in dealing with the

I do not mean to preclude prison officials from modifying sentences slightly in recognition of good behavior. The availability of this incentive may aid correctional authorities in exercising their managerial responsibilities. The distinction I am drawing is between the subjective judgment that a person is rehabilitated and will not commit crimes if released and a more objective evaluation of past behavior as, in itself, justifying early release.

*Marvin Wolfgang dissents: I am not prepared to reject presumptive sentences as strong guides for all offenders.

**Marvin Wolfgang comments: I am troubled by the degree to which the sentencing structure proposed by the Task Force retains discretion. Such discretion invites sentencing disparity in both juvenile and criminal courts. Recently, mechanisms, such as sentencing guidelines and – for some cases – presumptive sanctions, have been proposed for the criminal court. As I read this Task Force Report, it does not foreclose the use of these promising reform mechanisms. But I would go further and suggest that presumptive sanctions or greatly narrowed sentencing discretion should be a major objective of sentencing reform in both juvenile and criminal justice.

adolescent property offender. In its deliberations, the Task Force reached a substantial consensus on appropriate policy toward these high-volume, youth-dominated crimes.

Property Offenders in Juvenile Court. **The Task Force concluded (with one dissent) that the juvenile court should retain jurisdiction over all defendants accused of nonviolent offenses.** For all property offenses except burglary of a dwelling, the Task Force favors an administrative presumption that juveniles who have not previously been arrested for a serious offense should be handled informally. The shock of arrest, a stern admonition by judge or intake worker, and referral to helping services are regarded as an adequate response to the first-arrested vandal, shoplifter, thief, or joyrider, although formal handling of a case may be thought necessary in some instances.

The Task Force considers burglarizing a dwelling too serious an incident to justify a presumption of informal handling. Other forms of burglary and vandalism that involve substantial fear or property loss may also merit formal handling.

If an offender is arrested a second time for a serious property crime, the Task Force recommends that the presumption should shift; most cases should proceed to a formal hearing on the defendant's guilt and to a subsequent dispositional hearing. If the defendant is found guilty, the Task Force favors a presumption against custodial confinement for young persons first convicted on property charges. The Task Force also supports a one-year limit on custodial confinement and a two-year limit on total state-imposed power as the maximum sanction for property offenders in juvenile court.

The Task Force considers repetitive property crime by juveniles a serious matter. Limiting the use of secure confinement generates a need to find other less drastic means of censuring such offenders. A wide variety of such alternatives is available in many juvenile justice systems, and **the Task Force recommends the expanded use of sanctions that impress on the offender the seriousness of his conduct but do less harm than detention homes and training schools.** Among promising intermediate sanctions, the Task Force identified the following:

- restitution programs, in which the young offender's efforts or resources are used to offset at least a part of the losses he caused
- community service orders, in which young offenders work for public agencies to atone for offenses that violate social norms

- fines that are geared to an offender's ability to pay, so that the offender rather than his family will bear the financial burden*
- loss of privileges, such as driving, which young people value highly
- participation in remedial educational, drug treatment, or alcohol treatment programs in appropriate cases.**

Many of these approaches are intended to help improve a young offender's life chances. All are coercive exercises of state power that are imposed because the juvenile has committed serious offenses. **The Task Force feels that it is appropriate for the offender and the community to recognize that these measures are imposed, in part, as punishment.** Open recognition of the punitive function of assigned participation in such a program seems preferable to a policy in which the rhetoric of rehabilitation is used to explain decisions that inevitably (and properly) spring in part from punitive motives.

These proposals are a radical departure from present theory but are closer to present practices than the public might believe. In one study of a major urban area, it was found that fewer than one out of fifty auto theft arrests resulted in secure confinement after trial; the odds for an accused burglar were one in twenty-five. A much larger proportion of accused property offenders were detained prior to the adjudication of their charges.[2] Pretrial detention appears to be widely used as punishment for young property offenders in both juvenile and criminal courts. **The Task Force urges the abolition of punitive pretrial detention for juvenile property offenders.**

Young Property Offenders in Criminal Court. The Task Force believes that it is necessary to coordinate treatment of property offenders in late adolescence with the policies proposed for juveniles. **Specifically, we recommend a presumption against incarceration for first offenders in criminal court, the extensive use of alternative sanctions, and a two-and-a-half-year maximum sentence in custodial confinement** for any property offense committed before the defendant's twenty-first birthday. This scale of punishment includes sentences longer than those available to

*Cruz Reynoso dissents: I object to the inclusion of fines as an "intermediate sanction." While the theory that fines should be levied only in terms of the offender's ability to pay is a good one, experience suggests that fines can seldom be levied in a manner that does not "punish" the parents.

**Peter Edelman comments: The key word in this context is "sanction." The enumeration in the text is not intended to exclude use of community based group care and family foster care as available dispositions. The Task Force took the view that they might be coupled with sanctions but would not be themselves imposed for punitive purposes.

the juvenile court because older adolescents are more mature and should be held more accountable for criminal conduct. But the proposed maximum penalties are lower than those available for adults because the reasons for a separate youth policy do not disappear on an offender's eighteenth birthday.

Sentencing Policy Toward the Violent Young Offender

Youth arrests for police-classified "violent" offenses are less than 10 percent of total youth arrests. These offenses range from fistfights to murder, from schoolyard extortion to life-threatening armed robbery. Most violent crimes that lead to youth arrests are less serious than media coverage suggests, but young offenders are all too frequently involved in armed robbery, life-threatening assaults with deadly weapons, rape, and murder, in that order. Serious violent offenses are the hardest cases for social policy that seeks to protect both young offenders and the community.

In considering sentencing policy toward offenses against the person, the Task Force found it necessary to define three classes of violent offenders. First and most numerous are those who have committed assaults that did not involve serious threats to life or robberies in which the defendant did not personally use a deadly weapon or inflict grave bodily harm. Second are offenses that threaten life or person more directly:

- robbery where the defendant personally used a deadly weapon or inflicted grievous bodily harm
- battery, for which an offender is personally responsible, that involved a firearm, dangerous wounding with a knife, or force that required hospitalization
- voluntary manslaughter
- attempted rape
- accessorial responsibility for class 3 offenses
- arson of a dwelling or of an occupied building.

Third are those offenders personally responsible for:

- murder and attempted murder
- forcible rape
- arson with intent to commit bodily harm.

Violent Offenses in Juvenile Court. **The Task Force recommends a presumption favoring formal processing of all but the most trivial of**

offenses against the person. Even within the lowest grade of crimes against the person, only fistfights, schoolyard extortions, and episodes of limited self-defense (overreaction to provocation) may merit less than formal processing.

For the first and least serious class of offenses against the person, the Task Force recommends no minimum sanction and a maximum sentence of eighteen months of custodial confinement or a longer but limited maximum period of noncustodial social control.

For the second and more serious class of offenses against the person, the Task Force believes that minimum sentences of custodial confinement are worthy of serious consideration and that the maximum sentence should be two years of custodial confinement. The Task Force also favors a presumption of waiver to the criminal court for those once convicted of a class 2 offense who are again arrested and are probably guilty of a second such offense.

For class 3 (the most serious) offenses, the Task Force recommends minimum sentences of some custodial confinement and maximum sentences of two-and-a-half years of custodial confinement. The Task Force favors this relatively low maximum because of the procedural frailty of the juvenile court. **We believe that cases calling for more fateful punishment decisions should be waived to criminal court, where procedural guarantees that juvenile court does not provide are available.**

Youth Violence in Criminal Court. Crimes against the person test the limits of a separate social policy toward youth crime in the criminal court. **The Task Force is unanimous in suggesting that the maximum sentencing options be significantly lower for violent young offenders than those for adults convicted of comparable crimes. We also agree that the case for minimum punishment is stronger for young offenders (and transferred juveniles) in criminal court than for those in the juvenile court.**

The Task Force is divided on the question of whether offenders under twenty-one should ever be subject to sentences of over five years for any crime short of murder. This division is not a sign of disarray. Our deliberations on this topic reflected both the difficulty of moving from general principles to specific guidelines and the arbitrary nature of any specific numerical guideline. The debate specifically concerned defendants convicted of repeated instances of class 2 or class 3 violence. Those members of the Task Force who oppose the five-year limit are themselves divided; some favor prescribing some increase in the maximum sentence (e.g., 7½ years); others advocate providing for discretionary waiver to the full range of adult sanctions for repetitive offenders between eighteen and twenty-one. Thus, this division of the Task Force is limited to the issue of whether repetitive, violent young offenders should be subject to a five-year maxi-

mum, exempted from a youth crime policy, or subject to longer sentences as part of a youth crime policy.

Murder remains the hardest of the hard cases. The young offender who dominates or commits an intentional killing is the ultimate test of the limits of diminished responsibility. **The Task Force agreed that maximum sanctions for young offenders should be lower than those for adults.** The principle of diminished responsibility makes life imprisonment and death penalties inappropriate in such cases. **The Task Force recommends substantial presumptive minimum sanctions as appropriate because of the gravity of the offense; eighteen months of custodial confinement for offenders under eighteen and three years of custodial confinement for offenders between eighteen and twenty-one. The Task Force recommends that sentences of over five years for offenders under eighteen convicted of murder and sentences exceeding ten years for offenders between eighteen and twenty-one be confined to cases where the offender is responsible for taking more than one life or has a substantial history of life-threatening violent offenses.**

Punitive Detention

Ten times as many juveniles are in secure confinement before trial as after trial, and the purpose of this confinement is, in many cases, punitive. Of course, in criminal courts, too, far more defendants are in jail before trial than after adjudication of charges. The Task Force considers punitive pretrial detention inappropriate and unjust.

Any unjust but prevalent practice may be difficult to abolish. The Task Force favors a variety of devices as alternatives to the present high rate of secure detention before trial. **Specifically, we favor community supervision rather than detention to assure that young defendants appear at trial, nonsecure pretrial housing where necessary, and judicial and administrative monitoring of information on detention.** These practices are needed in both branches of the dual system of criminal justice but are particularly necessary in the juvenile court.

Information-Sharing Between Juvenile and Criminal Courts

In many states, outgrowing the juvenile court's jurisdiction may have two paradoxical consequences: instant responsibility and retroactive virginity. As soon as an offender is no longer young enough to be "delinquent," he is treated as an adult fully responsible for his acts. But a number of laws and practices shield records of juvenile adjudication from prosecutors and judges in the adult system. As a result, an individual who has acquired an extensive and serious record in the juvenile court enters the adult system as if he were a

first offender. Under these conditions, processing by the adult system may lead to more leniency, for the young offender may receive more lenient treatment in criminal court than he would in juvenile court.

The need for coordination of information between juvenile and adult court systems is clear. And yet, shielding juvenile court records from the public eye serves the valid purpose of protecting the young from permanent stigma. Whatever the proper balance between privacy and information-sharing, the present system probably gives us the worst of both worlds. Juvenile arrest records, perhaps the least reliable indicia of guilt, are not well protected from outside scrutiny. But in most jurisdictions, at the critical early stages of adult prosecution, records of adjudication in the juvenile court are often not available.

The Task Force favors both increased safeguards against the leakage of arrest and juvenile court records and provisions to make certain juvenile court records available to counsel and judges in the criminal court.* Under our proposal, an offender's juvenile court records should be sealed when he reaches eighteen or, if he is confined or under supervision at that time, when the court's jurisdiction over him ends. If, as a juvenile, an individual has been found guilty of a class 2 or class 3 violent offense or has been twice convicted of any felony charge, and is charged with a felony within three years after release from juvenile confinement or three years after passing the jurisdictional age of the court, the record of adjudication should be available to the criminal court. If he is not convicted, his records should be returned to the juvenile court. If he is convicted, his juvenile record should be available thereafter on the same basis as criminal court records.

If, during the first three years after he leaves the jurisdiction of the juvenile court, the young offender is not charged with a felony of which he is found guilty, all his police and juvenile court records should be permanently unavailable thereafter.**

In designing this policy, the Task Force has sought to provide room for the offender to reform without stigma. After three years of arrest-free life in the community, a young offender deserves to be regarded as having outgrown the patterns of adolescent crime portrayed in his juvenile court record. Rapid rearrest is a sign of trouble.

Of course, foolproof schemes to balance privacy with coordination of information are difficult to design. If "sealing" juvenile records does not

*Robert Taft, Jr., comments: In addition, a defendant should have access to his own juvenile court record upon request.

**Marvin Wolfgang dissents: I am not in favor of making police and juvenile court records "permanently unavailable." There is nothing magical about three years of escaping arrest and conviction. Self-report studies and low clearance by arrest rates for index crimes make the three-year rule inappropriate. If there is to be a rule at all, ten years would be better.

protect information leaks, the destruction of juvenile records may be worthy of serious consideration. The Task Force opposes providing information to prosecutors before probable cause hearings because, in the age of the photocopier, the return of a record is no guarantee of privacy. The Task Force feels risk of permanent release of juvenile court records is not justified until a judge has found probable cause to believe the defendant guilty of the subsequent charge. The Task Force also opposes withholding court records until after conviction on the adult charge, because on that basis, most criminal court dispositions would take place before the judge or prosecutor could learn of the defendant's serious prior record. At present, the Task Force hopes that requiring the return of juvenile records will provide sufficient protection of privacy to justify earlier release of juvenile records.

In making these recommendations, the Task Force assumes that juvenile court jurisdiction extends to age eighteen. Systems with lower age limits should consider more stringent restrictions on the availability of information.

Concluding Reflections

The Task Force, like many other study groups that have preceded its work, is saddened by the low quality of the courts, community facilities, and residential institutions that process and house young offenders in most jurisdictions. In many rural areas, the judge who presides over juvenile court cases is more like a justice of the peace than a specialist in sentencing policy toward young offenders. In many cities, the juvenile court often resembles the local traffic court, and the professional prestige of judges charged with dealing with young offenders is low. These conditions must change.

Most detention, probation, and correctional facilities for young offenders are evidence of social and governmental indifference. The observation that youth correctional facilities are better than their adult counterparts is valid, but small praise. Currently, confinement in age-segregated facilities is necessary but insufficient to assure even decent processing and acceptable housing, let alone appropriate program options.

The need to reform both the principles and the institutions that confront the young offender is particularly acute because juvenile and criminal courts are an important source of the image of justice perceived by young offenders. They learn from their experience in courts and correctional institutions. They are influenced most by what actually happens to them and how it happens; by what is done rather than by what is supposed to be done: by the attitudes and actions of the police, corrections officers, and magistrates, not by ringing declarations about justice or by leather-bound statute books.

20 Confronting Youth Crime

In most juvenile and criminal courts, young offenders learn the hypocrisy of punishment in the name of rehabilitation, of disparity in the cloak of individualized justice, and of assembly line treatment in the guise of informality. Young offenders are not easy to trick. Candor and consistency in sentencing policy are a first and fundamental step toward instilling respect for law and legal institutions in young persons whose respect for law is a critical element of their personal futures and the safety of our communities.*

*Sister M. Isolina Ferre, M.S.B.T., dissents: The administration of the criminal and juvenile justice systems is largely in the hands of the white community. Those most affected by these systems are black and Hispanic. The Task Force has failed to consider this issue or to recommend measures to bring black and Hispanic people into the criminal justice system so that they can participate in decisions that affect their own people. This omission leaves the Task Force Report open to criticism as a racist document.

Notes

1. See, for example, Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards and Goals project (a thirty-six volume effort of which nine volumes have been published). See also American Justice Institute, *A Comparative Analysis of Standards and State Practices* (nine volumes) (Washington, D.C.: U.S. Government Printing Office, 1977) (prepared for National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, Department of Justice).

2. Data provided by June Dorn, Illinois Law Enforcement Commission.

[From the Juris Doctor, June/July 1978]

PUTTING JOHNNY IN JAIL

(By Lucy Komisar)

HOW REAL IS THE JUVENILE CRIME SCARE?

"Get 'em off the streets!" is the new cry in the juvenile justice system. Politicians, judges, and the DAs have found an anxious public receptive to calls for a crackdown. But with reform neglected in favor of severity, juveniles are cycled through deteriorating institutions, emerging as hardened adults.

The cover showed three menacing youths clad in washed-out denims. The blade of a knife flashed in one boy's hand. "Across the U.S. a pattern of crime has emerged," declared the story inside. "A new remorseless, mutant juvenile seems to have been born . . . the deck is stacked in favor of the defendant . . . ."

Time magazine had the answer to "the youth crime plague" it described: a tougher policy toward violent delinquents. It was the summer of 1977, and some analysts disputed that youth crime had indeed exploded, but no one had any doubts about the explosion of interest by the media and politicians.

Real or not, the "youth crime wave" has provoked stormy reaction among state legislators. In the past two years, at least 18 states have amended their juvenile justice codes to require minimum sentencing or waiver to adult courts for certain crimes. Half a dozen states expect to adopt similar amendments soon. And an American Civil Liberties Union study done last year by Alan Sussman found that "in virtually every state, bills have been proposed which would increase penalties for young people convicted of serious offenses."

At the forefront of this get-tough movement is the New York legislature. In 1976, it passed bills which required that juveniles charged with certain felonies be fingerprinted and photographed and their records opened to law enforcement agencies. It turned down a proposal that youths charged with homicide, rape, robbery, and serious assault be waived to adult courts at the age of 13, but it passed another bill that set minimum sentences for certain designated felonies.

Under the legislation, five-year sentences could be imposed for the Class A felonies of murder, kidnapping, and arson. Youthful offenders could be sent to a secure facility for the first year, a residential setting for the second, and could be placed in a nonresidential program for the rest of the time. The family court could discharge an offender after three years or extend the sentence another year until his 21st birthday. Class B felonies (assault, robbery, attempted murder or kidnapping) required three-year sentences similarly structured.

Then in the fall of 1976, the Timmons case exploded. When police arrested 19-year-old Ronald Timmons for beating and robbing an 82-year-old woman, he was released on $500 bail. Senator Ralph Marino, chairman of the Crime and Corrections Committee, violated the rules on youth record confidentiality to tell the press that Timmons had a long history of delinquency—67 court appearances, suspected of murdering a 92-year-old man, in and out of state training schools since he was eight, and "known to the police and juvenile authorities as a cruel predator of old people." If the criminal court judge had had access to that sealed juvenile record, Marino charged, he would not have released Timmons back to the streets. The senator quickly won approval of a bill that established mandatory sentencing for assault against the elderly and increased maximum restrictive time from a year to a year-and-a-half.

In the 13 months from February 1977 to March 1978, 56 juveniles in New York State were sentenced to restrictive placement under the law. That was apparently not enough, and Governor Hugh Carey recommended changes to expand the list of offenses and include 13-year-olds twice found guilty of certain felonies.

"If the kids are not going to go out and commit the kinds of crimes they're supposed to commit to be restrictively placed, the state will have to go out and increase the crimes and kids covered," says the deputy director of the Vera Institute of Justice Family Court Disposition Study, Sheridan Faber.

Faber was being sarcastic, of course, but the "get-tough" forces seriously complain that some judges are counteracting the stern intent of the law. "Judges are signing off on adjustments to reduce them out of class," says Paul Macielak, counsel to Marino's committee. Because even some youths found guilty of felonies are not being sent away under that category, Marino has introduced a new bill to reduce plea bargaining in family court and make restrictive placements mandatory.

Legislators who do not trust family court judges to treat youths firmly would like to remove their jurisdiction altogether. A bill in New York's hopper this year would send certain felony offenders to adult court and place them in adult jails for up to 15 years.

Such waiver laws are a key part of the "get-tough" strategy. By lowering the age at which juveniles can be sent to adult courts, many states have made it easier for juvenile courts to impose what David Howard, director of the National Juvenile Law Center in St. Louis, calls the most serious sanction a juvenile can receive. "Waiver can amount to a death penalty," he says. "The danger is not just the adult sanction they can receive, but what can happen to a young person in an adult penitentiary."

Most states allow some juveniles to be transferred to adult courts for serious offenses, several states have lowered the age for waiver, and a few have made transfers or transfer hearings mandatory in certain situations. In Arkansas, for instance, the law now allows waiver of any child charged with a misdemeanor or felony. Before, the child had to be 15 and accused of a felony. Likewise, Connecticut now permits transfer for 14-year-olds who are charged with A or B felonies and have convictions of the same magnitude on their records. Previously, waiver was allowed only for accused murderers. Maine courts must transfer youths if violence is involved, if there is probable cause the juvenile committed the crime, and if the protection of the community requires his detention in some place more secure than a juvenile facility.

The toughness trend is not uniform, though, since some states have been careful to temper their new waiver laws with restrictions. Idaho reduced the age for waiver from 16 to 15 but stipulated that the youth must be charged with a felony instead of, as before, any criminal offense. West Virginia, which formerly allowed transfers of all 16-year-olds, now limits them to youths accused of committing violent felonies or felonies endangering the public. Similarly, Alabama, which used to allow waiver of any accused 14-year-old, now says they must be charged with felonies. And Kentucky, California, and Oregon now require judges to consider the minor's previous history, the seriousness of the offense, and his prospects for rehabilitation.

Mandatory minimum sentencing is the other chief tool that "get-tough" advocates favor to deal with serious offenders. Historically, juvenile courts have operated on the theory that they are to treat a child's "need" rather than his "deed." Whether a minor committed vandalism, burglary, car theft, arson, rape, or murder, he or she was sent away with an indeterminate sentence for "rehabilitation." As a child, he was not considered responsible for his actions; he was to be "treated," not "punished."

It followed that children should be released when they appeared to be cured. In practice, however, institutional officials sometimes got rid of difficult children and kept those who were more docile or whose parents did not want them. A Rand Corporation study published two years ago found treatment programs to be sporadic and to have limited success when they worked at all. Most of them, it said, excluded serious offenders altogether. In any event, there was no way to tell when a child had been "rehabilitated," and he could not be kept forever. Most were back home in less than a year.

Some states have been changing that practice by setting minimum sentences for serious crimes, thus limiting the discretion of juvenile judges and social agencies. In California, 16-year-olds found guilty of certain felonies can be held until 23 (two years longer than before), although they cannot be held longer than adults convicted of the same crimes. And in Colorado violent and repeat offenders must get minimum one-year sentences and cannot be released without court approval.

Other states, however, have moved to limit restrictive placements. West Virginia law says courts must give preference to the least restrictive placement and terms cannot exceed adult sentences. Pennsylvania also calls for the "minimum confinement" necessary. And youths in Oklahoma institutions must be released at 18 instead of 21.

It is true that most states have tried to design their new laws to separate the serious delinquent from the minor offender, but the legislators' patience with all juvenile delinquency is clearly running out. The general trend now is to view offenders less as children to be helped and more as criminals to be punished. "In every state I know of except Iowa, the legislative trend is regressive," says David Howard. "There's a move afoot in many states to lower the juvenile court jurisdiction age limit to 16. And there's also a move to expose juveniles to the public eye by ending the confidentiality safeguards that have existed." For instance, in

Pennsylvania, information about a child charged with a second serious crime can now be released to the newspapers.

While the legislatures are passing laws designed to put juveniles away for longer terms, the courts have been moving toward granting them more due process rights. Like the move to get tough, the trend toward due process rejects the traditional way of treating youthful offenders.

Originally, the juvenile court system was set up to resemble a social agency. Juvenile offenders might need a good talking to, professional counseling, or a stay at a group home or institution "for their own good." The idea that the court was out to help the child became an excuse for ignoring due process. The judge conducted the proceedings without benefit of rules of evidence or procedure. The public was not permitted to attend or see records. Without sentencing standards, judges could be arbitrary. As an Institute for Judicial Administration/American Bar Association study found, racial and class bias intruded into decisions. Serious offenders who knew how to finesse the system could get short terms, and other youths charged with serious crimes could get longer confinements than if they had been tried before adult courts.

Beginning in the late sixties, the Supreme Court issued several decisions that gave juveniles some minimum due process rights. One of the first such cases involved 15-year-old Gerald Gault, who had been sentenced to six years in the state reformatory for making an obscene phone call. Noting that an adult would have gotten a maximum of two months, the Court held in *In re Gault* that accused juvenile delinquents are entitled to notice of charges, the right to counsel, the right to remain silent, and the right to confront and cross-examine adverse witnesses.

Later, the Court went even further. In the 1970 case of *In re Winship* it held that the standard of proof in a juvenile trial must be beyond a reasonable doubt, and in a 1975 decision, *Breed* v. *Jones*, it said that juveniles are protected by the double jeopardy clause.

Legal analysts think the rulings have been significant. "The system is being judicialized in a way that never seemed imaginable before," says Fred Cohen, professor of law and criminal justice at the State University of New York at Albany. "It's taking on the trappings of a mini-adult system."

Still, civil libertarians charge that the juvenile courts fall far short of granting due process rights—or justice—to youthful offenders. Rena Uviller, who heads the ACLU Children's Rights Project, says, "No matter what judges say about children's welfare, when a child is sent to a training school or a residential treatment center, he or she is being punished, often with terms longer than an adult would get for the same crime."

Without a jury trial based on the evidence rather than adjudication on a child's "best needs," claim the civil libertarians, the results of a recent Tennessee case will continue to be unexceptional. Two youths there were accused of murdering a nurse. The 16-year-old was transferred to criminal court, tried, and acquitted. But the 14-year-old, who was charged with equal culpability, was tried in juvenile court. Lacking the same right to defend himself and be judged on the evidence, he was sent to a juvenile institution, where he remains.

The ACLU calls for the same due process rights adults enjoy and for set sentences for all offenses—both serious and minor—based on the seriousness of the crime. The problem now, it says, is that some states are setting minimum sentences for the hard-core offenders without setting maximums for minor offenders.

The civil libertarian position received a substantial boost last year when the conclusions of a mammoth seven-year, 23-volume study were published by the Juvenile Justice Standards Project of the Institute of Judicial Administration and the American Bar Association. They call for a total overhaul of the system because of its demonstrated failure to either protect society or help children.

"The confusion and overreach implicit in the expectation that a court is capable of devising disposition 'in the best interest' of the child in the absence of guidelines, of reliable predictive measures of future criminal behavior, or of models for effective rehabilitation or treatment programs, punctured the myth of the medical model of juvenile justice," the study said. It recommended that the following basic principles guide any new standards:

1. Proportionality in sanctions based on the seriousness of the offense rather than the court's view of the youth's needs. 2. Determinate sentences. 3. Choice of the least restrictive alternative; restrictive sentences explained by the judge in writing. 4. Status offenses and victimless crimes (except narcotics possession) removed from the juvenile court's jurisdiction. 5. Visibility and accountability

of decision-making instead of closed proceedings and unrestrained official discretion. 6. Right to counsel at all stages. 7. Juveniles' right to decide on actions affecting their lives and freedom unless they are found incapable of making reasoned decisions. 8. A redefined parents' role with attention paid to conflicts between their interests and the child's. 9. Limitations on detention, treatment, or other intervention before adjudication and disposition. 10. Strict criteria for waiver to adult courts.

Under the IJA/ABA standards, waiver to adult court would be permitted only for 16- or 17-years-olds who are accused of "class one" juvenile offenses (crimes for which adults would be subject to death or imprisonment for 20 years to life), who have records involving acts or threats of serious personal injury, and who cannot, according to the determination of the judge, be dealt with in juvenile facilities.

The study also advocates that youths have the right to a public jury trial and that the rules of evidence of criminal trials be used in juvenile proceedings. Proof, it says, should be beyond a reasonable doubt, and the judge should not receive social history about the defendant.

As to sentencing, the standards stipulate that juveniles be sent to secure facilities only for the most serious or repetitive offenses and only if such detention is needed to prevent them from causing bodily harm or substantial property injury. In any case, the standards say, juvenile detention centers should hold no more than 20 youths and should be co-educational or at least provide frequent social contact between boys and girls. The standards also establish set sentences for different classes of crimes. Up to 5 percent time off would be allowed for good behavior, but youth agencies would no longer be able to cut sentences dramatically because of rehabilitation or other reasons.

If the proposals are accepted by the ABA House of Delegates at its winter 1979 meeting, they will be sent to the state bar associations and likely become the basis for legislative changes. But nobody thinks that adoption by lawmakers will be easy. Already family court judges, youth service officials, district attorneys, academics, and legislators are engaged in a national debate over the standards.

The judges favor due process procedures, but they disagree strongly with the ABA proposals on disposition and treatment of status offenders. They do not want to give up their traditional jurisdiction or social work role. Judge Eugene Arthur Moore of Detroit, head of the committee on juvenile justice standards for the National Council of Juvenile Court Judges, says, "The judge should look at the offense, but in addition you have to look at the social service factor—the home, I.Q., ability to relate to others, self-control, and other factors."

The family court judges propose a compromise on sentencing as well. "The court ought to be able to set minimum periods of time," Moore explains, "but indeterminate sentences should be maintained depending on the needs of the child and subject to judicial review." The maximum penalties in the ABA standards are too short in his view. "I think two years for murder is wrong," he says. "I would suggest four or five years. If the judge wanted to reduce it, that would be the prerogative of the court."

Many judges would agree that both delinquents and the public have been ill-served by the juvenile justice system, but they believe it has never been given the resources to do the job. Justine Wise Polier, for many years a New York City family court judge, says, "I'm not defending the courts. They've been starved, inadequately manned, and never had the services they should."

Her reservation about the ABA standards is that they emphasize the offense rather than the child. "In the long run, that's not the way to put to work whatever knowledge we have on the problems of children," she says. By giving juveniles determinate sentences in institutions that don't help them, "we're just temporarily getting them out of sight when they look bad."

Juvenile agency officials agree with the judges that rehabilitation has not yet been given a fair chance. "At present there is almost no care," say Jerome Miller, a former Massachusetts and Pennsylvania juvenile corrections chief. "It's either total punitiveness or neglect masquerading as permissiveness." The danger of the civil libertarian approach, Miller claims, is that its reforms stop at proportional sentencing. He thinks people ought to also worry about what is done with offenders after they are sent away. "Dangerous kids shouldn't be out on the streets running loose," he says, "but that doesn't mean they should be in these crimenogenic institutions. For what it costs to institutionalize a kid, you can assign someone to him full time."

Agency officials and judges part company, though, when Judge Moore says that "judges should have the power to remove youngsters from the streets without state agencies being able to release them." New York State Commissioner of Youth Administration, Peter Edelman replies, "Judges assume they know more than they really know in fixing the type of institution and length of time a youngster needs to spend there." In New York, Edelman's agency now makes those decisions, and he does not want it to lose that power.

Though he favors the ABA standards of determinance and fitting the sentence to the crime, Edelman wants agencies to have some discretion within those bounds, and he worries that "in getting rid of gross indeterminancy, virtually all states will be tougher than the ABA contemplates." The result, he fears, may be that kids will spend longer stretches in facilities than they should.

The district attorneys, for their part, think the courts should get tougher with serious offenders and stop picking up youths who do not belong in the system at all. They favor due process procedures but insist that some special protections for juveniles must be maintained. "The juvenile court has been run for too long as a social agency," says Robert Leonard, president of the National District Attorneys Association. "But I still believe in certain protections—the confidentiality of the juvenile court proceedings, for instance. I don't think we gain anything by opening juvenile courts up to public view. I think we can accomplish the protection we need for the public by having the advocacy procedure strictly adhered to."

Rather than waive more cases to adult court, Leonard would prefer that adversary proceedings be used in juvenile courts. "In most cases those people who would come in to the adult court would be given probation anyway. Even if they were sent to prison, that's not going to improve the situation. They would be better helped in juvenile court where there are more facilities—social workers and psychologists."

While the ABA standards continue to be debated by those within the juvenile justice system, the Twentieth Century Fund has issued its own report calling for proportionality in sentencing with maximums fixed by legislatures, actual periods of confinement set by judges, and earlier release dates at the discretion of state juvenile authorities. The report also urged that the top sentence for the most serious crimes should be two-and-a-half years, with two years the limit for property offenses. Waiver, it says, should be allowed only where there is probable cause that a serious violent crime has been committed and where the juvenile court cannot impose the punishment deemed necessary. Similarly, the report advocates lower sentences for 18- to 21-year-olds tried in adult courts.

Amidst all the debates and proposals, about the only thing no one disputes is that the current juvenile system is not working. The media and state legislatures say get tougher, stop "mollycoddling" serious offenders and start treating them more like adults. Civil libertarians say give juveniles the due process rights of adults and stop foisting time on them in the guise of rehabilitation. The juvenile agency people agree with the need for due process, but remind critics that social workers can help kids and that offenders shouldn't simply be sent to serve time.

Aside from the philosophical differences among experts, there is the issue of institutional turf. "Everyone wants to know how changes in the law will affect them," says David Gilman, director of the ABA project. "Will they lose or gain money or power?"

In the long run, the opinions of the experts and the interest groups involved in the debate are likely to have less effect than the headlines in newspapers and the pronouncements of politicians. "The ABA input is more likely to be theoretical than real," predicts Sheridan Faber. "The politicians are running the show, and they see getting tough on crime as a way to get votes."

[From the Juris Doctor, June/July 1978]

PLAYING THE NUMBERS GAME

(By Lucy Komisar)

"The typical kid who commits a crime is poor, black, or Puerto Rican, and lives in a ghetto. "The typical kid who commits a crime may be just as likely rich or poor, white or black, suburban or city dweller."

"Youth crime is increasing." "Youth crime has been constant for years."

Which do you believe? The "experts" have evidence for all of the above. You can take your pick of variations and interpretations. The U.S. Juvenile Justice and Delinquency Prevention Act of 1974 starts out with the alarming assertion that "juveniles account for almost half the arrests for serious offenses involved juveniles, and youths were just under half of all persons arrested for property crimes. Thirteen- to 17-year-olds, who make up 10 percent of the population, constituted 21 percent of those arrested for violent crimes, including 32 percent of arrests for robberies, 17 percent of arrests for rapes, 16 percent for aggravated assaults, and 9 percent for homicides.

That does, indeed, sound like a youth crime wave. Of course, figures play tricks. Juveniles would undoubtedly look better in the crime statistics if other groups such as children under 13 and adults over 65 committed their fair share of crimes. And actually, juveniles arrested for serious or violent crime are a very small portion of all youths arrested. Only 4 percent of all juvenile arrests were for violent crimes, and only 10 percent of arrests for serious crimes came under the category of violent crime. The biggest increase in the arrest rate was for property crime.

But the key word in all of this is arrest. "You have to look at what they call serious crimes," says former New York Family Court Judge Justine Wise Polier. "They use the FBI listing, which is misleading. It includes anybody *charged* with an offense—not *convicted*. It's the old J. Edgar Hoover routine. It includes many young people picked up in a group and many young people charged with serious offenses which are later reduced at the police station. It's a most unreliable statistic."

Eugene Doleschal, director of the information center of the National Council on Crime and Delinquency, says, "What we have been experiencing is a crime reporting wave rather than a crime wave. The actual number of serious crimes is roughly 40 million in the United States. The FBI started many years ago with under one million and they are up to 11, so they have another 30 million to go." In the last year or two, there have actually been reporting decreases, Doleschal says, adding that census bureau victimization surveys show the crime rate to be constant.

While the Senate Subcommittee on Juvenile Delinquency found that violent crime by persons under 18 jumped 246 percent from 1960 to 1973, a Rand Corporation report commissioned by the Law Enforcement Assistance Administration attributed part of that jump to improvements in crime reporting and a third to a half of it to an increase in the numbers of young people. The Rand report pointed out that young people accounted for 24.3 percent of all crime in 1967 and 25.6 percent in 1972, "a negligible increase."

The typical picture of the juvenile delinquent as dark-skinned, poor, slinking through the alleys of tenements, may be just as false as the crime wave figures. Martin Gold and David Reimer at the Research Center for Group Dynamics at the University of Michigan have run "self-report" studies on juveniles in upper, middle, and lower socio-economic brackets. They say that the information the juveniles gave them tends to contradict official data on delinquency. In a 1972 sample of 1,600 boys and girls in 40 parts of the country, they found that the average kid whose parents are poor admitted committing 5.9 delinquent acts in the previous three years, the child of middle-class parents admitted to 7.2 delinquent acts in the same period, and the rich youth admitted to 6.6 delinquent acts. In the "seriousness index," the poor were rated at 2.8, the middle class 3.5, and the higher socio-economic group 3.1.

"Something like 20 percent of kids from all kinds of groups have committed serious crimes," says Doleschal. "It's the poor kids who are selected out for juvenile justice processing."

That view is supported by Paul Strasburg, associate director of the Vera Institute for Criminal Justice, in his recently completed study of delinquent behavior in Manhattan, Westchester County, New York, and Mercer County (Trenton), New Jersey. He sites assertions that "the variation of admitted delinquency from one neighborhood to another is far less than the variation in arrest and adjudication rates." One reason might be that pretrail diversion programs for treatment are much more common in the suburbs, where 56 percent of all cases are diverted, than in the cities, where only 43 percent are, according to an LEAA study. Thus, although suburban children may commit as many crimes, they are not recorded in the official statistics.

Strasburg concludes, however, that there is still more delinquency in slum areas—especially theft, violence, truancy, vandalism, and disorderly conduct. The difference is more a function of socio-economic status than race, according to Strasburg. He found that the violent crime arrest rate of black youths in Manhattan was seven times that of whites. The black rate for robbery was 11 times the white rate, and a higher proportion of black delinquents were chronic offenders. But this was not true at all for Westchester, where youths were better off in terms of residence, education, and health. There, the differences between black and white crime rates were negligible.

Not every authority agrees that serious crime is equally distributed even among social groups. Frank Zimring, professor of law at the University of Chicago, claims that the most serious offenses are commited by poor, minority youths who live in the ghetto. Zimring excludes aggravated assault as a serious violent crime. "That can be a fist fight in the suburbs or a shooting on the south side of Chicago," he says. People who do the self-report studies, he claims, are not talking to "the small population of deep-end kids that are counted in the official statistics."

"Victimization surveys suggest a very intense concentration of robbery in the minority dwelling areas of the biggest cities." Zimring adds that a majority of nonviolent property offenses are "very democratically distributed across the youth population."

Should we get delinquents off the streets to keep them from committing more crimes? In his Ford Foundation-sponsored study Paul Strasburg found that "a juvenile's prior record is of little use in predicting whether the delinquent will act violently the next time or in predicting how serious the next offense will be." He explains that, "With the exception of a small handful of hard core delinquents committed to violent crime, delinquents engage in violence only occasionally as part of an apparently random pattern of illegal behavior."

However, Strasburg's study showed that recidivists were responsible for most of the harm done. They committed nearly four times as many crimes as one-time offenders, and most serious violence was committed by repeaters. Thus, chronic offenders do not necessarily commit violent crimes, but violent criminals are generally repeaters. On the other hand, Strasburg's study says that juveniles apprehended by police go on to commit more offenses afterwards than those who are not caught. It would seem logical to try to keep the handful of hard-core delinquents off the streets, but the problem is: how do you throw out a net that catches the dangerous youths without snaring youngsters who might go straight if afforded another chance?

From reading the various studies, it becomes clear that criminologists, law enforcement officials, and social workers cannot agree on the basic facts about juvenile crime—whether it is increasing, who commits it, what remedies are most effective. The media and politicians have stepped into the confusion and played up juvenile crime with dramatic coverage and selected statistics. The resulting proposals in state legislatures more often than not rest on a foundation of emotion rather than reality.

[From the Juris Doctor, June/July 1978]

The Reform That Flunked

(By Daniel B. Moskowitz)

Liberal dissatisfaction with the way state and local authorities were treating underage delinquents and criminals led in 1974 to a bill that established standards for the treatment of juveniles in the criminal justice system. Under the Juvenile Justice and Delinquency Prevention Act, states were eligible for Law Enforcement Assistance Administration grants if they agreed to meet two key provisions:

Status offenders—persons who break those laws that apply only to juveniles—were never to be locked up in jail-like facilities, but held, when necessary, in home-like shelter facilities.

Juveniles, regardless of the crimes they were charged with or convicted of, were never to be housed, even overnight, with adult offenders.

The "commingling" rules were to take effect immediately, but the lawmakers, realizing that new community shelters would have to be set up, gave the states that enrolled in the program two years to comply with the regulations on status offenders.

The concept, of course, is that children who merely defy parental authority or curfew laws—who show society an arrogance it will accept only from adults—are not truly criminals who deserve to be behind bars. And that even children who commit violent acts against others are redeemable, but only if kept out of the influence of adults who may be dedicated to a life outside the law.

But four years later, not a single state has complied with the act's two key provisions. In fact, reporting under the law has been so slipshod that it is impossible to get a fix on just how close to complying the states are. When the General Accounting Office tried to assess how well the states were doing, it found, in a report not yet published, that no state had even checked all its detention facilities to see if status offenders were being kept there. Most of the states did not include local jails in their monitoring, and 80 percent of the states "expressed reservations about whether the state had authority to monitor some local and private facilities," according to GAO Deputy Director William J. Anderson.

Some states have tried to live up to the act's provisions. More than a dozen have passed laws requiring deinstitutionalization of juveniles charged with status offenses—or with no offenses at all—and separation of youths and adults; in Georgia, the legislation was spearheaded by a pair of legislators who had, in their teens, themselves run away from dangerous home situations. A few jurisdictions have even come close to implementing the laws. In 1975, New York opened 15 new group homes for youths who need counseling but not policing. Massachusetts has most of its status offenders out of secure facilities. "They're down to the real nutcracker kind of cases," says John Rector, former staffer for the Senate Juvenile Delinquency Subcommittee and now head of the JD program at LEAA. "Those still behind bars are really complicated human beings who happen to be young." Rector admits that states like Massachusetts haven't made the two-year deadline because it was an "entirely too optimistic timetable."

But the bulk of the states haven't made the timetable because they haven't been trying. A handful have been honest and simply opted not to take the LEAA money. In some years, the thanks-but-no-thanks group numbered more than ten. North Carolina, Utah, and Nevada are among those now out of the program. But most have taken the money and ignored the promise.

Early this year, LEAA released the results of a survey which showed that the number of juveniles held in all kinds of detention facilities, after edging down for three consecutive years, actually started up again in the first year after the new law was passed. Of 47,000 minors in public detention facilities on June 30, 1975, only 200 were in shelters and 2,122 in group homes or halfway houses. Pennsylvania, Oregon, and Connecticut were among the states which reported that every juvenile who was being held in a public facility, regardless of the charges, was in what LEAA rates a "physically restricting environment."

When the Children's Defense Fund recently visited 449 jails in nine states, it found that 38 percent of the jails had children in them and another 9 percent sometimes had juvenile inmates, though not at the time of the CDF visit. "The overwhelming majority of children we found in adult jails were not detained for violent crimes and could not be considered a threat to themselves or to the community," the fund's report on the project says. "Only 11.7 percent were charged with serious offenses against persons." Most were in for property offenses, but 18 percent were there for status offenses and another 4.3 percent "had committed no offense at all. One boy was being held there because 'he had no place to go.' Another boy was fingerprinted and held in jail because his mother had been hospitalized and there was no other adult at home. One child was in jail for protection from her father, who was accused of incest."

CDF thinks those findings are shocking. But not all the states agree. Several "philosophically disagree with the concept of deinstitutionalization," the National Governors' Conference committee on crime reduction told Congress last year. "They may believe that so-called status offenses are appropriate and that existing state laws should not be changed."

Nor has official Washington been consistent in pursuing reform of the juvenile justice system. The Department of Health, Education and Welfare, for instance, channels huge amounts of elementary and secondary education and vocational education money into big institutions where minors and majors and status offenders and those who have committed violent crimes are all housed together. The Commerce Department's Economic Development Administration gives local government grants to build new prisons designed to hold both adults and juveniles. Interior runs secured training schools for Indian juveniles in a program that Rector calls "one of the most scandalous in the country."

Washington also suggested to the states that it was winking at the LEAA program when the Ford administration asked for no money for the juvenile justice grants even though Congress appropriated half what the act authorized. "No one in LEAA and no one in the Department of Justice did anything to encourage the states to participate in the program," Rector says.

That much has now changed: Rector is sincere about the goals, and is trying to make the states believe him. In the case of California, he actually shut off some of the state's money. The state wasn't any worse than others in treating juveniles—some of its programs are innovative and humanistic—but it had the bad form to thumb its nose at Washington's rules rather than ignore them. California's Youth Authority handles prisoners in some cases up to the age of 25, even though emancipation in the state is now at age 18. It insisted it could lump all "youthful offenders" together, but to Rector putting 15-year-olds and 23-year-olds in the same facility is mixing juveniles and adults. Both sides have backed off from that confrontation: the state promised to end commingling by 1982, and LEAA unfroze some, but not all, of the 1978 JD money.

How fierce Rector will be with other states won't be seen for some months yet. For with the cutoff date long passed and no states in compliance, Congress last year showed just how tough it wanted to be by extending the deadlines. The lawmakers gave the states an additional year on the status offender criterion, and said getting 75 percent—not all—of the status offenders out of jails would suffice. If a state makes 75 percent, it gets another two years to find group home type facilities for the rest.

Given the way the bureaucratic clock runs and the time built in for evaluating whether a quota has been met, it will be January or February before LEAA decides whether or not the status offender rules are being violated. There's no similar deadline on separating teen criminals from their adult counterparts. But already Rector is giving out signals that he'll meet states halfway. "We've allowed for some flexibility," he admits, in defining the population that has to be deinstitutionalized. And even the 75 percent figure has some give in it: 65 percent and signs of improvement would probably satisfy LEAA. "We're talking about a rule of reason," Rector says.

Youth Violence: Issues and Trends

(By Franklin E. Zimring)

In recent years, violent crimes committed by young offenders have become a focal point for public and political debate about crime and criminal justice policy. Of course, the problem is not in any sense novel or recent in origin. Presidential Commissions and daily tabloids have long viewed serious crime by the young as a problem requiring attention and control.[1] But since the early 1970's, the violent young offender has moved steadily up the list of public concerns about crime until it is fair to characterize youth violence as a central theme of the politics of crime control in 1978.

Evidence for this last assertion comes from the multiplicity of books,[2] media coverage,[3] and legislative proposals,[4] that have emerged since the mid-70's. The

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[1] President's Commission on Law Enforcement and Administration of Justice. "Task Force Report: Juvenile Delinquency and Youth Crime" (Washington, D.C.: U.S. Government Printing Office, 1967).

[2] Barbara Boland and James Q. Wilson, "Age, Crime and Punishment," The Public Interest, No. 51 (Spring 1978) 22–34; Paul A. Strasburg, "Violent Delinquents: A Report to the Ford Foundation from the Vera Institute of Justice" (New York: Monarch, 1978); Franklin E. Zimring, "Confronting Youth Crime: Report of the Twentieth Century Fund Task Force on Sentencing Policy Toward Young Offenders" (New York: Holmes & Meier, 1978); U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, "The Serious Juvenile Offender: Proceedings of a National Symposium" (1977).

[3] See, e.g., "The Youth Crime Plague," Time 110:2 (July 11, 1977) 18–30; "Beyond the Teen-Age Gun," Editorial in The New York Times, June 28, 1978, p. 30; American Broadcasting Company, "Youth Terror: The View from Behind the Gun," Television Documentary presented June 28, 1978.

[4] A bill currently before the New York State Legislature would lower the age of criminal responsibility to 13 years for murder in the second degree and to 14 years for first degree offenses of kidnapping, arson, assault, manslaughter, rape, sodomy, robbery, burglary and attempted kidnapping and the second degree offenses of burglary, arson, robbery and attempt to commit murder. N.Y.S. S–A, Extra. Sess. Cal. No. 5 (July 14, 1978) § 28.

Pennsylvania provides that juvenile felons 14 years and older may be transferred from the juvenile to the criminal courts if "The child is not amenable to treatment" through juvenile facilities and "the interests of the community require that the child be placed under legal restraint or discipline." 11 Pa. Cons. Stat. Ann. § 50–325 (1972) (Purdon).

new notoriety of youth violence has already shifted discussions of juvenile justice reform from single-minded efforts to reduce over-intervention in the lives of status offenders to acrimonious debate about appropriate responses to serious youth crime. The juvenile court's announced tradition of solicitous concern for its clientele is being tempered by the felt public need to deal with the predatory young. Thus, since 1976, New York's Family Court has had within its jurisdiction a category of "designated felons" for which extended terms of custodial confinement may be imposed upon adjudication of delinquency.[5] The dissonant ring of the conjunction of such terms as "Family Court" and "designated felon" is neither superficial nor solely linguistic. Serious violence by young offenders represent a substantial threat to the institutional credibility and to the mission of the contemporary Juvenile Court.[6] Acts of violence committed by the young are the worst cases of the conflict between protecting the young offender and social defense that the legal system is likely to confront. Thus, the incidence and control of youth violence are important topics in their own right. Equally significant, the changing perceived importance of youth violence may have a broader impact on the treatment of young offenders in the legal system.

This note is a review of the steadily accumulating literature that delineates what we do, do not, and should know about offenses of violence committed by the young. The first section discusses the limited information available on the incidence, patterns, and recent trends in violent crime by the young. The second section deals with four critical issues that future research efforts must address if public policy toward youth crime is to be decently informed.

Two preliminary considerations merit mention before commencing this brief review. The first concerns my topic. This article was solicited as a review of "juvenile violence." In a survey of national patterns, the term "juvenile violence" may not be meaningless, but it is clearly misleading. The maximum age for juvenile court jurisdiction varies among American states from an offender's sixteenth birthday in New York and Vermont to the nineteenth birthday in recent Wyoming legislation.[7] More serious violent crimes are committed by individuals *between* these ages than by the total population under age sixteen.[8] The variance and the arbitrariness of the legal boundary for juvenile court jurisdiction makes the concept of juvenile violence a singularly unhelpful criminological tool. To use an extreme example, reduction of the maximum age of juvenile court deliquency jurisdiction to the tenth birthday would abolish the problem of "juvenile violence" without any noticeable contribution to either criminological theory or social welfare. For that reason, this review discusses the incidence of violent crime between ages thirteen and twenty, a period that encompasses the beginnings of violent careers in all but the most unusual cases and continues through to well beyond the typical maximum age of juvenile court involvement.

A second preliminary caution is necessary in relation to the types of violent acts that are the focus of this note. As Paul Strasburg has pointed out, dictionary definitions of violence are quite broad, typically including "rough or injurious physical force, action or treatment."[9] My focus on the following pages is somewhat narrower, encompassing the four index offense categories thought by police and public to constitute violent crime—homicide, rape, aggravated assault, and robbery. Within these offense categories, special emphasis will be accorded to acts of violence which generate substantial risks of death or serious bodily injury. The offenses surveyed do not exhaust the potential definition of violence. Vandalism, an offense which is almost the exclusive province of the young, often contains elements of threat or intimidation and is excluded from this discussion, just as it is excluded from most of the literature on youth violence under scrutiny.[10] Traffic offenses, the single most lethal form of adolescent crime, are

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[5] The "designated felony acts" for which 14 or 15 year olds in New York are currently subject to "restrictive placement" are murder, arson and kidnapping in the first and second degrees and rape, manslaughter, robbery, assault and sodomy in the first degree. N.Y. Jud. Law § 712(h), 753(a) (1976).

[6] Franklin E. Zimring, op. cit., Ch. 5.

[7] Wyoming Statutes § 14–115.41i (1976). For a national survey of jurisdictional age see Zimring, op. cit. at 45–46.

[8] In 1975 there were 68,928 arrests for violent crimes (murder, forcible rape, robbery, aggravated assault) of offenders aged 16–18 compared to 40,946 arrests of offenders aged 16–18 compared to 40,946 arrests of offenders under 16.
Department of Justice, Federal Bureau of Investigation, Uniform Crime Reports, 1975 (Washington, D.C.: U.S. Government Printing Office, 1976) Table 36.

[9] Paul A. Strasburg, op. cit., p. 3.

[10] In 1975, 65% of the 175,865 reported vandalism arrests were of youth under 18; 38 percent were of youths under 15. Uniform Crime Reports, 1975, Table 36.

also excluded from the data upon which this review is based.[11] The absence of youthful traffic "violence" from the public discussion of youth crime reflects a general tendency in American society to consider driving behavior as normal rather than criminal and the risks associated with traffic as essentially non-criminal. Whether this omission reflects a public perception of the lack of intention to injure or American equanimity about the risks of driving, or both, is beyond the scope of this discussion.

But it is important to note that, in narrowing the emphasis of this review to those offenses publicly perceived as most serious, the biases reflected in public perception will influence not only the behaviors selected for analysis, but also some of the apparent conclusions one might draw about violent youth criminality. Crimes of prey, such as robbery, are concentrated in urban areas, and the offender population is disproportionately composed of minority males. Lethal (and criminal) traffic "violence" is more widely distributed across the youth population.[12] An analysis which focuses on the former will show much more substantial urban, race, and class concentration than would result with a broader definition of violent criminality. As is true in the debate between those who wish to focus on "street crime" and those who point out the harm and more substantial distribution of some white-collar crimes, there is no single focus of inquiry that is obviously preferable in analyzing behavior as heterogenous as violations of the criminal law.

I. PATTERNS AND TRENDS IN YOUTH VIOLENCE

However one chooses to measure, crime in the United States is predominantly the province of the young. Males between the ages of 13 and 20 comprise about 9% of the population but account for more than half of all property crime arrests and more than a third of all arrests for offenses typically regarded as involving violence. While such arrest statistics may be a biased sample of offenses, they are an important data set and deserve detailed consideration. Figure I, using 1975 statistics, contrasts the age concentration of arrests for index property offenses (burglary, larceny, auto theft) with arrests for violent crime.

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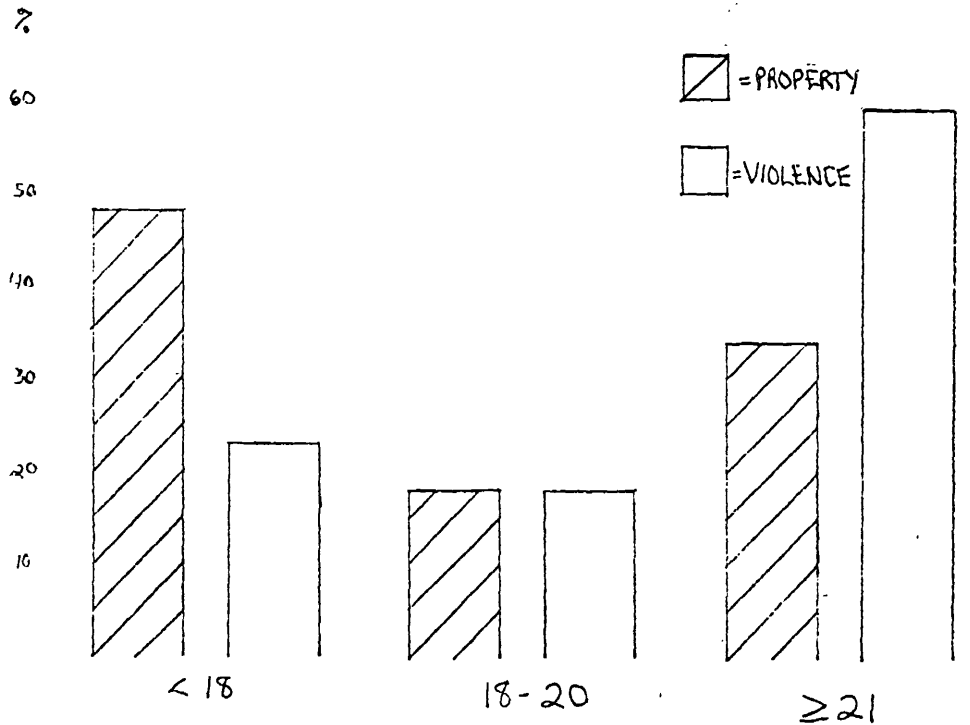
[11] Of 55,511 motor vehicle accident deaths in 1973, 9,309 (17%) were fatalities in the 15–19 year age group. U.S. Department of Health, Education and Welfare, Vital Statistics of the United States, 1973 (Rockville, Md.: National Center for Health Statistics, 1975) 4–2.

[12] Measuring "traffic violence" by resulting fatalities we find a race and geographic distribution similar to that of the national population. In 1973, 86 percent of auto accident fatalities were white and 58 percent occurred in non-urban areas. Vital Statistics of the United States, 1973, 4–2 and 7–9.

FIGURE I

PERCENTAGE OF TOTAL ARRESTS BY AGE - VIOLENT AND PROPERTY OFFENSES - 1975



As Figure I shows, property crimes are concentrated earlier in the adolescent years, while the aggregate category of crimes of violence peaks during ages 18–20. But this is too rough a comparison: a single category "violent crime" is too heterogenous for informed analysis. Public and legislative concern about violent crimes committed by young people tends to crystallize around well-publicized and unrepresentative episodes of violent crime committed by young offenders.

Any case that makes the front page of the New York Times is almost certainly unrepresentative of the typical violent crime or violent offender. Homicide and rape are candidates for front-page treatment and public alarm, particularly where the offender is young and the victim is aged, vulnerable or well known.[13] Yet, 90 percent of all youth arrests for FBI classified violent crimes are for robbery and aggravated assault. Robberies range from unarmed schoolyard extortions through armed, life-threatening predatory confrontations. Most robberies by young adolescent offenders tend to fall toward the less serious end of the scale, although precise statistics are not available. Similarly, aggravated assault as defined by the police varies from first fights through shootings, carrying vastly different death risks and policy implications. Figure II attempts to carry the analysis one step forward by separately considering the inevitably serious offenses of homicide and forcible rape and the more heterogenous high-volume offenses of violence, using arrest statistics to reflect age specific patterns of violent criminality.

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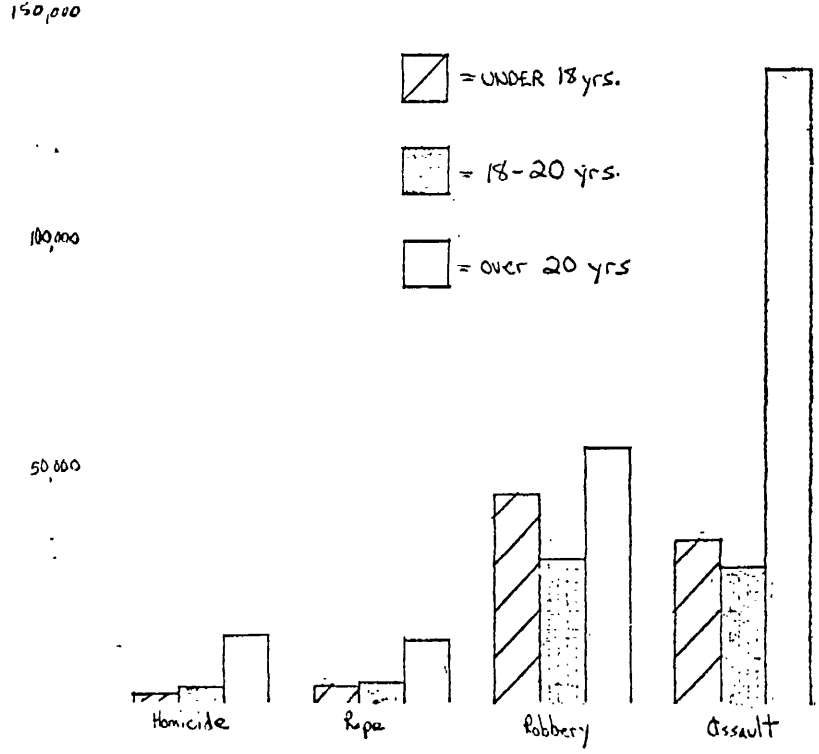
[13] See, e.g. "Boy, 15, Who Killed 2 and Tried to Kill a Third, is Given 5 Years," The New York Times, June 29, 1978, p. 1; "Carey, in Shift, Backs Trial in Adult Court for Some Juveniles," The New York Times, June 30, 1978, p. 1.

FIGURE 2

ARRESTS BY AGE - HOMICIDE, RAPE, ROBBERY, ASSAULT - 1975



The volume of arrests for each age group is used in Figure II rather than the rate of arrests per 100,000 group members. This obscures some fairly dramatic relationships, but not completely. As the figure shows, arrests for homicide and rape are more frequent among 18-, 19-, and 20-year olds than among the entire under-18 population, even though youths aged 13–17 constitute a substantially higher population at risk. The 18 through 20 year old age group also experiences higher rates of arrests for the "heterogenous" offenses of robbery and aggravated assault, but the number of under-18 arrests for these offenses exceeds the absolute number of 18–20 year old arrests; and the youth share of total arrests is thus more substantial.[14]

Two important conclusions can be drawn from this data. First, where the offense category is extremely serious, the number of under 18 arrests is small, at least in relative terms. Second, the bulk of adolescent arrests for crimes of violence, particularly in the under 18 category, are in the two classes of police defined violence where the label of the arrest tells us relatively little about the degree of seriousness of the offense. For this reason, our ability to draw confident conclusions about the seriousness of youth violence over time or in comparing different areas on the basis of official statistics is quite limited as long as we deal with aggregated total dominated by heterogenous offenses.[15]

Table I examines arrest patterns for the two "homogenous" serious offense of violence over time for the period 1960 through 1975.

TABLE I.—TRENDS IN HOMICIDE AND FORCIBLE RAPE ARRESTS FOR OFFENDERS AGED 13–20, 1960–75

	Estimated arrests per 100,000	
	Homicide[1]	Forcible Rape
1960	7.6	24.0
1970	14.0	28.0
Change (1960–70)(percent)	84	17
1975	12.6	27.5
Change (1970–75)(percent)	1	−2

[1] Homicide here includes murder and nonnegligent manslaughter.

Note: Population estimates were calculated by multiplying the percentage of national population aged 13–20 times the total population in the "Uniform Crime Report" sample. The percentage of national population aged 13–20 in 1975 was estimated from the percentage aged 8–15 in 1970. Thus the population figures used in these calculations are accurate only to the extent that the age distribution of the "Uniform Crime Report" samples are similar to the national age distribution.

Sources: Federal Bureau of Investigation, "Uniform Crime Reports," U.S. Bureau of the Census.

While these official arrest statistics are hardly an ideal method of measuring youth violence, age-specific arrest statistics can serve as acceptable indicators in homogeneously serious offenses with relatively high clearance rates. With respect to homicide, youth arrest rates increased dramatically during the 1960's and have leveled off since 1970. If arrest rates are a reliable guide, persons under 21 were responsible for 18% of intentional homicide in 1960 and 25 percent of police reported criminal homicide in 1975. This is an overestimate, because younger offenders are far more frequently arrested in groups and thus tend to have a higher arrest to crime ratio than other age categories.[16] In 1975, age-specific rates of homicide as measured by arrest increase sharply from very

[14] While 18–20 year olds had a higher arrest rate, the under–18 population had more total arrests for robbery and aggravated assault in 1975:

	Estimated arrests per 100,000		Total arrests reported	
	13–17	18–20	13–17	18–20
Robbery	226	283	41,275	30,433
Aggravated assault	176	277	32,198	29,804

Source: "Uniform Crime Reports, 1975," table 36.

[15] Strasburg, op. cit., 4–5.

[16] For a discussion of the relation between arrest rates and actual crime see Strasburg, op. cit., 12–19.

low levels in the earlier teens—a total of 142 arrests for thirteen and fourteen year olds nationwide in 1975—to rates typical of young adults in the age categories of 18, 19 and 20.[17]

The statistics on rape arrests suggest similar trends and concentration of offenses in the older teen years, with 17-, 18- and 19-year-olds arrested at rates that are approximately three times those of the age groups thirteen through fifteen.[18] The arrest rate per 100,000 at risk for rape rose modestly during the 1960's but decreased from 1970 to 1975. In these two serious offenses of violence, the offense rate under eighteen is modest when compared with any other form of youth criminality, and while the apparent growth rate in homicide is substantial, it is growth from a low base. Forcible rape, with a higher base rate, experiences more modest relative growth during the period.

The specific rates of homicide arrests reported in Table I are important only as rough indicators of trends: there is no magic significance to the fact that the number of arrested young people within the FBI's sample of reporting agencies works out to a 14.1 per 100,000 rate when compared with the presumed population ages 13-20 during the same year in those areas. In any discussion of "juvenile" or "youth" violence, the specific rate estimate for 1975 would almost double if the arrest rate per 100,000 males were separately reported,[19] and could be increased even more substantially if an estimated crime rate were derived from arrest statistics by estimating the number of offenders not apprehended.[20] Factoring in the decline in clearance rate would also magnify apparent increases in arrests over time.[21] Finally, the growth in homogeneous youth violence could be made to appear still more substantial if the number of arrests rather than the rate of arrest per 100,000 population were used as the measure, because the youth population expanded dramatically during the period under study.[22] On the other hand, those seeking to minimize the involvement of young persons in homicide and rape could dramatically lower the estimate by reducing the impact of multiple arrests for the same homicide,[23] confining the offender sample to those who were in fact convicted,[24] or by lowering the maximum age included in the sample.[25] There is legitimate rationale for all these adjustment strategies; there are no precise data available in aggregate form to provide the foundation for any of the computations (except population by sex) required to develop the alternative measures. Thus, no single number can provide anything but an index to either the extent of, or the trends in, homicide and forcible rape participation.

But despite the crudeness of the data, and the arbitrary character of the methods used to measure rates, the sharp differences in trend noted since 1970 suggest a leveling off which is inconsistent with public perceptions about trends in youth violence.

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[17] In 1975 there were 2576 homicide arrests in the 18–20 year age group and 2423 arrests in the 21–23 year group. Uniform Crime Reports, 1975, Table 36.

[18] The 17–19 year age group showed an arrest rate of 37.6 per 100,000 compared to 13.4 per 100,000 for the 13–15 year group for forcible rape in 1975. Uniform Crime Reports, 1975, Table 36.

[19] In 1975 female arrests accounted for 15.6 percent of criminal homicide, 1 percent of forcible rape, 7 percent of robbery and 13.1 percent of aggravated assault arrests. Uniform Crime Report, 1975, Table 38.

[20] Police "clear" a crime when they have identified the offender, have sufficient evidence to charge him and actually take him into custody. In 1975 reported clearance rates were 78 percent for reported murders, 51 percent for forcible rape, 64 percent for aggravated assault and 27 percent for robbery. Uniform Crime Reports, 175, p. 37.

[21] Clearance rates for reported crimes in 1960 were 92 percent for murder, 73 percent for forcible rape, 76 percent for aggravated assault, and 39 percent for robbery. Uniform Crime Reports, 1960.

[22] The national population aged 13–20 was 21,656,049 in 1960, 30,758,218 in 1970 and an estimated 34,300,000 in 1975. Source: U.S. Bureau of the Census, Characteristics of the Population: U.S. Summary (Washington, D.C.: U.S. Government Printing Office 1960 and 1970).

[23] A Chicago study for 1965–1970 found that killings by multiple offenders occurred in 45 percent of the homicide involving offenders age 15–25 but in only 10 percent of all other homicides. Richard Block and Franklin E. Zimring, "Homicide in Chicago, 1965–1970," Journal of Research in Crime and Delinquency 10:1 (Jan. 1973) 8.

[24] In 1974 in Manhattan about 84 percent of juveniles "contacted" by the police did not reach court, and, of those that did, only 14 percent were adjudicated as guilty. See Strasburg, op. cit., 95–127. See also Boland and Wilson, op. cit., 27–28.

[25] The 1975 statistics show 1531 (8.4 per 100,000) arrests for homicide and 3698 (20.2 per 100,000) arrests for forcible rape in the 13–17 age group. By also considering the significantly larger arrest totals for 18–20 year olds, we find 4107 (14.1 per 100,000) arrests for homicide and 7972 (27.5 per 100,000) for forcible rape in the 13–20 population. Uniform Crime Reports, 1975, Table 36.

ROBBERY

The most explosive growth rate indicated in arrest statistics is for robbery, an event of mixed seriousness which is perceived as a special public danger. The rate of robbery is much higher than rape and homicide and while robbery victimization is concentrated among the young, the poor and minorities, it also harms large numbers of the old, the middle class, and a broad representation of the community at large.[26] Table II sets out arrest statistics by age group for robbery, focusing on the period 1960 through 1975.

TABLE II.—TRENDS IN ROBBERY ARREST RATES FOR OFFENDERS AGED 13–20, 1960–75

	Estimated robbery arrests per 100,000	Percent change
1960	118	
1970	205	
Percent change (1960–70)		74
1975	247	
Percent change (1970–75)		16
Percent change (1960–75)		109

Source: Federal Bureau of Investigation, "Uniform Crime Reports."

Table II shows extremely high relative growth in robbery participation from a rather large base in 1960. The growth in reported arrests per 100,000 youths—109 percent—is substantial but understates the real growth in the incidence of this offense because clearance rates for all major offenses of violence have declined; thus the number of arrests for every 100 reported crimes has correspondingly decreased.[27] If one assumes, as I have argued is improper, the same ratio of arrests to crimes for the young as for the not-young offenders in the 13 to 20 age bracket are responsible for 245,000 robberies in 1975—55 percent of the aggregate officially reported rate of robbery.

There remains the thorny problem of what kind of robbery is committed by the young and whether the dangerousness of this offense is increasing over time. Victim surveys and self-report studies indicate a persistent tendency for younger offenders, particularly those uniformly clasified as juveniles, to rob more often in groups, to use fewer weapons and to constitute less of a death risk per 100 offenses than older offenders.[28] But only fragmentary data are available to flesh out the aggregate national numbers to give us any clear reading on which of the many forms of robbery are represented, in what measure, in the aggregate total of 1975 arrests. Official statistics do not give weapon breakdowns by age of offender, even where the offense results in an arrest.[29] Nor is there a special category of robbery with injury used in police reporting.[30] The Philadelphia cohort study, whose sample of offenses roughly corresponds with the beginning of the time series we are analyzing (1960–1963) reports relatively low weapon involvement and modest average seriousness.[31] Chicago studies concerned with the period 1965 through 1970 provide evidence that robbery committed in the late teen years involved increasing use of firearms and sharp increases in levels of

[26] See., e.g. Philip J. Cook. "A Strategic Choice Analysis of Robberty," in Wesley Skogan (ed.) *Sample Surveys of the Victims of Crime* (Cambridge: Ballinger Pub. Co., 1976) 175-177; U.S. Department of Justice, National Criminal Justice Information and Statistics Service, Criminal Victimization Surveys in Chicago, Detroit, Los Angeles, New York and Philadelphia (Washington, D.C.: U.S. Government Printing Office, 1976) 16, 33, 48, 64, 80.

[27] See Zimring, Franklin E., "The Serious Juvenile Offender. Notes on an Unknown Quantity," in The Serious Juvenile Offender: Proceedings of a National Symposium, op. cit., pp. 19–20.

[28] See Philip J. Cook, op. cit., 179–180.

[29] Uniform Crime Reports, 1975.

[30] Information supplied by the Federal Bureau of Investigation, Uniform Crime Reporting Division.

[31] The Philadelphia study, which followed the city's male population from birth in 1945 to age 18 in 1963, found 7 percent of its index offenses (injury, theft or damage), involved the presence of a known weapon, while less than 2 percent of these offenses resulted in death or hospitalization. Marvin E. Wolfgang, Robert M. Figlio and Thorsten Sellin. "Delinquency in a Birth Cohort" (Chicago, The University of Chicago Press, 1972) 82–84.

lethality.[23] Of some interest, a continuation of the Chicago homicide study which is cited as evidence for this proposition suggests an absolute reduction in the lethality of youth robbery since 1970.[24] Victim survey data is too new to provide the kind of time perspective on paterns of youth robbery that would suit current needs.[25]

Because the robbery arrest rate is moderating over the period 1970 to 1975, it will be of crucial importance to find out whether the seriousness of youth robbery is abating as the rates are levelling off.

AGGRAVATED ASSAULT

Most homicide is the outgrowth of violent interactions that would be classified by the police as aggravated assault if a killing did not result. For this reason, rates, patterns and trends in assaultive violence are of special interest to students of criminality among the young. Unfortunately, translating official statistics on this offense into meaningful trends is a source of particular frustration. Table III tells us virtually all that the official aggregate statistics can tell us about aggravated assault by the young over the period 1960 to 1975.

TABLE III.—TRENDS IN AGGRAVATED ASSAULT ARREST RATES FOR OFFENDERS AGED 13-20, 1960-75

	Estimated aggravated assault arrests per 100,000	Percent change
1960	96	-
1970	155	62
Percent change (1960-70)		
1975	214	38
Percent change (1970-75)		
Percent change (1960-75)		

Source: Federal Bureau of Investigation, "Uniform Crime Reports."

The arrest rate for non-robbery assaults begins at a high base rate in 1960. Between 1960 and 1970, the rate of asault arrests increased substantially. Between 1970 and 1975, the arrest rate for aggravated assault increased even more quickly, on an annual basis than during the prior decade, in contrast to the flat trends in per capita arrests for homicide and rape. The divergence of trends between aggravated assault as measured by arrests and homicide is both puzzling and important. Have non-robbery assaults become less lethal among the young? Has police policy shifted toward including less serious events in the assault category? Has the rate of serious aggravated assault remained relatively stable while the rate of less dangerous assault has increased?

The puzzle of divergent trends in assault and homicide is important because of the extraordinary leverage that assault and robbery have in determining trends in total "violent crimes." A two percent increase in the rate of reported aggravated assault is the equivalent of more than 25% of all homicide arrests among the young in 1975.

The heterogeneous nature of aggravated assault as an offense category is a particular problem for students of violent crime among the young. Earlier it was argued that serious violence is rare among pre-adolescents. One piece of apparently contrary evidence is the over 1,000 arrests of offenders ten and under for aggravated assault reported in the Uniform Crime Reports in 1975. The police statistics tell us that these are arrests for serious asault, but the same

[23] Block and Zimring, "Homicide in Chicago, 1965–1970," op. cit., 7–10.

[24] The lethality of youth robbery may have peaked in 1970 when 78 percent of Chicago robbery homicides were attributed to offenders aged 15–24. That figure dropped to 70 percent in 1971 and rose to 74 percent in 1973 and 1974. Richard Block, "Violent Crime: Environment, Interaction and Death" (Lexington, Mass.: Lexington Books, 1977) Table 4–3.

[25] Apart from the pioneering victimization surveys of the middle sixties, the Justice Department began systematic collection of victimization data in 1972 and 1973. See U.S. Department of Justice, Law Enforcement Assistance Administration, Crime in Eight American Cities (Washington, D.C.: U.S. Government Printing Office, July 1974).

edition of the Uniform Crime Reports indicates only 17 homicide arrests in the national sample for that year in that age group. Table IV compares homicide arrests and aggravated assault arrests during 1975 by age.

TABLE IV.—HOMICIDE AND AGGRAVATED ASSAULT ARRESTS BY AGE, 1975

	Age								
	Under 10	11-12	13-14	15	16	17	18	19	20
Homicide	17	25	142	292	500	597	855	852	869
Aggravated assault	1,013	2,301	7,286	6,754	8,732	9,426	10,354	9,874	9,576
Total	1,030	2,326	7,428	7,046	9,232	10,023	11,209	10,726	10,445

Source: "Uniform Crime Reports, 1975."

Reading Table IV, the conclusion one reaches about relationships between age and violent crime depends heavily on one's definition of violence. Arrest statistics indicate 2,300 aggravated assaults and homicide arrests in the age bracket eleven and twelve as compared to 10,000 such arrests for seventeen year olds. In this aggregate measure of total violent crime, 11 and 12 year olds would appear responsible for a fourth of the aggravated assaults and homicide attributable to 17-year-olds. Yet the death risk from attack reflected in these statistics varies dramatically. Seventeen-year-olds are arrested for homicide 24 times as often as 11- and 12-year-olds-even though they are approximately half the size of the younger population at risk. Assaultive violence among 17- and 18-year-olds produces about one-third more arrests than among the age group 11 to 15, but it is responsible for three times the number of homicide arrests.

This somewhat roundabout investigation of patterns of aggravated assault suggests that any comparison of arrests in this category over time or between jurisdictions is hazardous. As important, any index of violent crime which includes undifferentiated measures of aggravated assault will be rendered opaque by the mixture of serious and less serious events agglomerated in the overall pattern.

The remainder of this section provides a brief sketch of the distribution of youth violence among the youth population and discusses trends in the level of violent offenses experienced over the last fifteen years and provides some data on the impact of demographic shifts over likely future trends.

YOUTH VIOLENCE AND THE YOUTH POPULATION

To the extent that official statistics mirror reality, serious youth violence occurs more often in cities than in non-urban areas, involves boys far more frequently than girls, and is concentrated among low social status, ghetto-dwelling, urban youth. Table V shows the concentration of youth violence arrests by crime in large urban areas.

TABLE V.—VIOLENT CRIME BY CITY SIZE 1975

[Arrests per 100,000]

	250,000 plus city size	All other areas	Ratio of city/other
Homicide	21.3	6.7	3.2
Rape	56.0	20.0	2.8
Aggravated Assault	369.0	187.0	2.1
Robbery	678.0	110.0	6.2

Source: FBI "Uniform Crime Reports, 1975."

Offenses of violence, particularly robbery, are intensely concentrated in the nation's large cities. Of some interest, the offense that displays the smallest relative concentration is aggravated assault. Whether this reflects a wide distribution of both life-threatening and less serious violence cannot be directly

inferred. But it is worthy of note that homicide arrests are three times as frequent in big city youth populations while assault arrests are merely twice as frequent. It is thus plausible that less serious patterns of assaultive violence are reflected in the arrest statistics for reporting areas outside major cities.[36]

Table VI shows the distribution by sex of violence arrests.

TABLE VI.—DISTRIBUTION OF VIOLENCE ARRESTS FOR PERSONS UNDER 18 BY SIX AND OFFENSE (EXCLUDING RAPE), 1975

	Percentage male	Percentage female	Total arrests
Homicide	90	10	1,373
Robbery	93	7	40,796
Aggravated Assault	84	16	30,858

Source: "FBI Uniform Crime Reports, 1975."

To some extent the dominance of males in arrest statistics may reflect a reluctance on the part of the police to arrest girls or to charge an arrested female with an offense of violence. But the persistence and magnitude of the difference between the sexes in violent crime suggests that this difference is something more than the product of chivalry in the criminal justice system.

Similarly, available statistics indicate that urban minority youth are disproportionately involved in violent crime, although the official statistics probably overstate the difference between the races.[37] Table VII shows the ratio of black to white arrest rates per 100,000 youths by crime for five cities in the census year of 1970.

TABLE VII.—*Ratio of black to white arrest rates per 100,000 youths by crime in 5 cities—(1970)*[1]

	Black/white ratio
Homicide	7.2
Robbery	8.6
Burglary	3.9
Auto theft	3.0

[1] Boston, Chicago, Cleveland, Dallas, Washington, D.C.

The violence offenses of homicide and robbery show heavier racial concentrations than property offenses of burglary and auto theft. How much of the racial differences noted with respect to violent offenses can be attributed to selective enforcement, differences in socio-economic class, and other unaccounted variables has not been adequately investigated.[38] But the concentration of violence offenses in urban areas among minorities is an important partial explanation for the explosion of violent youth crime in the 1960's. The fifteen years from 1960 to 1975 were characterized by a large increase in the youth population, an increasing concentration of the young in urban areas, and a huge increase in the minority youth population in core cities.[39] These population changes occurred in a social setting when crime rates for all significant age groups were increasing.[40] Given generally higher crime rates as well as large increases in the population

[36] See Table VI. It should be noted, however, that fatal attacks stemming from robbery are reflected in the homicide arrest statistics while nonfatal robbery attacks are not reflected in the aggravated assault arrest statistics. Since robbery is more frequent in large cities, this statistical quirk may also influence the variations in homicide to assault ratios.

[37] Zimring, "Confronting Youth Crime," op. cit., 29–42.

[38] The Philadelphia cohort study did attempt to control its population data for differences in socio-economic status and disposition of offenders. Wolfgang, Figlio and Sellin, op. cit., 47–52, 218–226.

[39] Franklin E. Zimring, "Dealing with Youth Crime: National Needs and Federal Priorities," Report to the Coordinating Council on Juvenile Justice and Delinquency Prevention (1975) ch. 3.

[40] The Federal Bureau of Investigation reported a 233-percent increase in total index crimes and a 180-percent increase in the rate of index crimes per 100,000 inhabitants over the 1960–1975 period. The rate per 100,000 of violent crime (murder, forcible rape, robbery, and aggravated assault) rose 199 percent. Uniform Crime Reports, 1975, Table 2

at risk, a substantial increase in violent youth crime was predictable. The increases that occurred between 1960 and 1970 were, however, much greater than the most sophisticated demographic projections would have predicted, because rates per 100,000 of major crimes of violence increased dramatically.[41] From 1970 through 1975, it is probable that age- and race-specific rates of urban youth violence did not increase and there is some evidence of a decrease in rate.[42]

Over the next decade, if we assume the present concentration of violent crime continues, the declining youth population should be responsible for a smaller volume of total youth criminality. However, the volume of violent crime should be less responsive to the overall decline of the youth population because the population of urban-dwelling minority males will not decline dramatically in the 1980's.[43] What one would expect, therefore, is a drop in the more democratically distributed property crimes more substantial than for offenses such as robbery and homicide. There is some evidence, however, that offenses of violence are decreasing, and that this decrease is due in large measure to declining rates of youth violence. Nationwide, the homicide rate in 1976 was down almost 10 percent from 1975 levels.[44] Since 1975, individual cities have reported sharp decreases in homicide and robbery rates.[45]

There is no persuasive reason to believe the recent decreases in youth violence can be attributed solely to demographic shifts. The same can be said for the moderating rate of very serious youth violence that appears to have characterized much of the 1970's. We are left in the happy if scientifically frustrating circumstance of confronting good news which the present level of social science understanding cannot explain.

II. KEY ISSUES IN YOUTH VIOLENCE

Any short list of significant issues concerning youth violence will be necessarily incomplete and reflect the biases of both the list-maker and the times. In this period of intense debate about public policy towards serious young offenders, four questions appear to deserve detailed discussion:

(*a*) How satisfactory is our present capacity to measure the incidence of youth violence, its seriousness, and changes in patterns of violence over time?

(*b*) How concentrated is serious youth violence among the youth population and how successfully can we predict the recurrence of violence in individual cases?

(*c*) What is the relationship between variations in social control policy and the incidence of youth violence?

(*d*) To what extent can trends in violence by the young be used as a leading indicator of future trends in aggregate rates of violent crime?

Each question posed above is related to the other three. Of particular importance, however, is the relationship between our capacity to measure the incidence of youth violence and the possibility of obtaining reliable answers to the questions concerning concentration, predictability, responsiveness to sanctions, and predictive value. Issues of measurement must therefore precede discussion of policy. This point is often given insufficient recognition in political debates where the "facts" about youth crime are playing an increasingly prominent role but the validity of those facts is too often unquestioned.

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[41] See Tables I, II, and III.

[42] Clearance rates for homicide declined from 86 to 78 percent from 1970 to 1975. To the extent that this accurately reflects a trend in clearance rates for youth population, the less than 1-percent increase in arrests would reflect an 11-percent increase in offenses. Similarly, forcible rape clearance rates declined from 56 to 51 percent, and if this accurately reflects a trend for youth, the 2-percent rape decrease would represent a 7.4-percent increase in offenses. By contrast, similar manipulations of 1960 and 1970 data would yield an estimated increase of 98 percent during that period for homicide offenses and 52 percent for rape. It is important to note, however, that clearance rates used in these computations are arbitrary and aggregate. Age-specific data is not available. Furthermore, given the changing racial composition of urban areas over the period 1970 to 1975, one would expect increasing aggregate youth violence even if race-specific rates remained constant.

[43] Zimring, "Dealing with Youth Crime," op. cit., ch. 3.

[44] The national homicide rate fell from 9.6 per 100,000 in 1975 to 8.8 per 100,000 in 1976. Uniform Crime Reports, 1976, Table 2.

[45] Philadelphia and Detroit showed dramatic decreases in estimated homicide and robbery rates between 1975 and 1977. In Philadelphia the homicide rate dropped from 24 to 18 known offenses per 100,000 while the robbery rate dropped from 573 to 389. In Detroit homicide rates decreased from 47 to 37 and robbery rates decreased from 1597 to 1218. FBI, Uniform Crime Reports, 1975 and 1977 Preliminary Annual Release.

A. Measuring violence by the young

The principal tool for measuring age-specific violence is the series of annual aggregate arrest statistics forwarded by local police departments and reported by the Federal Bureau of Investigation. Supplemental tools include occasional "cohort" studies sampling subjects from the general population and using police arrest statistics as a measure of criminality,[45] studies of juvenile court intake,[47] self-report studies which survey samples of the youth population and ask them to report on the frequency and seriousness of their criminal acts,[48] and surveys of the victims of crime that include victim estimates of the age of offenders.[49] While the variety of different measures of youth crime is substantial, the data base that has emerged is insufficient.

In the best of years, official statistics on arrest rates for violent crimes are seriously flawed. Whatever biases are built into the policing process are passed on in official statistics.[50] For nine out of every ten youth violence arrests, there is no detail on the seriousness of the particular offense.[51] Statistics forwarded by local departments on the incidence of crime are audited by the FBI, but there is evidence that statistics on arrests are not similarly scrutinized.[52] All these well-known difficulties are compounded by dramatic shifts in the number of agencies reporting age-specific arrest statistics and the periodic omission of major cities that make year to year comparisons in youth violence a hazardous occupation.[53]

One does not have to read far back in history for examples of "peculiar" years in youth arrest reporting statistics. The present analysis is concerned with 1975 rather than 1976 as the end year because the 1976 data do not include Chicago.[54] By contrast, the 1974 FBI Reports did include the city of Chicago but did not include a host of police agencies representing a population of more than 20 million who were temporarily omitted from the reporting sample.[55]

Birth cohort studies depend on birth or school statistics to capture a representative sample of an area's population and use police statistics to estimate the incidence and distribution of delinquent behavior.[56] Such a cohort enterprise will reflect whatever biases influence the police decision to arrest, but the use of individual offense naratives rather than aggregate arrest statistics allows the researcher to follow individual careers, to make specific assessments of the seriousness of individual acts that come to the attention of the police, and to mesh data from law enforcement records with data on educational attainment, socio-economic status and other presumed correlates of delinquent behavior.[57] A second further advantage of the cohort strategy is the opportunity to study non-delinquent youth of the same age. The first major American cohort enterprise, a study of Philadelphia youth born in 1945, was published in 1972. It is, at present, the single most important data base for assessing the incidence and distribution of youth violence.[58]

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[46] Wolfgang, Figlio and Sellin, op. cit.; Kenneth Polk, Dean Frease, and F. Lynn Richmond, "Social Class, School Experiences, and Delinquency," Criminology, 12:1 (May 1974) 84–97; Lyle W. Shannon, Assessing the Relationship of Adult Criminal Careers to Juvenile Careers (Racine, Wisconsin: unpublished).

[47] Lawrence E. Cohen, "Delinquency Dispositions: An Empirical Analysis of Processing Decisions in Three Juvenile Courts" (Albany: Criminal Justice Research Center, 1975); Strasburg, op. cit., 88–94.

[48] See e.g. Martin Gold and David J. Reimer, "Changing Patterns of Delinquent Behavior Among Americans 13 Through 16 Years Old: 1967–72," Crime and Delinquency Literature 7:4 (Dec. 1975) 483–517.

[49] Victim estimation of offender age is collected by the Bureau of the Census but not published in the major criminal victimization surveys. See Richard W. Dodge, Harold R. Lentzner and Frederick Shenk, "Crime in the United States: A Report on the National Crime Survey" in Wesley G. Skogan (ed.) Sample Surveys of the Victims of Crime (Cambridge: Ballinger Pub. Co., 1976) 1–26.

[50] Gold and Reimer, op. cit.

[51] See pp. 7–10, 21–27, supra.

[52] Franklin E. Zimring, "The Serious Juvenile Offender: Notes on an Unknown Quantity" in The Serious Juvenile Offender: Proceedings of a National Symposium (Washington, D.C., U.S. Government Printing Office, 1978) 15, 22-23.

[53] Ibid.

[54] Information supplied by the Chief of the Statistical Division, FBI Uniform Crime Reporting Bureau, September 1977.

[55] The 1974 national age-specific arrest data was based on reports from 5298 agencies covering an estimated population of 134 million. In 1973, 6004 agencies (155 million population) reported. F.B.I. Uniform Crime Reports, 1973 and 1974, Tables 30 and 34.

[56] See Wolfgang, Figlio and Sellin, op. cit., 27–52.

[57] Wolfgang, Figlio and Sellin, op cit., 39–52. See also Gary F. Jensen, "Race, Achievement and Delinquency: A Further Look at Delinquency in a Birth Cohort," American Journal of Sociology, 82:2 (Sept. 1976) 379–387.

[58] See e.g. Boland and Wilson, op. cit., Jensen, op cit. and Strasburg, op. cit.

Unfortunately, research of this character is expensive if sample sizes are to be sufficiently large to permit the study of relatively low incidence offenses, and even retrospective studies are time-consuming if performed with care. Thus the Philadelphia cohort that is frequently discussed in contemporary policy debates about youth violence turned eighteen in 1963, when rates of youth violence were about half current levels. The expense associated with large sample cohort studies means that relatively few such studies exist. The effort necessary to perform cohort analysis suggests that unless patterns of youth violence are stable over time, cohort research may be "dated" by the time it is completed. Still the Philadelphia study is properly serving as a model for contemporary replications in American urban and rural areas. If such studies had been made earlier, far more reliable information on trends in youth violence over time would currently be available.

Studies of juvenile court intake are faster, less expensive and less informative than full-blown cohort enterprises.[59] By definition, such studies encompass suspected offenders only, and typically involve relatively small samples of the juvenile intake and correspondingly low levels of violence arrests.[60] Most of the studies published to date depend solely on juvenile court records, and these records contain very little information on cases that are informally disposed of before juvenile court petitions are filed.[61]

For example, in Paul Strasburg's study of the Manhattan Juvenile Court, a substantial number of police arrests for index violence offenses were informally disposed of, a phenomenon that suggests the residual sample of violent offenses was biased to some extent. This type of policy decision in the juvenile court also suggests what the previous discussion of "heterogeneous" juvenile violence has implied: many officially recorded youth violence arrests stem from less than heinous behavior. Studies of juvenile court intake are relatively recent, and it is thus difficult to use the data generated from such studies to directly address trends in youth violence over time.

Self-report studies of potential young offenders and the victims of crime are another supplement to official statistics emerging in the literature. "One shot" studies of adolescents, students and adults who report on their criminal activity have been a staple of American sociological research for a number of decades. An effort to assess the criminal behavior of a national sample of American adolescents in two different years, 1967 and 1972 was reported by Martin Gold and David Reimer in 1975.[62]

Asserting that "official data on delinquency are tied so loosely to the actual behavior of youth that they are more sensitive to the changes in the measurement procedures than they are to the object of measurement," [63] Gold and Reimer conclude that per capita rates of delinquent behavior, other than alcohol and drug-taking, declined during the period 1967 to 1972. Paul Strasburg in his review of violent delinquents (p. 21) finds the results of this study "surprising and significant," [64] and concludes that "these findings run counter to the trend in the FBI's Uniform Crime Reports for the same five year period [65]. . ." In fact, at least as pertains to violent youth criminality, there may be little in the self-report study that casts doubt on official statistics. In the first place, the national sample interviewed by Gold and Reimer was small (1,395 youth between ages 11 and 18 including fewer than 500 males over the age of 15).[66] Second, 29% of eligible respondents were not interviewed, and more than two-thirds of the non-interviews were the result of refusals by the youth, or both the youth and his parents, to participate. Whether "refusers" were more apt to be offenders is not

[59] See Cohen, op. cit. for analysis of juvenile processing in the Denver County (Col.), Memphis-Shelby County (Tenn.) and Montgomery County (Pa.) courts; see also Strasburg, op. cit., 88–127, concerning Manhattan and Westchester Counties in New York and Mercer County in New Jersey.

[60] Strasburg's Manhattan County sample of 221 juveniles in 1974 came from 13,000 police contacts leading to 4313 arrests leading to 2124 petitions to juvenile court. The Westchester sample of 111 juveniles was chosen from 636 petitions resulting from 2293 arrests from 6000 police contacts; the Mercer County sample of 178 derived from 6717 contacts, 2720 arrests and 2363 petitions. Strasburg, op. cit., 96. Cohen's study covered all juvenile cases referred to the courts in 1975: 5684 in Denver, 6596 in Memphis-Shelby, 1302 in Montgomery County. Cohen, op. cit., 15–20.

[61] See Strasburg, op. cit., 88.

[62] Gold and Reimer, op. cit.

[63] Ibid, 514.

[64] Strasburg, op. cit., 21.

[65] Ibid, 22.

[66] Gold and Reimer, op. cit., 484–485.

known, but the likelihood cannot be lightly dismissed. Third, particular high risk groups were not heavily represented: there were fewer than 30 black males over the age of 15 in the sample.[67] Given the low incidence of serious youth violence it is therefore altogether appropriate that no serious offense of violence was listed in the schedule of behavior that the youth sample was asked to respond to.

Surveys of crime victims add important if imprecise perspectives to offender surveys and official statistics on youth violence. A recent national survey on crime victimization asked those who reported being victims of robbery and assault to estimate the age of the offender or offenders responsible where face-to-face confrontation made such an estimate possible.[68] This survey, with a much larger sample than any existing self-report offense studies, covered both offenses that were reported to the police and those not reported. For the majority of all crimes that were not cleared by arrests, they provide some data on the approximate age of the offender and the characteristics of the offense. The number of victims is sufficiently large for an offense such as robbery so that these data give something of a national portrait of the approximate age of offenders. The study provides some basis for concluding that younger offenders are less frequently armed more frequently in groups and more likely to pick "softer" targets than older offenders.[69] The sample of offenses in the national crime panel was evidently not sufficiently large to provide confident estimates of how these patterns vary by city size,[70] and (as noted earlier) the victim surveys do not extend far enough back in time to provide an independent indicator of trends over time.

When all these supplemental measures are added to the existing base of official arrest statistics, an incomplete and occasionally inconsistent portrait of youth violence emerges. The small number of supplemental studies, the varying methodologies and the inconsistent findings do not permit a national portrait of youth violence to be drawn in which the different indices are joined together so that the whole exceeds the sum of its parts. Instead, the primary data used in any discussion of trends or patterns of youth violence come from aggregated arrest statistics, and supplementary methods of study are used in interpretation or argument about what the aggregate statistics mean. Attempts to link the products of supplemental methods of study to official statistics almost always involve assumptions that seem unwarranted about the continuity of trends over time and the similarity of patterns in different areas.

Indeed, there may be no single "national" portrait of youth violence or any uniform set of trends that can be generalized across regions and different population groups. The ebb and flows of aggregated national totals may be reflecting a wide diversity of patterns and trends. To date, however, empirical studies of youth violence are insufficient in number and quality to test even this hypothesis. Thus, while data play an important role in current debates about whether there is a wave of violence in the suburbs, or growth in the number of young career violent offenders, or a "breakdown" in the juvenile justice system, the information base available at present is too tentative and too internally inconsistent to bring such issues to resolution. In the pages that follow, these deficiencies in information will be a major theme animating discussion of three issues that have emerged in recent literature and in public debate.

B. The concentration and predictability of youth violence

Self-report studies indicate that the vast majority of American young people violate the law at some point in adolescence. Official statistics on arrests and juvenile court intake suggest a pool of officially identified and suspected offenders in the millions.[71] Yet any intervention strategy—punitive, preventive or rehabilitative—must necessarily be directed at smaller numbers of young offenders. In some reform proposals, selectivity is urged in relation to the seriousness of the offense committed by a particular adolescent that leads to his conviction in juvenile or criminal court. In its pure form, this proportional em-

[67] Approximately 36 percent of the Gold and Reimer sample was over 15 and only 87 of 1395 in the sample population were black males. Gold and Reimer, op. cit., 484–485.
[68] See footnote 49.
[69] Cook, op. cit., 178–180.
[70] The victimization survey statistics on offenders cited by Cook are aggregate totals from the National Crime Panel Survey of 26 cities. Ibid.
[71] Zimring, "Confronting Youth Crime," op. cit., 178–180.

phasis would focus, primarily, on the seriousness of the youth's offense and would be more concerned with retributive justice than with the prediction of dangerousness.[73]

A second approach, designed to enhance crime prevention, would attempt to isolate the young, violent career criminal regardless of his age. While detailed policy recommendations are not put forward in current literature, the broad outlines of such an approach were recently suggested by Barbara Boland and James Q. Wilson:

"[p]erhaps there should be a two-track system, but with the tracks defined by the nature of the criminal career rather than by the age of the offender. One system would deal, largely by non-custodial means, with routine, intermittent offenders or those with short criminal records. The other would deal with serious, intensive offenders and would almost invariably employ close supervision or custody." [73]

To have any significant impact on violent crime, such an approach would require a substantial number of young "career" offenders who are (a) responsible for a large share of violent crime and (b) can be identified in advance. Empirically, such a "two-track" system works best when violent criminality is heavily concentrated among a small segemnt of juvenile offenders, is persistently committed by those offenders, and when such future violent criminality can be predicted from a particular pattern of present offense or prior criminal history.

The available evidence on these related topics is ambiguous. Clearly, it is far-less decisive than the recent Boland and Wilson treatment of the subject would lead a reader to conclude. The most often quoted finding of the Wolfgang, Figlio and Sellin study is that "the vast majority of *serious* crimes" in the sample were committed "by the approximately six percent [of the sample] who are chronic offenders . . ." [74] At first glance, this six percent statistic suggests extreme concentration and appears to imply a high capacity to predict serious future criminality. First impressions can be misleading however. In the first place, 6 percent of a population of young males is a large number of offenders indeed, too large for a general application of intensive social control measures. Second, the six percent incidence of chronic offensivity is associated with a rate of violent criminality approximately half that of more recent years.[75] Third, chronic offenders in the Philadelphia study are defined in terms of total "index offense" arrests, and the majority of these arrests are for non-violent property offenses. One searches the original cohort study in vain to find strong evidence of a large number of identifiable youthful offenders specializing in violence. The authors of the Philadelphia cohort study concluded:

"The offense transition matrices appear to be independent of offense number, and in fact, the same process seems to operate at each stage in the offense histories. There is no 'break' after which the offenders specialize along some discernible pathways. Indeed, with the exception of a small tendency of like offense repetitions (particularly for theft offenses), the choice of the next offense follows the first offense probability vector as mentioned above." [76]

This is an unpromising finding for those who are interested in the early identification of career violent offenders.

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[73] The American Bar Association's proposed juvenile justice standards classify juvenile offenses according to criminal penalties applicable to adults. An offense normally punishable by death or life imprisonment is a "class one" juvenile offense punishable by a maximum of two years confinement in a secure or insecure facility or three years conditional freedom. An offense normally punishable by a prison term of six months or less is a class five juvenile offense, punishable by a maximum of two months in a nonsecure facility if the juvenile has a prior record (a class one, two or three offense or three class four or five offenses) or conditional freedom for six months. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project, Standards Relating to Juvenile Delinquency and Sanctions (Cambridge: Ballinger Pub. Co., 1977) Parts V–VI. The dispositional criteria set forth in these standards directs courts to choose the "least restrictive" disposition, "as modified by the degree of culpability indicated by the circumstances of the particular case and by the age and prior record of the juvenile." IJA/ABA, Juvenile Justice Standards Project, Standards Relating to Dispositions (Cambridge: Ballinger Pub. Co., 1977) Standard 2.1.

[73] Boland and Wilson, op. cit., 34.

[74] Ibid, 32.

[75] The average estimated annual arrest rate per 100,000 youths aged 13–20 was 249 for the four violent crimes during 1960 to 1963, the period when the Philadelphia cohort passed through the ages of 15 to 18. The annual rate was an estimated 491 per 100,000 for the period 1974 to 1976. FBI Uniform Crime Reports.

[76] Wolfgang, Figlio and Sellin, op. cit., 250.

Other studies have been more successful in finding concentration and (to a lesser degree) specialization in criminal careers, but only through the judicious use of hindsight rather than forward predictions of dangerousness. The RAND corporation study of 49 repetitively violent offenders currently incarcerated as adults for robbery found that those serious adult offenders had had extensive juvenile careers and a large number of offenses including a substantial number of robberies.[77]

It was, of course, imposible in a sample selected for its serious adult criminal careers to know what factors could have predicted the kind of criminal involvement which that particular group experienced, because individuals with extensive careers of youth violence could not be included in the sample unless they had persisted in repetitively violent behavior in developing years.[78] (It is of more than passing interest that this RAND study also can not be cited as evidence that juvenile offenders are apprehended less frequently per 100 crimes—as Boland and Wilson have attempted to do—because of the bias built in the sample selection. Since only individuals who have been repetitively apprehended as adults are included in the RAND sample, the sample consists of a pre-screened group of unlucky as well as persistently criminal offenders. Because juvenile records were not considered in drawing the sample, the same propensity to be apprehended can not be assumed for the sample's juvenile as opposed to adult criminal careers.) [79]

There is, at present, insufficient evidence of the extent to which youth violence is extensively concentrated in a relatively small pool of career offenders. Further, no particular offense or series of offenses is an efficinet predictor of future violence in a representative sample of young offenders. The younger the age at first arrest, and the more frequent the number of arrests or convictions, the greater the propensity toward future criminality, violent and non-violent. To date, however, there is little evidence of the kind of intense specialization that would create maximum impact for a program that was focused on repetitively violent offenders.

Yet is would be foolish to deny, or deny the importance of, the intense concentration of serious violent crime among poor, minority, urban-dwelling males. In strict logical terms, groups do not have crime rates. Individuals either violate laws or do not. Thus, to speak of blacks, males, sixteen year olds or any other aggregate population that shares a common demographic quality as having a "crime rate" is misleading. It is particularly misleading because the labels listed above produce an incomplete and dangerously distorted portrait of the actual distribution of serious youth violence. A primary future research task relating to the concentration of youth violence is to disaggregate the macro-variables used in common discussion and to examine the large variations that exist *within* demographically similar groups with different rates of criminal activities.

In logical terms the search for the answer to the question, "How concentrated are crime rates?" would lead to the individual level. But it is also important to know how many young offenders and what proportion of the population within the larger demographic socio-economic sub-groups are responsible for much of reported serious violent youth criminality. Simply combining sex, age, race and socio-economic status is a dangerously incomplete method for addressing the real concentration of youth crime. Any such limited approach both overstates the general propensity toward crime among the group under study and understates the concentration of offensivity among particularized sub-groups aggregated into the larger whole. At minimum, geographic and more refined social status and achievement measures must be added to the creditable cohort studies initiated in Philadelphia.[80] This kind of information is important even if it will not produce clear predictable pictures of career violent offenders on which intensive social control measures can be based.

Research of the kind described above will also provide information on the onset, duration, and intensity of careers in violent crime. The questions are clear: When do adolescents turn to violent crime? Are there patterns of specialization associated with violent young offenders or is there frequent crime "switching?" What is the frequency of commission of violent crime for those young offenders

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[77] J. R. Petersilia, P. W. Greenwood and M. M. Lavin, "Criminal Careers of Habitual Felons" (Santa Monica: RAND Corporation, 1977).

[78] Ibid.

[79] Ibid. and see Boland and Wilson, op. cit., 25.

[80] See Wolfgang, Figlio and Sellin, op. cit. 47–65, measuring socioeconomic status and educational background of the cohort members.

who persistently commit such acts? How long do violent young offenders persist in committing offenses? These empirical questions are high priority candidates for research support. It is also important to recognize how little is presently known about such topics. All too frequently, contemporary discussions of youth crime policy assume we know much more about these topics than a detailed review of existing research reveals. One of the most important contributions of future study will be a shift in focus away from "the violent young offender" to the variety of different types of violent offenders who may have importantly different criminal careers.

C. Does social control make a difference

Most disputes about whether juvenile and criminal courts have failed to cope effectively with youth violence contain implicit assumptions about the effects of alternative (usually more punitive) mechanisms of control in reducing the incidence of violent crime. At the heart of such debate are questions about the deterrent and incapacitative effects of punishment, particularly incarceration, and the marginal benefits that could be expected from policies that place a higher priority on crime control.

Yet evidence on the marginal effects of increased incarceration is tentative, not specific to youth, and subject to differing interpretations. After a long period of neglect, social and policy scientists have begun to address the issue of measuring the deterrent and incapacitative effects of punishment. To date, the results have been mixed.[81]

So far, the rekindled interest in deterrence and incapacitation has been confined to the study of sanctions delivered by the criminal courts.[82] The impact of variations of social control strategy on youthful offenders is a neglected area of research. Paradoxically, it may be possible to gain more insight about the marginal deterrent impact of sentence severity by studying variations in social response to youth crime than by studies of variations in sanctioning policies directed at adult offenders. The fact that young offenders age out of the juvenile justice system in New York on their sixteenth birthday but are retained until the age of eighteen in Pennsylvania [83] is a natural opportunity to explore whether juvenile and criminal courts deliver substantially different levels of punitive sanctions and whether whatever difference is noted has any impact on age-specific patters of violent criminality. The existence of waiver provisions in the great majority of states may be seen as somewhat confounding this type of analysis, but recent research has shown that for an offense such as robbery, very few juvenile offenders are waived to criminal courts.[84]

To date, there has been no systematic study of the general deterrent impact of variations in sanctions available for young offenders and only occasional pilot studies on the incapacitative impact of sanctions presently delivered by juvenile courts. Studies by Stevens Clarke [85] and John Conrad and his associates tend to suggest that the incapacitative effects associated with present policies are a low proportion of total youth crime, but no specific analysis has been done on the issue of youth violence.

If the sanctions delivered to young offenders make relatively little difference in crime rates, the juvenile justice system can make decisions which balance retributive community needs against policies of avoiding stigma and facilitating chances for young offenders to develop within the community. If the crime preventive potential of variations in sanctions is high, policy toward youth violence faces harder choices. In such a setting, the juvenile justice system must balance the interests of potential victims against the interests of young offenders, for the state has a positive obligation to protect both groups. In either case, it is far better to build toward estimating the deterrent and incapacitative potentials of various alternative strategies toward young violent offenders than to operate juvenile and criminal court systems essentially in the dark. If hard choices are to

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[81] See National Academy of Science, "Report of the Panel on Deterrence and Incapacitation" (Washington, D.C.: U.S. Government Printing Office, forthcoming).

[82] Ibid.

[83] N.Y. Jud. Law § 712(a), (b) (McKinney) (1976); Pa. Stat. Ann. tit. 11 § 50-102(1) (Purdon) (1972).

[84] Joel Eigen has found that fewer than two percent of the juveniles arrested for robbery are waived to adult courts. Joel Eigen, Ph. D. dissertation (unpublished), University of Pennsylvania, 1977.

[85] Stevens H. Clark, "Getting 'em Out of Circulation: Does Incarceration of Juvenile Offenders Reduce Crime?" The Journal of Criminal Law and Criminology, 65:4 (Dec. 1974) 528-535.

be made, they should be made on data rather than on conjecture. Here, as in discussion of the concentration and predictability of violent crime, current commentaries on the topic tend to assume there is more reliable evidence available than is the case.

D. Youth violence as a "leading indicator"

If official statistics are a reliable guide, per capita youth involvement in homicide, rape and robbery leveled off after 1970. But overall rates of violent crime did not begin to decline until the mid-1970's. Intuitively, there is reason to believe that the involvement of adolescents in violent criminality may serve as a leading indicator of future trends in aggregate rates of violence in much the same way that certain indices of economic behavior are believed to forecast future trends in the general economy. The peak ages for serious violent crime occur in late adolescence and early adulthood, some years after youth participation in violent crime becomes substantial. If trends among a particular cohort of offenders in their younger years are predictive of relative rates of violence in their latter years, one would expect that the earliest indications of an upward or downward shift in aggregate violence could come from reliable data on trends in violence among early and middle adolescents. But more than intuition is needed to test this hypothesis. Careful and systematic study that encompasses both the period of explosive growth in violence and the more recent leveling-off phenomenon is a necessary element in a balanced agenda of youth crime research. In an area where aggregate trends are difficult to predict and almost impossible to explain, any development of plausible leading indicators would be a major advance.

This is a difficult but interesting period for students of youth violence. The upward trend during the 1960's in violent youth criminality remains largely unexplained even as we are experiencing a period when the fever chart of officially reported violent youth crime is moderating. Youth violence is volatile; it is still too early to declare victory in the war on violent youth criminality. But it is worthy of note that rates of some forms of violent youth criminality have been stable for a longer period than the intense policy debate about juvenile and criminal justice would suggest.

The gap between public perceptions and recent trends may be explained on a number of grounds. Even if the rate of youth violence is coming down on a per capita basis, the expanding youth population has led, until quite recently, to an expanding number of offenses.[87] The non-young may therefore be unconcerned with rates of per capita criminality if their own vulnerability is increasing on a statistical basis. More important, I suppose, is the gap between symbol and substance that pervades public discussion of crime and criminal justice. The violent young offender remains a threat on the streets of our cities. But the image of the violent young offender that animates policy and political debates is not simply a faithful reflection of statistical realities. It also reflects a complex amalgam of generational, racial and other societal conflicts which pervade urban American life. In the end, fear of the young will moderate only if these larger social anxieties can be ameliorated. Yet any sustained decline in youth may contribute to a more general abatement in social tensions. If this occurs, it will be the most important benefit that fluctuations in the rate of crime can produce in the coming decade.

[87] Arrest rates for violent youth crimes may have decreased (Table I: homicide and rape) or increased more slowly since 1970 than before (Tables II and III: robbery and aggravated assault), but the youth population aged 13 to 20 has expanded from 30,758,214 in 1970 to an estimated 34,300,000 in 1975. Therefore, the total number of arrests has increased as dramatically after 1970 as before:

	Total arrests of persons aged 13-20		
	1960 [1]	1970 [2]	1975 [3]
Homicide	973	3,197	4,107
Forcible rape	3,088	6,421	7,972
Robbery	15,141	46,806	71,708
Aggravated assault	12,341	35,384	62,002

[1] Estimated 12,868,000 aged 13-20 in U.C.R. sample population of 106,348,846.
[2] Estimated 22,892,000 aged 13-20 in U.C.R. sample population of 151,604,000.
[3] Estimated 29,029,000 aged 13-20 in U.C.R. sample population of 179,191,000.

Sources: F.B.I. "Uniform Crime Reports," U.S. Bureau of the Census.

COMMUNITY RESOURCES FOR JUSTICE, INC., HARTFORD, CONNECTICUT

(By Ovis Hycento Armstrong, Executive Director)

YOUTH SERVICES PROGRAM

A Youth Services Program intended to deter repeatedly serious delinquents from engaging in further or future criminal activity will begin operation in Harford this fall. [Oct. 1976] Designed by the Hartford Institute of Criminal and Social Justice in response to a request by the City of Hartford for assistance in handling its juvenile delinquency problem, this client-centered program will incorporate close monitoring and a variety of techniques intended to "turn around" serious delinquents. Analysis of the juvenile crime problem in Hartford has shown that a core group of delinquents was responsible for a substantial amount of serious juvenile crime. According to 1975 Juvenile Court data, 130 males (one-half of one percent of Hartford's total juvenile population and only 12% of all referrals to Juvenile Court) were responsible for 54% of juvenile felony charges in Hartford.

Key components of the program will be intensive supervision of the clients, stabilization of his family situation, and strengthening of ties of community institutions, all geared to provide both the delinquent and his family with specific tools and resources that will enable them to turn to constructive behavior. The goal of the program is to substantially reduce the continued criminal behavior of the targeted delinquents, thereby reducing both the amount of serious juvenile delinquency activity in Harford and the flow of potential offenders into the adult criminal process.

This program will work with juveniles brought before Juvenile Court on felony charges who have been before the court at least twice previously. Participation in the program will be six to eight months. Following graduation from the program, juveniles will be encouraged to continue their relationship with the program and to continue to utilize the program's drop-in center.

The program will provide intensive personal supervision and monitoring; counseling of the delinquent; and supportive advocacy for the delinquent and his family through coordination and purchase of necessary services. A Youth Services worker will be assigned to each juvenile and will spend up to 30 hours a week with each juvenile during the first six weeks of the client's participation in the program. These workers will accompany juveniles on their daily activities and provide the extra supervision needed to guarantee that they will not engage in further criminal activity. These workers will help clients and their families obtain services such as educational and welfare assistance, and will be on call twenty-four hours a day. It is hoped that clients and workers will develop a close relationship based on trust.

A drop-in center will be headquarters of the Youth Service Program. It will be open to the clients' peers and siblings as well as participants themselves. Former participants who successfully completed the program will also be encouraged to frequent the drop-in center.

Scheduled to begin operations in October, [1976], the program which is funded by a $220,000 Community Development Block Grant, will be operated by Community Resources for Justice, Inc., an agency which also runs Hartford's only pretrial intervention program. The first three months will be dedicated to hiring a director of the Youth Services Program, setting up the program, and training workers. The program will begin working with juveniles at the beginning of January, 1977. Forty juveniles are expected to be admitted during the first year, with a projected intake level of 60 to 80 juveniles in subsequent years.

SCOPE OF SERVICES, YOUTH SERVICES PROJECT

I. Goals

(1) To reduce the amount of serious juvenile delinquent activity in the City of Hartford.

(2) To reduce the flow of potential offenders into the adult criminal process.

(3) To indirectly reduce future delinquent behavior among a proportion of siblings of those enrolled in the program/as part of the program workers' efforts with juveniles and other members of their families.

II. Objectives

(1) To prevent the occurrence of delinquent behavior among a significant proportion of targeted delinquents, by conducting an intensive one-to-one super-

visory program which would include monitoring, counseling and advocacy services to the delinquent juveniles.

(2) To keep daily records on each juvenile to ensure professional program administration, continuous assesment of needs, and ease of program evaluation.

(3) To establish a management information system for the purpose of describing program status, results achieved, and anticipated future objectives.

(4) To develop a follow-through stage at the conclusion of the intensive six to eight month Service Delivery Phase, involving continuous contact by the counseling team with both the juvenile and his family for a period of one year, should funds be made available.

III. Services

Once a delinquent has been referred to the program, has been assessed as to program eligibility and the appropriateness of the programs to his needs, a service plan will be designed. This plan will include the following services:

A. Primary services

1. *Counseling.*—Psycho-therapeutic counseling will be given to determine the level of severity and the specific needs of the individual. Thereafter, other forms of counseling will be made available to the client including, but not limited to, professional individual counseling, educational tutoring, vocational counseling, group counseling, and family counseling. Specific counseling will follow as assessment of client needs and development of a treatment plan.

2. *Monitoring the delinquent.*—Intensive supervisory monitoring will be maintained between program workers and the juvenile delinquents. The Team will monitor the client's behavior and provide the social services deemed necessary. A one-to-one rapport will be developed between the client and the worker to insure the delivery of these services.

3. *Supportive advocacy.*—The program will ensure that needed services are obtained for the juveniles and their families, either through direct contacts, purchase of service agreements, or referral arrangements. Program workers will serve as a link between the juveniles and his family, and services providers and institutions.

4. *Education.*—One-to-one tutorial services will be arranged when needed. English language instruction will be provided. A close relationship will be maintained with the Hartford Public School System to facilitate entry of clients into school programs best serving their individual needs.

5. *Health.*—Physical examinations will be given to all clients. Services of other health agencies will be employed when needed.

6. *Drop-in center.*—The program will establish a drop-in center which all neighborhood youth will be encouraged to utilize in their free time. This will provide a location for informal contact between juveniles, their peers, and the program staff, both during and after the juveniles' formal relationship with the program.

B. Secondary services

1. *Career services.*—Career planning assistance will be provided in the following ways: vocational testing, counseling, and seminars on work habits and employment procedures.

2. *Housing.*—Information related to poor home setting will be given to the State Department of Children and Youth Services, the Juvenile Court, and the Department of Adult Probation. This may result in conference with program staff to discuss appropriate living conditions and necessary action.

3. *Recreation.*—Recreation activities will be provided through the Department of Parks and Recreation. Arrangements for further services may be made with agencies such as YMCA and Boys Club.

IV. Person to be serviced

The CRJ Inc. Youth Services Project is designed to deliver services to forty (40) serious juvenile offenders residing in the Blue Hills and North End sections of Hartford. Juveniles living in this targeted area, who are adjudicated delinquents by the Juvenile Court on a felony charge and who have at least two (2) prior referrals to Juvenile Court, will be eligible for inclusion. The criteria for age is juveniles eight to fifteen years old. However, it is expected that the majority of the targeted population will be males between thirteen and fifteen years of age.

A control group is recommended utilizing the same criteria as listed above, with the exception of residency, to be established as one of the means of measuring the effectiveness of the Youth Services Project.

COMMUNITY RESOURCES FOR JUSTICE, INC.

ABSTRACT

(By the Hartford Institute for Criminal and Social Justice for C.R.J.s Youth Services Project)

No single personality type or set of needs characterizes these delinquents. Given what we know about the group, there is a demonstrated need for a combination of individualized handling, intensive supervision, and advocacy by an adult. This combination of services is an essential characteristic of the program developed by the Institute. For purposes of discussion, we shall call this program CAP after a similar program in Massachusetts entitled the Community Advancement Program, Inc.

The key element in the proposed program is the provision of intensive ongoing supervision to each client carried out by a worker who provides monitoring, counseling, and advocacy services to help the delinquent effect important changes in his life.

In his monitoring function, the worker will have extensive daily contact with the delinquent and will be responsible for knowing his whereabouts and activities. The worker will be on call 24 hours a day to each of the three or four clients under his guidance and will be able to reach them quickly at any time. Especially during the first weeks of a relationship, the worker will spend as many as 30 hours a week accompanying a new client on his daily activities. In this manner, a delinquent will receive the extra supervision needed to guarantee that he will not engage in further criminal activity.

By dealing with each client on a one-to-one basis, the worker will also serve as a counselor who can establish a close relationship based on trust. Not only will the client have someone to turn to for advice and personal support, but together they will focus on areas of need and develop a treatment plan.

Advocacy is a third component of the worker-client relationship. The program will provide access to a variety of services ranging from educational, employment, and recreational programs to psychological and medical treatment. To assure that needed services are obtained to meet individualized treatment goals, the worker will serve as a link between the client and the institutions and agencies providing these services. For instance, when a goal of treatment is meeting educational needs, the advocate and his supervisor will work with the schools to arrange for educational reassessment and appropriate placement. Upon placement, both worker and supervisor will provide the necessary support for the delinquent to continue in the placement. This advocate relationship will insure follow-up in the provision of services that has often been lacking in past dealings with these children.

Because the delinquent will continue to live with his family, the CAP program will work closely with parents in a supportive role to help them understand and relate more effectively to their children. Most of these families have had negative experiences with social workers which may cause difficulties for the CAP worker in establishing credibility. The CAP worker, with the support of the supervisors, will attempt to overcome distrust by aiding each family in its contacts with other social service agencies, by cutting red tape rather than adding to it, and by being available to the family at any hour.

The supervisors in the CAP Program will also work to bring the delinquent's family those services to which it is entitled, as well as other available services which are not being utilized. Those services include job training and placement for parents if appropriate, needed health care, family counseling, and welfare entitlements. Agreements will be worked out with agencies concerning priority treatment for the clients and families of the CAP program.

Because it would be self-defeating to attempt to segregate CAP clients from everyone else, work with delinquents' peers is also necessary in affecting the youths' overall treatment. This will be facilitated through the use of a neighborhood "drop-in center" which all neighborhood youth will be encouraged to utilize during their free time. This center, which will be located in the program offices, is not meant to compete with other neighborhood services but rather to provide a location for informal contact between the client, his peers and the CAP staff both during and after the client's formal relationship with CAP.

It will not be unusual for staff members to work 60 hours per week. Workers will be accountable to their supervisors and the supervisors to the director.

Weekly meetings among staff will appraise the progress of each client and provide the worker with necessary assistance. Staff will also have psychological consultation services available for any case. Daily records will be kept on each client to assure professional administration, continuous assessment, and ease of evaluation.

In summary, CAP represents a client-centered program incorporating close monitoring and a variety of techniques intended to "turn around" serious delinquents. Besides the intensive supervision of each client, CAP seeks to stabilize his family situation, strengthen ties to community institutions, and provide both delinquent and family the specific tools and resources that will enable them to turn to constructive behavior.

VIOLENT YOUTH CRIME

(By Patricia Connell, on behalf of the Juvenile Law Section of the National Legal Aid and Defender Association)

My name is Patricia Connell and I am a staff attorney at the National Center for Youth Law, a Legal Services Corporation backup center that provides research, litigation materials, and direct aid to legal services and public defender attorneys all across the Nation. During my time at the Center I have worked on a variety of issues, often representing delinquent youth. I am also cochairperson of the National Legal Aid and Defender Association's Juvenile Law Section and it is in that capacity that I make this statement.

The National Legal Aid and Defender Association is an organization largely composed of attorneys who provide representation to indigents in both civil and criminal matters. A few years ago those of us who represented youth in juvenile courts joined together to establish a separate juvenile law committee which has since become a formal section of the organization.

The Juvenile Law Section has functioned to provide educational opportunities to our members, both at NLADA meetings, and in separate conferences cosponsored with the National Council for Juvenile and Family Court Judges. It has also completed an extensive review of the Institute for Judicial Administration/American Bar Association Juvenile Justice Standards which spanned a year of meetings and discussions, and produced two reports critiquing each of the 23 substantive volumes. Selected representatives of the organization further participated in a symposium funded by LEAA whose purpose it was to compare the IJA/ABA Standards with those proposed by the Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice, and the Task Force on Juvenile Justice and Delinquency Prevention. We have also provided speakers and materials to a number of regional and local conferences on the problems of children and youth.

Members of the section come from legal services and public defender offices, privately funded legal advocacy groups, and the client populations they serve. Different areas of the country, including rural, urban, and suburban communities all are represented; both high volume service offices, and specialized impact litigation organizations are included. We are in contact with people in nearly every State, the District of Columbia, and Puerto Rico.

This statement, then, is the result of conversations with many of these individuals, each of whom possess first-hand knowledge of the type and quantity of youth crime occurring in their respective areas. These remarks draw on my own experiences, and conversations I have had with attorneys and clients across the country. In many cases, the observations will be general ones, but based on specific statements of numerous individuals.

Perhaps the most striking thing about the supposed increase in violent youth crime is that it simply does not seem to be born out by our experience in representing juvenile delinquents brought before juvenile courts. We follow, along with the rest of the country, the extensive media coverage given the problem, but do not see these same youth in our own practice. Although certainly an occasional individual is charged with a serious, violent offense the numbers of such cases has not increased in any measurable way.

The experience of New York City, the focus of much media attention, is instructive. The State in 1976 opened a special treatment and rehabilitation program for male juvenile delinquents adjudicated for violent acts. Although the

program has a maximum of 10 openings in the diagnostic unit and 18 in the long term treatment unit, it has consistently operated at less than capacity. Indeed it is still the case in many jurisdictions that a substantial portion of the juvenile court's time is being expended on status offenders, those youngsters who have not violated any adult criminal statute.

These observations would also seem to be born out by national figures compiled for 1976 indicating that juveniles under 15 were responsible for only 6.1 percent of serious violent crime, while the number rose to 22 percent if you expanded the age to 18. In both cases decreases were noted betwen the 1976 and 1975 figures: 11.6 percent for those under 15 and 12.1 percent for those under 18. Even more significantly, the participation by juveniles in crime seems to decrease as the seriousness of the offense increases; only 1.3 percent of all arrests for murder were of juveniles under 15, while the number only increased to 9.2 percent if you raised the age to 18.

Another area in which our experience seems to run counter to commonly accepted beliefs is the extent of youth gang participation in serious violent crime. In August of 1976 a rock concert in Detroit was interrupted by groups of youth, supposedly from two East side teenage gangs. The incident, which included numerous robberies and the rape of one young woman, got coverage in national news magazines and the New York Times. The stories related that although intra-gang violence was not new to Detroit, this marked a new, alarming direction to the violence.

Public defenders from the area note a number of interesting subsequent occurrences. In the wake of the event, a 10 p.m. curfew was imposed on the city and 450 laid off police were recalled. At the same time, youth from the southwest portion of the city attempted to form their own gangs. A later article appearing in Newsweek in October suggested that the curfew was being selectively enforced against suspected gang members. Finally, of the six gang members charged in the rape, five were acquitted and one had charges dismissed against him.

It is these attorneys' opinion that just as with other issues relating to violent youth crime, media reports may exaggerate the problem, at times even encouraging the behavior the articles decry. In other cases by attributing illegal activity to gangs the police may have found a way to account for unsolved crime.

This belief finds support in the writings of sociologist Paul Takagi of the School of Education of the University of California at Berkeley. The results of his in depth study of youth violence in San Francisco's Chinatown are recounted in "Behind the Gilded Ghetto" published in June of 1978 in "Crime and Social Justice." This excellent work is recommended to the subcommittee as advancing a totally different view of gang activity from that previously heard: *i.e.*, that the process of labelling youth gang members may actually serve as society's justification for excluding them from educational and social programs. Rather than dealing with decaying schools, housing, transportation, and the huge number of unemployed youth in Detroit during the mid 70's, attention was focused on the behavior of selected youth who engaged in unlawful activities.

Finally, attorneys within our group are genuinely concerned both with our inability to accurately predict future violence, or to successfully treat youth who have engaged in violent acts in the past. Abundant data rejects the notion that future violent behavior can be predicted either for adults or children. With that consideration in mind we react quite strongly to proposals to treat youth who have not clearly demonstrated the need for such rehabilitation through past violent conduct.

Likewise, the likelihood of success with any given treatment methodology appears to be quite slim. (See generally, "Justice for Our Children" by Dennis Romig, D.C. Heath and Company, 1978.) Despite these reservations we often hear suggestions for the imposition of lengthy, intrusive treatment methods for use on violent youth.

In conclusion, this group would reject the notion that juvenile delinquents are engaging in either qualitatively or quantitatively more violent behavior. We do not believe that such activity is more likely to occur in youth gangs. Although we invite future research on the efficacy of using various treatment forms to correct past violent behavior on the part of youth, we hope that the juvenile's right to refuse such experimental activities will be strictly respected. Further, we would hope that some of the larger social problems, such as inadequate schools, housing and employment opportunities for youth, be addressed as a method of eliminating all forms of illegal conduct.

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