

- ons, U.S. Dept. of Justice, Statistical Tables, 58 (1965). In fiscal 1965 the Ohio Adult Parole Authority granted parole in 56.4% of their total parole hearings. Ohio Adult Parole Authority, State of Ohio, Department of Mental Hygiene and Correction, Ann. Rep., 6 (1965).
229. Bennett, "The Sentence and Treatment of Offenders," 339 Annals, 152-53 (1962).
230. First releasees are those prisoners released who have never been previously released on their current sentence. Ibid.
231. Bennett, *supra* note 229, at 150-51.
232. D.C. Government (Parole Board) Survey of Anti-Crime Activities [hereinafter cited as Anti-Crime, Parole], V-A-11 (1966).
233. App. (ACA), 720.
234. Glaser, *supra* note 30, at 457. A study of recidivism in the Baltimore Area in 1956 showed that parolees recidivated at a rate of 45.3% as compared to 65.5% for full termers released from the Reformatory. Baltimore Criminal Justice Commission, Records of Released Offenders—Recidivism, 3 (Jan. 1962).
235. Karrick Report, 164.
236. Anti-Crime, Parole V-A-15.
237. App. (ACA), 719.
238. Id. at 718.
239. See *Ginyard v. Clemmer*, 357 F. 2d 291 (D.C. Cir. 1966).
240. App. (ACA), 728. Indigents in the District have been held to have neither a statutory nor a constitutional right to assigned counsel at parole revocation proceedings. However, all alleged violators must be informed of their right to retain counsel. See *Hyser v. Reed*, 318 F. 2d 225 (D.C. Cir. 1963).
241. App. (ACA), 728.
242. Id. at 729.
243. Id. at 723.
244. Ibid.
245. Id. at 712-13. Because of heavy workloads, this occurs infrequently.
246. Id. at 713.
247. Ibid.
248. One parole officer does not carry a caseload. Interview with Richard S. Collins, Administrative Officer, D.C. Board of Parole, Nov. 15, 1966.
249. Ibid.; Manual, 98.
250. App. (ACA), 708.
251. Collins Interview, *supra* note 248.
252. App. (ACA), 712.
253. Ibid.
254. Interview with Garland M. Keeney, Chief Parole Officer, D.C. Board of Parole, Nov. 15, 1966.
255. App. (ACA), 725-26.
256. Id. at 726.
257. Id. at 728.
258. Id. at 729.
259. Collins Interview, *supra* note 248.
260. App. (ACA), 726.
261. Ibid.
262. Interview with Garland M. Keeney, Chief Parole Officer, D.C. Board of Parole, July 17, 1966.
263. App. (ACA), 710.
264. Anti-Crime, Parole V-A-16.
265. Ibid.
266. Id. at V-A-12.
267. 18 U.S. Code § 5005 (1950).
268. U.S. Board of Parole, Functions of the U.S. Board of Parole, 9 (undated).
269. Interview with James C. Neagles, Staff Director, U.S. Board of Parole, Sept. 1, 1966; Interview with Claude S. Nock, Jr., Youth Division Executive, U.S. Board of Parole, Sept. 1, 1966.
270. Interview with Robert C. Whitaker, Administrative Aid to the Director, Dept. of Corr., Nov. 18, 1966.
271. Interview with Dr. George A. Pownall, Director, Institute of

- Criminological Research, Dept. of Corr., June 1, 1966.
272. E.g., Public hearings held by the President's Commission on Crime in the District of Columbia, Dec. 11, 1965 and Feb. 17, 1966.
273. Interview with Charles A. Lewis, Labor Counselor, Washington Urban League, Nov. 22, 1966.
274. UPO, Manual of Operating Procedures—Neighborhood Employment Network, 13 (Mar. 1, 1966).
275. Lykke, "Attitudes of Bonding Companies Towards Probationers and Parolees," 21 Fed. Prob. 38 (Dec. 1957).
276. Information supplied by representatives of various bonding companies in an informal national survey conducted by USES in 1965.
277. The Manpower Development and Training Act of 1962 as amended, Title I, Sec. 105, 5 (1965).
278. Ostro, "Bonding Plan to Start for Poor Work Risks," The Evening Star (Washington, D.C.), June 8, 1966, p. A1.
279. Information supplied by Office of the Deputy Director, United Planning Organization, July 7, 1966.
280. U.S. Civil Service Commission, Federal Personnel Manual System, FPM Letter No. 731-2, 3 (Aug. 15, 1966).
281. *Id.* at 2.
282. *Ibid.*
283. D.C. Government, District Personnel Manual, Chapter 8, Sec. K, 1 (1954).
284. *Id.* at 2.
285. Letter from Henry F. Hubbard, Personnel Officer, D.C. Government, Dec. 21, 1965.
286. Memorandum to the President, Board of Commissioners, Subject: Employment of Felons and Misdemeanants in the D.C. Government, prepared by John H. Eaton, Mar. 7, 1966.
287. Interview with Fred Z. Hetzel, Director, USES-DC, Apr. 25, 1966.
288. *Ibid.*
289. Employment Counseling Service, D.C. Board of Parole, Ann. Rep., 3 (1966).
290. Interview with Clarence L. Swain, Director, Employment Counseling Service, D.C. Board of Parole, Aug. 24, 1966.
291. *Ibid.*
292. The Bureau of Rehabilitation Progress Report on Shaw Residence, 6 (1965).
293. Interview with Harry A. Manley, Executive Director, Bureau of Rehabilitation, Washington, D.C., Nov. 23, 1966.
294. Efforts for Ex-Convicts, Constitution and By-Laws, Art. III, Sec. II.
295. *Id.* at Art. II, Sec. I.
296. U.S. Dept. of Labor, Report on Manpower Requirements, Resources, Utilization and Training, 76 (Transmitted to the Congress in March 1966).
297. App. (ACA), 715. Because of the special needs of the Court of General Sessions, it is not recommended that the presentence functions of its Probation Dept. be transferred to the proposed Dept. of Correctional Services.
298. It is not presently recommended that the probation services administered by the U.S. Probation Department of the District Court be incorporated in the unified agency. This unit is a part of the Federal probation system. We think, however, that as the advantages of consolidation of correctional, probation and parole services manifest themselves in the District, serious consideration might be given to the inclusion of the Probation Department in the Department of Correctional Services. Section 201(c) of Title 24 of the D.C. Code

authorizes the Board of Parole to recommend to the sentencing court a reduction in the minimum sentence of offenders who appear to have responded successfully to training and rehabilitative efforts of the Department of Corrections. Little use, however, has been made of this authority. Increased coordination between the Board and the Department of Corrections, resulting from a consolidation of functions in a new Department of Correctional Serv-

ices, should facilitate its increased use.

- 299. Manual, 100.
- 300. The National Council on Crime and Delinquency, *A Survey of the Organization of Parole Systems*, 67 (1963).
- 301. Other states have included responsibility for probation and parole in a single agency. These include Ark., Fla., Miss., Mo., Nev., N. Mex., Ore., S.C., Tenn., and W. Va. *Id.* at V.
- 302. App. (ACA), 731.

CHAPTER 7, SECTION I

1. Metropolitan Police Department, Washington, D.C. [hereinafter cited as MPD], *Ann. Rep.*, 43 (1965).
2. See, e.g., *Proceedings, Secretary's Conference on The Court and the Chronic Inebriate* (U.S. Dept. of Health, Education, and Welfare [hereinafter cited as HEW], 1965); *Proceedings, Conference on The Alcoholic and the Court* (Oregon Mental Health Division, 1963); *Proceedings, Workshop on The Chronic Alcoholic Jail Offender* (State of South Carolina, 1964); D. J. Pittman and C. Gordon, *Revolving Door: A Study of the Chronic Police Case Inebriate* (College and University Press, 1958). The 89th Congress reflected a sudden upsurge of interest in alcoholism control at the Federal level. See, e.g., H.R. 781, S. 2657, S. 2834, and S. 3089. On March 1, 1966 President Johnson, in his Message on Domestic Health and Education, recommended a significant Federal effort in the alcoholism field. HEW recently announced its plans for implementing the new program. HEW news release, Oct. 20, 1966.
3. 361 F. 2d 50 (D.C. Cir., Mar. 31, 1966) (en banc).
4. Letter from M. C. Pfalzgraf, Superintendent, D.C. Workhouse, Nov. 9, 1966.
5. The Clerk of the Court of General Sessions reports that 23,584 cases of public intoxication were filed in fiscal 1965. Of the remaining 20,634 arrests, charges were not prosecuted in approximately 670 cases. MPD *Ann. Rep.*, 49 (1965). There were, therefore, approximately 20,000 forfeitures of collateral. Of the cases that did go before the court, 16,343 were committed to a penal institution. Dept. of Corrections Record Office for the D.C. Jail, *Annual Report*, 1 (1965). Therefore, approximately 7,240 (23,584 minus 16,343) persons were fined or received a suspended sentence. About 800 were placed on probation after a few days of commitment for "drying out" purposes. D.C. Court of General Sessions Probation Dept., *Annual Report* (1965). Around 15,500 (16,343 minus 800) received prison sentences.
6. 25 D.C. Code § 128 (1961). Under 22 D.C. Code § 104 (1961) the punishment may be increased by 50% for second offenders. The intoxication statute also prohibits any person to "drink any alcoholic

- beverage in any street, alley, or park. . . ." Violation of this provision of the statute results in a separate charge of "Drinking in Public." In 1965 there were 2,014 arrests made for this offense. Letter from the MPD, April 1, 1966 [hereinafter cited as MPD letter]. According to the Department, it would be a "rare occasion" when a person was charged with both "Drinking in Public" and "Drunk." *Ibid.*
7. 40 D.C. Code § 609 (1961); 22 D.C. Code § 1121 (1961). See also 25 D.C. Code § 127 (1961).
 8. There were 14,885 arrests for disorderly conduct in 1965. MPD Ann. Rep., 43 (1965). The MPD estimates that in 1965 some 5,500 disorderly conduct charges were accompanied by an intoxication charge. MPD letter.
 9. MPD letter.
 10. *Ibid.* This procedure requires, of course, that the intoxicated person actually have a home, know where he lives, have money to pay the fare, and be receptive to the suggestion.
 11. MPD letter.
 12. Staff computation based on data provided by MPD.
 13. MPD Ann. Rep., 43 (1965).
 14. General Order No. 6, Series 1962. See also General Order No. 8, Series 1965, which covers the handling of persons in custody who are taken to a hospital for treatment.
 15. Letter from MPD, Nov. 29, 1965. The MPD letter of April 1, 1966, however, stated that from 1963 through 1965 10 prisoners died while in police custody and 4 more died after hospital treatment.
 16. See Alcohol and Alcoholism: A Police Handbook, prepared by the Correctional Association of New York and the International Association of Chiefs of Police (Undated).
 17. Letter from Dr. V. S. Chupkovich, Acting Chief Medical Officer in Charge of Admitting and Emergency, D.C. General Hospital, June 2, 1966.
 18. Letter from St. Louis, Mo., Chief of Police Curtis Brostron to Dr. D. J. Pittman, Director and Professor of Sociology, The Social Science Institute, Washington University, St. Louis, Mo., April 10, 1966, enclosed with a letter to the Commission from Dr. Pittman, April 25, 1966.
 19. 11 D.C. Code § 748(a) (1961). There is no limit to the number of times collateral can be forfeited.
 20. 16 D.C. Code § 704 (Supp. V, 1966); Order of the Municipal Court of the District of Columbia, Nov. 2, 1959.
 21. *Supra* note 5.
 22. D.C. Court of General Sessions Probation Dept., Annual Report (1965).
 23. *Supra* note 5. See also D.C. Dept. of Corrections, Selected Criminological Data, Table 4.6 (1965). Sentences over 135 days may be imposed when there is a conviction on more than one charge. *Id.*, Table 6.6.
 24. 24 D.C. Code § 501 (1961). See Hearings on H.R. 496 Before the Subcommittee on Health, Education, and Recreation of the House Committee on the District of Columbia, 80th Cong., 1st Sess. (1947).
 25. The statute directs the Commissioners "to establish and equip a clinic in connection either with some existing hospital or with some correctional institution or other facility for the diagnosis, classification, hospitalization, confinement, treatment, and study of persons who are found to be chronic alcoholics, as de-

- fined herein. . . ." 24 D.C. Code § 503 (1961). The Alcoholic Rehabilitation Clinic is partially financed by section 14 of the original act, now a part of the tax laws, which provided for a 10% (now 6%) levy on licenses for the manufacture or sale of alcoholic beverages for the support of the "clinic" envisioned by the statute. The funds have amounted to about \$70,000 yearly. D.C. Dept. of Public Health, Comprehensive Mental Health Services in the District of Columbia, 86 (1965).
26. 24 D.C. Code § 504 (1961).
 27. Letter from Dr. Murray Grant, Director, D.C. Dept. of Public Health, May 2, 1966 [hereinafter cited as DPH letter].
 28. App. (ACA), 700.
 29. Letter from R. J. Conner, Director of Probation, D.C. Court of General Sessions, Nov. 17, 1965.
 30. The unit's 4 probation officers annually handle over 800 persons sentenced to 6 months probation. App. (ACA), 700, 701, 702.
 31. For a discussion of the views of the founder of the program, see R. J. Conner, *The Answer to an Alcoholic's Problem* (1965).
 32. See, e.g., Burnett and Harrison, "Two Court Programs for the Chronic Offender," in *The Court and the Chronic Inebriate* (HEW, 1965).
 33. Report of the District of Columbia Commissioners' Committee on Prisons, Probation and Parole [hereinafter cited as *Karrick Report*], 128 (1957).
 34. App. (ACA), 700.
 35. *Ibid.*
 36. See Conner, *supra* note 31, at 2.
 37. Interview with Dr. George C. Gallagher, Acting Chief, Alcoholic Rehabilitation Clinic, Aug. 19, 1965.
 38. D.C. Court of General Sessions Probation Dept., Annual Report (1965).
 39. *Ibid.*
 40. App. (ACA), 701.
 41. D.C. Dept. of Corrections, Selected Criminological Data, Table 4.3 (1965).
 42. *Supra* note 4.
 43. D. J. Pittman, "The Chronic Drunkenness Offender: An Overview," in *The Court and the Chronic Inebriate*, 13 (HEW, 1965).
 44. See, e.g., A. H. MacCormick, "Correctional Views on Alcohol, Alcoholism and Crime," in *Proceedings, Conference on Alcohol, Alcoholism and Crime*, 61 (State of Mass., 1962).
 45. Over 99% of the intoxication offenders incarcerated in the Workhouse as of July 30, 1965 had prior convictions for an offense, usually public intoxication. D.C. Dept. of Corrections, *Patterns of Recidivism Among Offenders Committed to the Department of Corrections*, Table IV.1 (July 30, 1965).
 46. Mindlin, "Evaluation of Therapy for Alcoholics in a Workhouse Setting," 21 *Quar. J. of Studies in Alcohol*, 90-112 (1960).
 47. *Id.* at 112. Of 100 cases 32 showed improvement, 45 showed no change, and the outcome could not be ascertained in 23 cases. Predictive indices developed during the study suggested that only 12% of unselected chronic drunkenness offenders would benefit from this type of brief therapy in confinement. *Ibid.*
 48. D.C. Government, Report of the Chronic Drunkenness Offender Task Force [hereinafter cited as *Task Force Rep.*], 22 (1966). The operating cost of the unit was \$480,935 in fiscal 1965. *Ibid.* The Chief of Psychiatric Services at D.C. General Hospital reports

- that there were 86 police referrals of intoxicated persons to Psychiatric Services in fiscal year 1965, including 43 prisoners. In addition, there were 83 court referrals, 586 unreferred voluntary admissions and 221 referred voluntary admissions. Unreferred admissions ordinarily come through the emergency room of the hospital. Letter from Dr. J. A. Ryan, Chief, Psychiatric Services, D.C. General Hospital, May 17, 1966. The Dept. of Public Health reports that as presently operated the unit can accommodate approximately 1,000 alcoholics and 210 addicts per year. DPH letter.
49. A 1963 study of admissions to the unit disclosed that about 85% were diagnosed as having acute brain syndromes.
 50. 21 D.C. Code ch. 3 (Supp. V, 1966).
 51. DPH letter. Saint Elizabeths Hospital reports that on June 30, 1964, there were 278 resident patients, most over age 50, whose diagnoses involved alcohol—acute brain syndrome, 13; chronic brain syndrome, 251; alcoholism, 14. Of these, 155 were admitted during 1964.
 52. Task Force Rep., 23-24. The cost of operation is estimated at \$188,332 per year. *Ibid.*
 53. *Id.* at 22. The estimated personnel costs of the clinic were \$147,791 per year. *Ibid.*
 54. The Dept. of Public Health reports that the clinic and the Area C Mental Health Center together treat approximately 1,250 outpatients per year. DPH letter. The center has 20 beds and a staff of 15, with an estimated yearly capacity of 360 inpatients and 300 outpatients. Task Force Rep., 22.
 55. D.C. Dept. of Public Health, Alcoholism Clinic, Facts and Figures, 6 (1964).
 56. Karrick Rep., 83-131.
 57. The cost estimate included these items: police processing, \$360,000; court salaries, \$76,000; incarceration, \$1,204,000; Alcoholism Rehabilitation Program, \$75,000; and Psychiatric Services of D.C. General Hospital, \$80,000. In its grant proposal to the Dept. of Justice for the financing of an emergency care clinic, the D.C. Dept. of Public Health calculated that in 1964 the 18,202 persons committed to the D.C. Dept. of Corrections for intoxication stayed for an average of 21 days at a cost of \$5 per day—for a total of \$1,911,210. Other jurisdictions have developed similar cost estimates. In Toronto, Canada, the cost of each arrest and trial is estimated at \$50 and the cost of incarceration at \$5 per day. These are net cost figures, the total paid in fines having been deducted. Province of Ontario, Alcoholism and Drug Addiction Research Foundation, Interim Report: Study of the Chronic Drunkenness Offender (Feb. 1963).
 58. *Supra* notes 1, 5. The MPD estimates that 5% of total police time is spent handling drunkenness offenders. MPD letter.
 59. Staff computation based on data provided by the MPD.
 60. Karrick Rep., 94.
 61. D.C. Dept. of Public Health, Facts and Figures, 1 (Feb. 1962).
 62. Past practices may have prevented some crimes involving alcoholics, who are frequently the robbery or assault victims of their fellow alcoholics or of other persons who take advantage of the alcoholic's intoxicated state. MPD letter. The Karrick Report found that 50% of per-

- sons arrested for intoxication had at some time previously been charged with a felony. Karrick Rep., 97-99. The Commission study of 1965 intoxication arrestees indicates that 71% had been previously arrested for a felony. Without more study, however, it is impossible to judge the relationship, if any, between the arrestee's drinking habits and his prior criminal record. For a general discussion of the relationship between alcoholism and crime, see S. D. Bacon, "Alcohol, Alcoholism, and Crime: An Overview," in Proceedings, Conference on Alcohol, Alcoholism and Crime (State of Mass., 1962).
63. *Easter v. District of Columbia*, 361 F. 2d 50 (D.C. Cir. 1966) (en banc).
 64. *Id.* at 55.
 65. *Id.* at 51-53. The court rejected as irrelevant the fact that the facilities contemplated by 24 D.C. Code §§ 503, 505 (1961) had never been provided, stating that "one who has committed no crime cannot be validly sentenced as a criminal because of lack of rehabilitative and caretaking facilities." 361 F. 2d at 53.
 66. 356 F. 2d 761 (4th Cir. 1966).
 67. Since the *Easter* case, arrests for public intoxication are approximately 10% below the level of the preceding year. Letter from MPD, Sept. 13, 1966. Yet, more drunkenness offenders are being processed by the courts and fewer are at the Workhouse. This anomaly suggests that the decrease in arrests has occurred among persons able to post collateral. The Chief of Police has recently "reminded District police that it is their duty to arrest drunks and the court's duty to decide whether those arrested are chronic alcoholics. . . ." The *Evening Star* (Washington), Nov. 3, 1966, p. B1.
 68. The *Washington Post*, June 4, 1966, p. A3; June 5, 1966, p. B3; Aug. 23, 1966, p. A1; Report of the Ad Hoc Committee on Alcoholism of the D.C. Public Health Advisory Council, 8-10, 23 (June 24, 1966); Letter From Sidney S. Sachs, President, D.C. Bar Association to Walter N. Tobriner, President, D.C. Board of Commissioners, Oct. 7, 1966.
 69. The *Evening Star* (Washington), April 1, 1966, p. B1.
 70. The *Washington Post*, May 3, 1966, p. B1.
 71. *District of Columbia v. Walters, et al.*, Crim. No. D.C. 18150, D.C. Ct. of Gen. Sess., p. 2 (Greene, J., Aug. 16, 1966, reprinted in 112 Cong. Rec. 22716 (Sept. 22, 1966)). This view would appear to be compelled by recent decisions of the Court of Appeals in the analogous field of mental illness. See *Lynch v. Overholser*, 228 F. 2d 388 (D.C. Cir. 1961), reversed in part, 369 U.S. 705 (1962). The court held that "insanity is not strictly an affirmative defense and can be raised by either the court or the prosecution" and that the cases "establish almost a positive duty on the part of the trial judge not to impose a criminal sentence on a mentally ill person." *Id.* at 392, 393. See also *Whalem v. United States*, 346 F. 2d 812 (D.C. Cir. 1965), where an en banc court held that although a defendant may refuse to raise the issue of insanity himself, he may not, in a proper case, prevent the court from injecting it; and *Pate v. Robinson*, 383 U.S. 375 (1966).
 72. The *Washington Post*, July 6, 1966, p. B1.
 73. The *Evening Star* (Washington), June 22, 1966, p. C16.

74. *The Washington Post*, June 21, 1966, p. A1.
75. *The Washington Post*, June 20, 1966, p. A1; June 20, 1966, p. B1.
76. *District of Columbia v. Walters, et al.*, supra note 71, at 6.
77. *The Washington Post*, May 27, 1966, p. B1.
78. Canon 5 of the Canons of Professional Ethics of the Bar Association of the District of Columbia and of the American Bar Association provides that "The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done." See also *Berger v. United States*, 295 U.S. 78, 88 (1935).
79. Report of the Ad Hoc Committee on Alcoholism of the D.C. Public Health Advisory Council, 19, June 24, 1966.
80. *The Washington Post*, Aug. 10, 1966, p. A24.
81. Letter from M. C. Pfalzgraf, Superintendent, D.C. Workhouse, Nov. 9, 1966.
82. *The Washington Post*, Aug. 23, 1966, p. A1.
83. During this period two judges have subpoenaed District officials in an effort to ascertain the state of facilities and planning. See, e.g., *The Evening Star* (Washington, D.C.), June 22, 1966, p. C16.
84. It is estimated that 3,850 persons had been adjudged chronic alcoholics by Nov. 26, 1966, and that 450 of this total represented duplications. Letter from F. B. Beane, Jr., Chief Deputy Clerk, Criminal Division, D.C. Court of General Sessions, Dec. 1, 1966.
85. *District of Columbia v. Walters, et al.*, supra note 71, at 3-4.
86. 24 D.C. Code § 505 (1961).
87. Order No. 66-744, May 26, 1966.
88. *District of Columbia v. Walters, et al.*, supra note 71, at 5-7.
89. *Id.* at 6.
90. *Id.* at 7.
91. *Id.* at 7-8.
92. See letter from W. J. Tobriner, President, D.C. Board of Commissioners, to Judge C. W. Halleck, D.C. Court of General Sessions, June 6, 1966.
93. *District of Columbia v. Walters et al.*, supra note 71, at 8.
94. *Id.* at 11.
95. *The Washington Post*, Oct. 22, 1966, p. B1.
96. Memorandum from Dr. Murray Grant, Director of Public Health, to Commissioner J. B. Duncan, Sept. 30, 1966; *The Evening Star* (Washington, D.C.), Oct. 13, 1966, p. B1.
97. Interview with R. J. Tatham, Chief, Office of Alcoholism and Drug Addiction Program Development, Dept. of Public Health, Oct. 25, 1966.
98. Letter from Dr. S. L. Billet, Chief, Alcoholic Rehabilitation Clinic, to the *Washington Daily News*, Sept. 20, 1966, p. 24.
99. St. Louis Human Development Corp., Comprehensive Alcoholism Treatment Program for St. Louis City and County: A Proposal to Provide Treatment for the Low Income Alcoholic and Chronic Alcoholic Offender (1965); Alcohol and Drug Addiction Research Foundation, Future Management of Alcoholism in Ontario (1965). Currently in preparation are the results of a 5-year study on alcoholism for the Cooperative Commission on the Study of Alcoholism by the Institute for the Study of Human Problems of Stanford University, being financed by the National Institute of Mental Health. Letter from Sidney Cohen, Research Associate, Institute for the Study of Human Problems, Stanford University, March 14, 1966. See also Hoff, "Comprehensive Rehabilitation Program for Alco-

- holics," 7 Archives of Environmental Health 460 (1963).
100. Task Force Rep., 6-11.
 101. *Id.* at 11.
 102. *District of Columbia v. James G. Boyd*, Crim. No. D.C. 16852, D.C. Ct. of Gen. Sess., pp. 58-59 (Trial Transcript, June 21, 1966).
 103. The 1947 Act states that treatment facilities are to be in the District of Columbia. 24 D.C. Code § 506 (1961). In the fiscal 1967 Appropriations Act, however, Congress provided that funds for the treatment of alcoholics may be used outside the District of Columbia. Dr. Leopold E. Wexberg, then Director of the Alcoholic Rehabilitation Program, warned in 1953 that although the outpatient clinic "is adequate for nondestitute alcoholics who apply for treatment voluntarily," it "is able to help only a small part of the cases referred from courts and penitentiaries" because these destitute alcoholics "cannot be benefitted by an outpatient clinic without adequate residential facilities." L. E. Wexberg, "The Outpatient Treatment of Alcoholism in the District of Columbia," 14 Q.J. Stud. in 514, Alcohol 514, 524 (1953).
 104. U.S. Dept. of Justice, Office of Law Enforcement Assistance, List of Approved Projects, § vi, Grant No. 019 (1966).
 105. *The Washington Post*, Oct. 22, 1966, p. B1.
 106. *Ibid.*
 107. Order No. 66-744, § 3(b), May 26, 1966.
 108. Federal Bureau of Investigation, Uniform Crime Reports, 108-09 (1965).
 109. Letter from the Cincinnati Police Dept., April 17, 1966. Over the past 10 years the Cincinnati figure has hovered around 6,000 arrests.
 110. *Supra* note 18.
 111. E.g., other figures for 1964 were reported as follows: Cleveland (population 876,050), 14,907 arrests, Cleveland Police Dept., Ann. Rep. 24 (1964); San Francisco (740,316), 24,413 arrests, San Francisco Police Dept., Ann. Rep. 39 (1964); Los Angeles (2,479,015), 72,083 arrests, Los Angeles Police Dept., Ann. Rep., 13 (1964).
 112. Karrick Rep., 132.
 113. MPD letter. Approximately 45% of intoxication arrestees are able to post collateral and thus avoid criminal prosecution; most of these were probably not seriously incapacitated when arrested. See *supra* note 5.
 114. E.g., 14 Ala. Criminal Code § 120 (1958); 58 Ga. Ann. Code § 608 (1965).
 115. New York Penal Law § 722 (1965); 38 Ill. Stat. Ann. § 26-1 (1963). See also the American Law Institute Model Penal Code § 250.5 (Proposed Official Draft, 1962).
 116. MPD letter.
 117. *Orvis v. Brickman*, 196 F. 2d 762, 767 (1952).
 118. Letter from Curtis Brostron, Chief of Police, St. Louis, Mo., Oct. 15, 1965.
 119. New York Penal Law § 246(6).
 120. Address by E. Blacker on "After-care Residential Program Planning: Boston's Program for the Chronic Drunkenness Offender," Before the North American Association of Alcoholism Programs, Albuquerque, New Mexico, Oct. 10, 1966.
 121. Report of the Ad Hoc Committee on Alcoholism of the D.C. Public Health Advisory Council, 17-18, June 24, 1966.
 122. *Supra* note 17.
 123. Meeting of Alcoholism Consultants to the Commission: Dr. David J. Pittman, Dr. Ebbe C.

- Hoff, Dr. Robert Reiff, Dr. Richard F. Docter, and Mr. James Rooney, Feb. 15, 1966, Washington, D.C.; Blacker, *supra* note 120; T.F.A. Plant, some thoughts on Public Drunkenness and Skid Row (June 1966) (mimeo.). See, generally, Proceedings, First North American Conference on Halfway House Alcoholism Programs (Granville House, Inc., St. Paul, Minn., June 19-22, 1966).
124. 356 F. 2d 761 (D.C. Cir. 1966).
 125. *Supra* note 66.
 126. 361 F. 2d at 55.
 127. The National Institute of Mental Health is presently considering sponsoring a comprehensive research project on the legal problems of drunkenness and alcoholism including civil commitment.
 128. *Supra* note 32.
 129. *Ibid.*
 130. Address by B. J. Botein on "The Criminal and Family Courts," Governor's Conference on Crime, New York, N.Y., April 22, 1966.
131. In San Diego, for example, a graduated sentencing structure has been developed and provides the following penalties: (1) Fine and release for first offenders; (2) 30-day sentences for second offenders within 3 months of the first offense suspended on condition that they attend at least three Alcoholics Anonymous meetings and abstain from drinking alcoholic beverages for 1 year; (3) 60-day sentences for third offenders, suspended on condition that they follow the recommendations of a rehabilitation clinic; and (4) confinement for fourth offenders. Between July 1962, when the program began, and January 1965 there was a 50 percent decrease in drunk arrests despite an 11.5 percent population increase. G. Crawford, *Rehabilitation of the Alcoholic Addict by Use of Court Probation*, (1965) (mimeo.).
132. App. (ACA), 691-92.
 133. App. (ACA), 723-31.

CHAPTER 7, SECTION II

1. F.R. Crim. P. 46 (as amended, effective July 1, 1966); Bail Reform Act of 1966, Pub. L. 89-465, 80 Stat. 214 (1966).
2. See *Criminal Justice in Cleveland*, 290-92 (1922); *Missouri Crime Survey*, 189-218 (1926); Beeley, *The Bail System in Chicago* (1927); Report on Prosecution, 4th Report of the National Commission on Law Observance and Enforcement, 89-92 (1931); "Compelling Appearance in Court: Administration of Bail in Philadelphia," 102 U. Pa. L. Rev. 1031 (1954); "A Study of the Administration of Bail in New York City," 106 U. Pa. L. Rev. 693 (1958); Report of the Attorney General's Committee on Poverty and the Administration of Federal Criminal Justice, 58-89 (1963); Ares, Rankin, and Sturz, "The Manhattan Bail Project: An Interim Report on the Use of Pretrial Parole," 38 N.Y.U. L. Rev. 67 (1963); Rankin, "The Effect of Pretrial Detention," 39 N.Y.U.L. Rev. 641 (1964); D. J. Freed and P. M. Wald, *Bail in the United States: 1964, A Report to the National Conference on Bail and Criminal Justice*, Washington, D.C. (May 27-29, 1965); Proceedings and Interim Report, National Conference on Bail and Criminal Justice (1965); Hearings on Proposals to Modify Federal Bail Procedures Before the Senate Subcommittee on Con-

- stitutional Rights and the Subcommittee on Improvements in the Judicial Machinery, 89th Cong., 1st Sess. (1965); R. Goldfarb, Ransom: A Critique of the American Bail System (Harper & Rowe, 1965).
3. Freed and Wald, *supra* note 2, at 49-55; Proceedings, National Conference on Bail and Criminal Justice, pp. xxix-xxxi, 149-219 (1965); Hearings, *supra* note 2, at 24-26, 29-30, 67-68, 70, 174-78; Foote, "The Coming Constitutional Crisis in Bail," 213 U. Pa. L. Rev. 959 (1965); Ottenberg, "Tighter Bond Laws," *The Evening Star* (Washington, D.C.), Aug. 30-31, 1965; D. J. Freed, "Preventing Pretrial Release—A Personal Reevaluation," Oct. 14, 1965 (mimeo.); Note, "Preventive Detention Before Trial," 79 Harv. L. Rev. 1489 (1966).
 4. This right was embodied in the first Judiciary Act § 33, 1 Stat. 91 (1789), and is currently reflected in Rule 46(a) of the Federal Rules of Criminal Procedure.
 5. *Supra* note 1.
 6. Freed and Wald, *supra* note 2, at 3.
 7. These were the highest and lowest bond amounts set during a period of 2 years and 9 months studied by this Commission. The bonds cost \$8 per \$100 for the first \$1,000 and \$5 per \$100 for greater amounts. See U.S. District Court Order No. 17-59; Court of Gen. Sess., Crim. Div., Rule 5, § 11; Juvenile Court Rule 22, all under the authority of 23 D.C. Code § 608 (1961).
 8. *Supra* note 1.
 9. District of Columbia Bail Agency Act, Pub. L. 89-519, 80 Stat. 327 (1966).
 10. See sources cited *supra* note 2.
 11. Report of the Committee on the Administration of Bail of the Junior Bar Section of the Bar Association of the District of Columbia, *The Bail System of the District of Columbia*, 29 (1963).
 12. Information supplied by Richard J. Molleur, Director, D.C. Bail Project, Nov. 1, 1966.
 13. Information gathered from the Criminal Clerk's Office, U.S. District Court for the District of Columbia, and from the records of the D.C. Bail Project.
 14. Commission Bail Study, *supra* note 7.
 15. See McCarthy and Wahl, "The District of Columbia Bail Project: An Illustration of Experimentation and a Brief for Change," 53 Geo. L.J. 675 (1965).
 16. Bail Reform Act of 1966, *supra* note 1, § 3, amending 18 U.S.C. § 3146(a).
 17. *Ibid.*
 18. *Id.*, § 3146(b).
 19. District of Columbia Bail Agency Act, *supra* note 9.
 20. *Id.*, § 4(a).
 21. Note, "Preventive Detention Before Trial," *supra* note 3, at 1490, n. 10; Freed and Wald, *supra* note 2, at 22.
 22. Bail Reform Act of 1966, *supra* note 1, § 3, amending 18 U.S.C. § 3150.
 23. The Metropolitan Police Department [hereinafter MPD] Annual Report, 43 (1965), shows that approximately 86,000 persons were arrested on non-traffic charges in fiscal 1965. The records of the United States Marshal for the District of Columbia and the records of the Criminal Clerk, Court of General Sessions ("Prisoners Received in Cell Blocks and Sent to Jail") for 1965 show that about 40,000 of these persons were in custody at the time of their first appearance in court.
 24. 16 D.C. Code § 704 (Supp. V, 1966).
 25. 23 D.C. Code § 610 (1961).
 26. Records, *supra* note 23.

27. F.R. Crim. P. 5(a); 4 D.C. Code § 140 (1961).
28. 4 D.C. Code § 143 (1961).
29. Proceedings, Judicial Conference of the District of Columbia Circuit, May 25, 1966.
30. The Washington Post, Nov. 10, 1966, p. K12.
31. A Commission survey revealed use of the summons technique in New York City, Cincinnati, Denver, and various California cities. Experiments were planned in Philadelphia, Chicago, Toledo, and Omaha. New York City reports issuance of 1,000 summonses with 20 failures to appear. Glendale, Calif. uses summonses in 60% of its misdemeanor cases and reports a 6% failure to appear. Sunnyvale, Calif. uses summonses in 50% of its misdemeanor cases, with a 7% failure to appear.
32. See address by Leonard E. Reisman before the 72d Annual Conference of the International Association of Chiefs of Police, Oct. 5, 1965.
33. Resolution by the Judicial Conference, supra note 29.
34. H.R. Rep. No. 1541, 89th Cong., 2d Sess. 6 (1966).
35. See Ottenberg, supra note 3; The Washington Post, April 21, 1966, pp. A1, A22, describing the activities on bond of Robert Earl Barnes.
36. On March 23, 1966, police officer Marvin Lee Stocker was killed; the killer, John Eldridge, then on bond pending appeal in a robbery case, committed suicide to avoid capture. On March 16, 1966, Ella Jackson was shot; her husband, then on bonds totalling \$4,500 in the Court of General Sessions in cases of threats and unlawful entry, was charged. On Feb. 9, 1966, Minnie Conte was axed; her husband, then on personal bond in a carnal knowledge case, was charged.
37. Bail Reform Act of 1966, supra note 1, § 3, amending 18 U.S.C. § 3146(e). See testimony of Hon. Ramsey Clark, Deputy Attorney General of the United States, Hearings on Federal Bail Reform Before Subcommittee No. 5 of the House Committee on the Judiciary, 89th Cong., 2d Sess. 27 (1966).
38. See Freed and Wald, supra note 2, at 49.
39. Data sources used during the study were the chronological "Bond Book" maintained by the Criminal Clerk's Office of the U.S. District Court, which records the name, case number and release date of the person released on bond with or without surety pending trial and pending appeal; the alphabetical index of defendants, which revealed all subsequent criminal or grand jury case numbers for each person released on bond; the criminal case jackets, which revealed the date of the alleged subsequent offenses; the criminal dockets; and MPD criminal records.
40. The 1965 Annual Report of the D.C. Bail Project discloses that 339 (12.6 percent) of 2,683 potential felony releaseses were on bond on a prior charge at the time the most recent charge originated—a significantly higher rate than that disclosed by the Commission study—and were excluded from Project consideration for release. The Bail Project figure is not comparable, however, since (1) it includes defendants on bond in cases pending in the Court of General Sessions; (2) the second charge may have stemmed from an offense committed prior to the earlier arrest and release on bond; and (3) not all 339 accused felons excluded by the Bail Project were held for action of the grand jury. The Project's 12.6 percent finding, nevertheless, provides another in-

- dication of the extent of the bond offender problem. The Stanford Research Institute study revealed that 4.4 percent of the convicted felons studied were on bail at the time they perpetrated the felony offense for which they were sentenced. App. (SRI), 577.
41. Id. at 588.
 42. Id. at 519.
 43. Text at note 14 *supra*.
 44. See Note, "Preventive Detention Before Trial," *supra* note 3, at 1500-01.
 45. § 33, 1 Stat. 91 (1789).
 46. *Carlson v. Landon*, 342 U.S. 524, 556-58 (1952) (Black, J., dissenting). Those who believe that the Amendment confers a right to bail in non-capital cases usually also assume that the right is absolute. See, e.g., *United States v. Motlow*, 10 F. 2d 657, 659 (7th Cir. 1926) (dictum) (Butler, Circuit Justice); *Trimble v. Stone*, 187 F. Supp. 483 (D.D.C. 1960). The guarantee, if it exists, may simply mean that bail cannot be *unreasonably* denied, as has been held in interpreting the First Amendment. See, e.g., *Dennis v. United States*, 341 U.S. 494 (1951).
 47. Foote, *supra* note 3, at 965, 986-87, 1125.
 48. See, e.g., Note, Preventive Detention Before Trial, *supra* note 3, at 1498-1500. See also *Carlson v. Landon*, 342 U.S. 524, 545-46 (1952).
 49. Significantly, in 1790 capital crimes for which bail was discretionary included almost all the offenses now known as felonies. See Crimes Act of 1790, 1 Stat. 112.
 50. 342 U.S. 1 (1951).
 51. Id. at 4.
 52. 342 U.S. 524, 537, 544-46 (1952). Other cases suggesting a limited right to bail: *Mastrian v. Hedman*, 326 F. 2d 708 (8th Cir.), *cert. denied*, 376 U.S. 695 (1964); *State v. Konigsberg*, 33 N.J. 367, 164 A. 2d 740 (1960) (dictum); *People ex rel. Shapiro v. Keeper of City Prison*, 290 N.Y. 393, 49 N.E. 2d 498, 38 N.Y.S. 2d 526 (1943); *Vanderford v. Brand*, 126 Ga. 67, 54 S.E. 822 (1906) (dictum). Suggesting an absolute right to bail: *Williamson v. United States*, 184 F. 2d 280 (dictum) (Jackson, Circuit Justice, 1950); *Trimble v. Stone*, 187 F. Supp. 483 (D.D.C. 1960).
 53. See statement of David J. McCarthy, Jr., then Director, District of Columbia Bail Project, Senate Hearings on Federal Bail Procedures, *supra* note 2, at 174-75.
 54. Statement of Hon. Sam J. Ervin, Jr., U.S. Senator from the State of North Carolina, in House Hearings on Federal Bail Reform, *supra* note 37, at 19.
 55. *Williamson v. United States*, 184 F. 2d 280, 282-83 (Jackson, Circuit Justice, 1950).
 56. 24 D.C. Code § 301(a) (1961). See also 22 D.C. Code ch. 35 (1961) (commitment of sexual psychopaths).
 57. 21 D.C. Code ch. 3 (Supp. V, 1966).
 58. *Carlson v. Landon*, 342 U.S. 524 (1952).
 59. Even Professor Foote, who generally opposes preventive detention on both constitutional and policy grounds, would find it "consistent with the due process demand of fundamental fairness" in situations of extraordinary risk. Foote, *supra* note 3, at 1182.
 60. *Carbo v. United States*, 82 S. Ct. 662 (Douglas, Circuit Justice 1962); *Fernandez v. United States*, 81 S. Ct. 642 (Harlan, Circuit Justice 1961); *United States v. DiPietro*, 302 F. 2d 612 (2d Cir. 1962). Compare *Carbo v. United States*, 288 F. 2d 686 (9th Cir. 1961) with *Carbo v. United States*, 288 F. 2d 282 (9th Cir.), *cert. denied*, 365 U.S. 861 (1961).

CHAPTER 7, SECTION III

1. 214 F. 2d 862 (D.C. Cir. 1954).
2. 24 D.C. Code § 301(a) (1961). See American Law Institute [hereinafter cited as ALI] Model Penal Code § 4.04, comment, p. 194 (Tent. Draft No. 4, 1955), where the criterion of fitness to proceed to trial is described as "universally accepted in existing law." But see *Hansford v. United States*, 365 F. 2d 920 (D.C. Cir., 1966).
3. 24 D.C. Code § 301(d) (1961).
4. 24 D.C. Code § 301(e) (1961).
5. 24 D.C. Code § 301(a) (1961).
6. *Winn v. United States*, 270 F. 2d 326 (D.C. Cir. 1959), *cert. denied*, 365 U.S. 848 (1961).
7. Report to the Judicial Conference of the District of Columbia Circuit of the Committee on Problems Connected With Mental Examination of the Accused in Criminal Cases, Before Trial [hereinafter cited as Judicial Conference Report], 29-31 (1965).
8. *Id.* at 178-79.
9. 78 Stat. 552 (1964), 18 U.S.C. § 3006A.
10. Judicial Conference Report, 78, n. 2.
11. The clinic, in cooperation with the Legal Aid Agency and the Georgetown Legal Interns, is engaged in research on the standards for competency to stand trial. Information supplied by Dr. Barry A. Bukatman, Research Psychiatrist, Georgetown Institute of Criminal Law and Procedure, Nov. 16, 1966.
12. 24 D.C. Code § 301(a) (1961).
13. 24 D.C. Code § 301(b) (1961).
14. Judicial Conference Report, tables 1, 5 and 9.
15. For the last three years of the Judicial Conference study (fiscal years 1961, 1962 and 1963), motions for mental examination were made for 15.6% of the defendants, 94.7% of the motions were granted, and 11.5% of the mental examinations ultimately resulted in findings of incompetence (1.6% of all defendants in those three years).
16. Staff computation based on data collected by C-E-I-R, Inc., from criminal case jackets of the United States District Court for the District of Columbia. Of these, 89.8 were granted, but it is not known how many defendants were eventually found incompetent.
17. Judicial Conference Report, tables 14, 15 and 16.
18. 10 Clark & Finely 200, 1 C. & K. 130 (1843).
19. *Smith v. United States*, 36 F. 2d 548, 549 (D.C. Cir. 1929).
20. *United States v. Freeman*, 357 F. 2d 606, 623, n. 56 (2d Cir. 1966); *United States v. Currens*, 290 F. 2d 751 (3d Cir. 1961); *Wion v. United States*, 325 F. 2d 420 (10th Cir. 1963), *cert. denied*, 377 U.S. 946 (1964).
21. ALI Model Penal Code § 4.01 (1) (Tent. Draft No. 4, 1955) (Proposed Official Draft, 1962).
22. 214 F. 2d 862, 874-75 (D.C. Cir. 1954).
23. *Id.* at 874.
24. *Ibid.*
25. A number of jurisdictions have rejected the *Durham* test of criminal responsibility. See Krash, "The Durham Rule and Judicial Administration of the Insanity Defense in the District of Columbia," 70 Yale L.J. 905, 906, n. 8 (1961). Only Maine and the Virgin Islands have adopted the *Durham* Rule. 15 Me. Rev. Stat. Ann. § 102 (1964); 14 Virgin Islands Code Ann. § 14(4) (1957). See also *State v. Pike*, 49 N.H. 399 (1869).
26. 312 F. 2d 847 (D.C. Cir. 1962).
27. *Id.* at 851.
28. *Davis v. United States*, 160 U.S. 469, 488 (1895); *Douglas v. United States*, 239 F. 2d 52, 55 (D.C. Cir. 1956).

29. 24 D.C. Code § 301(c) (1961).
30. 69 Stat. 609, ch. 673, § 1 (1955), 24 D.C. Code § 301 (1961).
31. See Krash, *supra* note 25, at 941-42.
32. Rollerson v. United States, 343 F. 2d 269 (D.C. Cir. 1964). See also Whalem v. United States, 346 F. 2d 812 (D.C. Cir.) (dictum), *cert. denied*, 382 U.S. 862 (1965).
33. Lynch v. Overholser, 369 U.S. 705 (1962).
34. 24 D.C. Code § 301(e) (1961).
35. Overholser v. Leach, 257 F. 2d 667, 670 (D.C. Cir. 1958), *cert. denied*, 359 U.S. 1013 (1959); Krash, *supra* note 25, at 943-46.
36. 24 D.C. Code § 301(e) (1961).
37. Information supplied by Dr. David J. Owens, Clinical Director, John Howard Pavilion, Saint Elizabeths Hospital, Oct. 28, 1966.
38. Section 4.01(2) of the ALI Model Penal Code (Proposed Official Draft, 1962) provides that "mental disease or defect" shall not include "an abnormality manifested only by repeated criminal or otherwise antisocial conduct." Comments to this section indicate that it was designed to exclude the "so-called 'psychopathic personality.'" Tentative Draft No. 4, p. 160 (1955). This language does not, however, exclude all personality disorders, nor even all psychopathic personality disorders, since it is a rare person whose mental abnormality is manifested *only* by repeated criminal or antisocial conduct. See Address by Dr. David J. Owens, Clinical Director, John Howard Pavilion, Saint Elizabeths Hospital, before Prosecuting Attorney's Seminar, National District Attorneys Association, Washington, D.C. June 7, 1966, pp. 7, 11-12, 17 (mimeo.).
39. American Psychiatric Association, Diagnostic and Statistical Manual—Mental Disorders (1952), reprinted in app. E of the Judicial Conference Report, 182-87.
40. *Ibid.*
41. Report of the Royal Commission on Capital Punishment 1949-1953, p. 137 (1953).
42. See H.R. Rep. No. 176, 89th Cong., 1st Sess. 39 (1965); Blocker v. United States, 274 F. 2d 572, 573-82 (D.C. Cir. 1959) (Miller, J., dissenting).
43. Information supplied by Dr. David J. Owens, *supra* note 37.
44. *Ibid.*
45. Some judges of the D.C. Court of General Sessions have expressed dissatisfaction with the facilities and examinations performed at D.C. General Hospital. Therefore, some patients have been referred from that court to Saint Elizabeths Hospital for mental examination.
46. 24 D.C. Code § 301(a) (1961). This category also includes patients admitted as incompetent prior to the amendment of section 301 in August 1955, *supra* note 30, against whom criminal charges are no longer pending.
47. 24 D.C. Code § 302 (1961).
48. 22 D.C. Code § 3508 (1961).
49. The description in the text of the facilities and treatment at Saint Elizabeths is based on information collected from Saint Elizabeths' records, personal observation, and interviews with Dr. Dale C. Cameron, Superintendent, Dr. David J. Owens, Clinical Director, John Howard Pavilion, and Dr. Charles E. Smith, Chief of Service, West Side Service, July 1, 1966, and with Dr. Elizabeth R. Strawinsky, Clinical Director, Cruvant Division and Clinical Branch #2, July 7, 1966.
50. District of Columbia Omnibus Crime Bill, H.R. 5688, 89th Cong., 1st Sess. (1965), as passed after conference by the Senate, 112 Cong. Rec. 26231 (Oct. 17, 1966), and the House, 112 Cong. Rec.

- 26633 (Oct. 19, 1966), title II. Vetoed by the President, Nov. 13, 1966. See 112 Cong. Rec. 26134 (1966) for the bill as it emerged from conference and passed both houses.
51. See *Carter v. United States*, 252 F. 2d 608, 617 (D.C. Cir. 1957); Watson, "Durham Plus Five Years: Development of the Law of Criminal Responsibility in the District of Columbia," 116 Am. J. Psychiatry 289 (1959); Rollerson v. United States, supra note 32; Arens, "The Defense of Walter X. Wilson: An Insanity Plea and a Skirmish in the War on Poverty," 11 Villanova L. Rev. 259 (1966); Arens, "Psychiatric Testimony and Evolving Standards of Criminal Responsibility" (tentative title), scheduled for 1967 publication in *Review of Law and Social Science* (ed. Richard Schwartz, Northwestern U. Law Sch., Chicago).
 52. Hearings Before the Senate Committee on the District of Columbia, 88th Cong., 1st Sess. 98-99, 104, 245 (1963).
 53. Supra note 50.
 54. See, e.g., Hearings, supra note 52, at 244-45, 247-49. The Omnibus Crime Bill, supra note 50, provided: "Mental disease or defect excluding responsibility is an affirmative defense which the defendant must establish by showing of substantial evidence." Although H.R. Rep. No. 2295, 89th Cong., 2d Sess. 16 (1966), states that this language "in no way changes the traditional requirement of the prosecution to prove beyond a reasonable doubt all elements of the crime, including necessary intent," the statutory language is possibly subject to a different interpretation.
 55. *Leland v. Oregon*, 343 U.S. 790, 798 (1952).
 56. When section 4.03(1) of the ALI Model Penal Code (Tent. Draft No. 4) was first presented in 1955, it was proposed that mental disease or defect excluding responsibility should be "an affirmative defense [which the defendant must establish by a preponderance of the evidence]." The bracketed phrase was not approved. Section 1.12 of the Model Penal Code (Proposed Official Draft, 1962) now requires the prosecution to disprove an affirmative defense beyond a reasonable doubt once there is "evidence supporting such defense."
 57. Criminal Justice Act of 1964, 78 Stat. 552, 18 U.S.C. § 3006A.
 58. *Leland v. Oregon*, 343 U.S. 790, 806 (1952) (Frankfurter and Black, JJ., dissenting).
 59. Apart from any constitutional attack which would require reconsideration of *Leland*, Federal courts and Federal criminal procedures are held to higher standards by the Supreme Court. See, e.g., *Ker v. California*, 374 U.S. 23, 33-34 (1963).
 60. E.g., *United States v. Schurmann*, Crim. No. 688-64, United States District Court for the District of Columbia. The problem of the uncooperative defendant usually arises in a pretrial mental examination to determine criminal responsibility, not competency to stand trial. The latter raises similar issues, however.
 61. Interview with Dr. David J. Owens, supra note 49. See also Judicial Conference Report, 35.
 62. See 18 U.S.C. § 3481; *Wilson v. United States*, 149 U.S. 60 (1893); *Malloy v. Hogan*, 378 U.S. 1 (1964).
 63. See notes 58 and 59 supra. See also *Robinson v. California*, 370 U.S. 660 (1962); *Easter v. District of Columbia*, 361 F. 2d 50, 55 (D.C. Cir. 1966).
 64. Directed at the integrity of the insanity defense, proof and com-

- ment upon a defendant's refusal to cooperate may be analogized to use of an otherwise inadmissible confession for impeachment purposes. See *Walder v. United States*, 347 U.S. 62 (1954); *Tate v. United States*, 283 F. 2d 377 (D.C. Cir. 1960).
65. Interview with Dr. David J. Owens, *supra* note 49. See *Rouse v. Cameron*, — F. 2d — (Oct. 10, 1966), holding that a misdemeanor insanity patient is entitled to habeas corpus relief upon a showing that he is not receiving reasonably suitable and adequate treatment; lack of facilities is no justification.
 66. *Saint Elizabeths Hospital*, Ann. Rep., 3 (1964).
 67. See 18 U.S.C. §§ 3041, 3042; F.R. Crim. P. 4, 20, 40; 16 D.C. Code § 703 (Supp. V, 1966). Some states have refused to honor such warrants.
 68. See 18 U.S.C. § 3041.
 69. D. H. Glaser, *The Effectiveness of a Prison and Parole System*, 13-35, particularly at p. 31 (Bobbs-Merrill, 1964).
 70. App. (SRI), 568.
 71. See chapter 8.
 72. *Ibid.*
 73. See chapter 6.
 74. App. (ACA), 664.
 75. *Defective Delinquency Law*, Md. Code art. 31B, § 5 (1957). See Boslow, "The Team Approach in a Psychiatrically Oriented Correctional Institution," *The Pennsylvania Prison Journal* (Autumn 1964); Boslow, Rosenthal, Kandel, and Manne, "Methods and Experiences in Group Treatment of Defective Delinquents in Maryland," 7 *Journal of Social Therapy*, No. 2 (1961); Roy, "An Outline for Research in Penology," *Operations Research* (Jan.-Feb. 1964).
 76. *Cameron*, "Did He Do It? If So, How Shall He Be Managed?," *Fed. Prob.* (June 1965). See *Holmes v. United States*, 363 F. 2d 281 (D.C. Cir. 1966).

CHAPTER 7, SECTION IV

1. House Committee on Interstate and Foreign Commerce, *Drug Abuse Control Amendments of 1965*, H.R. Rep. No. 130, 89th Cong., 1st Sess. 1-2 (1965).
2. N. B. Eddy et al., "Drug Dependence: Its Significance and Characteristics," *World Health Org. Bull.* No. 32, 721-33 (1965).
3. D. Glaser and V. O'Leary, *The Control and Treatment of Narcotic Use*, 24-26 (National Parole Institutes, Office of Juvenile Delinquency and Youth Development, Welfare Administration, U.S. Dept. of Health, Education, and Welfare [hereinafter cited as HEW], 1966.)
4. The President's Advisory Commission on Narcotics and Drug Abuse, *Final Report* [hereinafter cited as *Advisory Commission Rep.*], 87 (1963).
5. *Id.* at 4-5; Glaser and O'Leary, *supra* note 3, at 24-25; Public Health Service *Mental Health Monograph No. 2, Narcotic Drug Addiction* [hereinafter cited as *PHS Monograph*], 20-21 (HEW, 1965).
6. Glaser and O'Leary, *supra* note 3, at 1; *PHS Monograph*, 3.
7. Memorandum prepared by the Federal Bureau of Narcotics, Mar. 2, 1966.
8. Federal Bureau of Narcotics, *1965 Annual Report*, 43 (U.S. Dept. of the Treasury, 1966). For a discussion of the unreliability of incidence statistics, see

- Mattick, "Narcotics and the Law," 33 U. Chi. L. Rev. 603 (1966).
9. Information supplied by Statistical Division, Metropolitan Police Department, Washington, D.C. [hereinafter cited as MPD], confirmed by letter from John B. Layton, Chief of Police, July 6, 1966.
 10. Letter from John B. Layton, Chief of Police, MPD, May 18, 1966 [hereinafter cited as MPD letter].
 11. Advisory Commission Rep., 4, 87; Clausen, "Social and Psychological Factors in Narcotics Addiction," 22 Law & Contemp. Prob. 34, 37-38 (1957). For discussion of the addict's motivation see I. Chein, "The Status of Sociological and Social Psychological Knowledge Concerning Narcotics," in *Narcotic Drug Addiction Problems*, Public Health Service Publ. No. 1050, ed. R. B. Livingston, 146, 155 (HEW, 1963).
 12. Information supplied by the Federal Bureau of Narcotics, Sept. 30, 1965.
 13. Dept. of Public Health, Comprehensive Mental Health Services in the District of Columbia, 15-17 (1965).
 14. App. (SRI), 534. A small number of heroin addicts in the District are addicted as the result of medical treatment or because of easy access to drugs through their occupations. These addicts are more commonly motivated to give up the drug and therefore are more likely to be cured. O'Donnell, "The Relapse Rate in Narcotic Addiction: A Critique of Follow-up Studies," in *Narcotics*, D. M. Wilner and G. G. Kassebaum, eds., 231 (McGraw-Hill, 1965).
 15. Curry, "Drugs a Growing Campus Problem," *The New York Times*, Mar. 21, 1966, pp. 1, 27; Eddy et al., supra note 2, at 728-29 (1965).
 16. See PHS Monograph, 7, 19; Eddy et al., supra note 2, at 728-29. According to a letter from Dr. Murray Grant, Director of Public Health, District of Columbia, July 7, 1966 [hereinafter cited as DPH letter], 55 of 321 drug users in 1964 had used marihuana as their first drug. Of these 55 persons, 29 were currently using heroin, 7 marihuana, 11 heroin and marihuana, 6 heroin and other dangerous drugs, and 2 morphine and other dangerous drugs.
 17. A. R. Lindesmith, *The Addict and the Law*, 234 (Indiana University Press, 1965). Lindesmith labels the graduation argument a fraud: while 99% of all heroin addicts may have used marihuana, 99% of marihuana users never go on to heroin. If anything, prohibition contributes to graduation. The ghetto youth who is told that marihuana is bad for him soon discovers that such is not the case, and presumes that similar warnings about heroin are likewise erroneous.
 18. Information supplied by Statistical Division, MPD, supra note 9.
 19. See *The Washington Post*, Jan. 22, 1966, pp. A1, A3.
 20. H.R. Rep. No. 130, supra note 1, at 6.*
 21. Proceedings, White House Conference on Narcotic and Drug Abuse (Washington, D.C., Sept. 27 and 28, 1962) [hereinafter cited as White House Conf. Proceedings], 287.
 22. DPH letter; interviews with Dr. Jonathan O. Cole, Chief, Biological and Psychopharmacology Research Branch, National Institute of Mental Health, June 10, 1966 [hereinafter cited as Cole interview]; Dr. Maurice C. Corbin, Medical Officer in Charge of the

- Alcoholism and Drug Addiction Program, D.C. General Hospital, June 1966; and Dr. B. W. Murphy, Student Health Service, University of Maryland, June 1966 [hereinafter cited as Murphy interview].
23. Memorandum from the Rev. John McD. Corn, Chaplain, Cook County Jail, Chicago, Ill., Aug. 1966. Barbiturate overdoses are responsible for almost 15 percent of Washington's suicides. DPH letter.
 24. H.R. Rep. No. 130, *supra* note 1, at 6.
 25. Cole and Murphy interviews.
 26. *Ibid.* See also Curry, *supra* note 15.
 27. See transcript of Aug. 16, 1966 hearings to determine whether hallucinogenic drugs are "dangerous drugs" within the meaning of the District of Columbia Dangerous Drug Act, 33 D.C. Code ch. 7 (1961).
 28. Hunt and Odoroff, "Follow-up Study of Narcotics Addicts After Hospitalization," 77 Public Health Rep. 41 (1962); O'Donnell, *supra* note 14.
 29. Based upon staff examination of all files for the categories of cases listed in the text terminated in 1964. The files were examined for notations which would indicate that the accused was also an addict, such as (1) arrests or convictions for narcotics offenses since 1960; (2) admissions of addiction by the accused; (3) statements by police that the accused was a known addict; and (4) joinder of narcotics offenses with other offenses. If any of the four notations were present, the offense was classified as one probably committed by a drug user. See also Morgan, "The 'In' World of Washington," *The Washington Post*, Oct. 20-23, 1966.
 30. Letter from Inspector John L. Sullivan, Robbery Squad, MPD, Feb. 8, 1966.
 31. App. (SRI), 538, 602, 607.
 32. *Id.* at 603, 605. Similar facts are revealed by the records of the Administrative Office of the United States Courts. They report that 90 percent of the 112 drug offenders convicted in fiscal year 1965 had a prior criminal record (narcotics and non-narcotics offenses are not differentiated) and 64 percent had prison records. Staff analysis of records of the Administrative Office of the United States Courts.
 33. Information supplied by Thomas R. Sard, Director, D.C. Dept. of Corrections, Jan. 28, 1966.
 34. Information supplied by the Biometrics Branch, Saint Elizabeths Hospital, June 14, 1966.
 35. Information supplied by the Office of the Chief Psychiatrist, D.C. General Hospital.
 36. *Supra* note 33.
 37. Pescor, in "A Statistical Analysis of the Clinical Records of Hospitalized Drug Addicts," 43 Public Health Reports, 6 (1938), reports that 75% of the inmates at the U.S. Public Health Service Hospital at Lexington, Ky. had no prior records. In contrast, see Illinois Institute for Juvenile Research, *Drug Addiction Among Young Persons in Chicago* (1953); Research Center for Human Relations, New York University, *Studies on Narcotics Use Among Juveniles* (1955). See also Kuznesof, "Probation for a Cure" (mimeo., 1955); Hearings on Illicit Narcotics Traffic Before the Subcommittee on Improvements in the Federal Criminal Code of the Senate Committee on the Judiciary, 84th Cong., 1st Sess. (1955-56); Report of the American Bar Association-American Medical Association Joint

- Committee on Narcotic Drugs," "Drug Addiction: Crime or Disease?" (1961).
38. 38 Stat. 785 (1914), as amended, Internal Revenue Code of 1954, § 4701 ff., 26 U.S.C. § 4701 ff.
 39. *Id.*, § 4731.
 40. The sale, barter, exchange or gift of narcotic drugs is prohibited except pursuant to an order written on a form issued in blank by the Secretary of the Treasury. *Id.*, § 4705 (a). Importers, manufacturers, wholesalers, or physicians who handle such drugs must register with the Treasury Department, pay a tax on any transaction, and keep detailed records in accord with Treasury regulations. *Id.*, 4724(a).
 41. *Id.*, § 4704(a).
 42. *Id.*, § 7237. Fines up to \$20,000 may also be imposed.
 43. See 18 U.S.C. ch. 402. D.C. authorities have treated the Youth Corrections Act as applicable even though the mandatory minimum sentences of Int. Rev. Code § 7237 were enacted subsequently. See *United States v. Lane*, 284 F. 2d 935 (9th Cir. 1960). This interpretation, however, has not been uniform throughout the Federal courts. See S. 2152, 89th Cong., 1st Sess. § 302 (1965).
 44. 35 Stat. 614 (1909), 21 U.S.C. § 174.
 45. 50 Stat. 554 (1937), as amended, Int. Rev. Code of 1954, § 4741 ff., 26 U.S.C. § 4741 ff.
 46. *Id.*, § 7237.
 47. 79 Stat. 226 (1965).
 48. 21 U.S.C. § 321 (v) (3).
 49. 31 Fed. Reg. 4679, 7174 (1966).
 50. 33 D.C. Code, ch. 4 (1961). It requires that manufacturers and wholesalers of these drugs be licensed; sale is limited to authorized persons with written orders or those with medical prescriptions. It also prohibits maintaining any place frequented by addicts for use or purchase of drugs.
 51. 33 D.C. Code, ch. 7 (1961).
 52. 33 D.C. Code § 416a (1961).
 53. This act is presently under attack as unconstitutionally vague. *Ricks v. United States, Williams v. United States*, Nos. 4163, 4164, D.C. Ct. App. (1966). See also *Ricks v. District of Columbia*, No. 4165, D.C. Ct. App. (1966).
 54. Interviews with Inspector Scott E. Moyer, in charge of the Morals Division, MPD, Captain Ernest P. Jefferson, in charge of the Narcotics Squad, MPD, Aug. 18, 1965, and with Agents Phillip R. Smith and LeRoy W. Morrison, Federal Bureau of Narcotics, Nov. 9, 1965.
 55. Information supplied by Statistical Division, MPD, *supra* note 9. Of the 524 arrests, 357 were for Harrison Act violations, 147 for Jones-Miller Act violations, and 20 for Marihuana Tax Act violations. The 147 Jones-Miller Act arrests probably involved the same people as the Harrison Act arrests.
 56. MPD letter.
 57. *Supra* note 9 (179 arrests under the Uniform Narcotics Act, 16 under the Dangerous Drug Act, 165 under the Narcotics Vagrancy Act, and 18 for forgery of narcotics prescriptions).
 58. Advisory Commission Rep., 46-47; White House Conf. Proceedings, 59.
 59. Memorandum, *supra* note 7.
 60. *Ibid.*
 61. H.R. Rep. 130, *supra* note 1, at 1.
 62. Cole and Murphy interviews.
 63. Mattick, "Narcotics and the Law," 33 U. Chi. L. Rev. 603, 605 (1966).
 64. Interviews, *supra* note 54. The Office of Law Enforcement Assistance, U.S. Dept. of Justice, has recently given a grant of \$99,500 to Arthur D. Little, Inc. to study

- illicit traffic in narcotics and dangerous drugs and law enforcement methods for control and suppression. Contract No. 66-10 (approved June 19, 1966).
65. Interviews, *supra* note 54; see also *Berry v. United States*, 324 F. 2d 407 (D.C. Cir. 1963), *cert. denied*, 376 U.S. 959 (1964).
 66. For cases dealing with unlawful search and seizure see *Aguilar v. Texas*, 378 U.S. 108 (1964); *Smith v. United States*, 358 F. 2d 833 (D.C. Cir. 1966); *Jones v. United States*, 353 F. 2d 908 (D.C. Cir. 1965). With respect to entrapment see *Johnson v. United States*, 317 F. 2d 127 (D.C. Cir. 1963); *Hansford v. United States*, 303 F. 2d 219 (D.C. Cir. 1962).
 67. For cases dealing with the right to speedy trial balanced against the public need not to disclose the identity of an undercover agent during his tour of duty, see *Daniels v. United States*, 357 F. 2d 587 (D.C. Cir. 1966); *Ross v. United States*, 349 F. 2d 210 (D.C. Cir. 1965).
 68. *Woody v. United States*, — F. 2d — (D.C. Cir., Aug. 11, 1966); *Powell v. United States*, 352 F. 2d 705, 710 (D.C. Cir. 1965) (dissent).
 69. See 23 D.C. Code § 101 (1961).
 70. Administrative Office of the United States Courts, Annual Report, Table D-2 (1965).
 71. Interview with Harold J. Sullivan, Chief, Grand Jury Unit, U.S. Attorney's Office, Sept. 8, 1965.
 72. Staff research and computations based on data furnished by the Research and Evaluation Branch, Administrative Office of the United States Courts.
 73. App. (SRI), 587.
 74. Staff computations based on a 25% sample of the United States Branch dockets in the District of Columbia Court of General Sessions in fiscal 1965. Computations with respect to dismissals and acquittals in narcotics cases were not made.
 75. 370 U.S. 660 (1962). Cf. *Castle v. United States*, 347 F. 2d 492 (D.C. Cir.), *cert. denied*, 381 U.S. 929 (1965). See also *Easter v. District of Columbia*, 361 F. 2d 50 (D.C. Cir. 1966).
 76. See opinion of Greene, J., in *United States v. Ricks*, *United States v. Williams*, and *District of Columbia v. Ricks*, Crim. Nos. U.S. 2208, U.S. 2209, D.C. 3050, D.C. Ct. of Gen. Sess. (1966). These cases are presently on appeal, *supra* note 53. But see cases upholding the general vagrancy statutes of the District of Columbia: *Hicks v. District of Columbia*, 197 A. 2d 154 (D.C. Ct. App. 1964), *writ of cert. dismissed*, 383 U.S. 252 (1966); *Harris v. District of Columbia*, 192 A. 2d 814 (Mun. App. D.C. 1963); *District of Columbia v. Hunt*, 163 F. 2d 833 (D.C. Cir. 1947). For general discussion of the problems raised by such statutes, see Lacey, "Vagrancy and Other Crimes of Personal Conditions," 66 *Harv. L. Rev.* 1203 (1953); Foote, "Vagrancy-type Law and Its Administration," 104 *U. Pa. L. Rev.* 603 (1956).
 77. *Supra* note 53.
 78. Interview with Assistant U.S. Attorney David N. Ellenhorn, Aug. 17, 1965.
 79. *Supra* notes 9, 57.
 80. *Supra* note 78.
 81. Information supplied by Joseph S. Stephens, Statistical Officer, Federal Bureau of Prisons, Sept. 28, 1966.
 82. PHS Monograph, 9-13; R.S. Horlick, *Survey of Narcotic Addiction Treatment Programs*, 13-17 (D.C. Dept. of Corrections, 1966).
 83. Information supplied by the D.C. Dept. of Corrections, Sept. 27, 1966.

84. See Horlick, *supra* note 82, at 1 and app. I.
85. Information supplied by W. R. Nelson, Assistant Director, D.C. Dept. of Corrections, Sept. 27, 1966.
86. D.C. Board of Parole application for Mental Health Project Grant, enclosed with a letter from Julius F. Martin, Supervisor, Mandatory Release Unit, D.C. Board of Parole, Feb. 21, 1966. The grant was denied by the National Institute of Mental Health.
87. 24 D.C. Code ch. 6 (1961).
88. Interview, *supra* note 78.
89. MPD letter.
90. See generally, Horlick, *supra* note 82, at 68-71. Most of the information set forth in the remainder of this subsection was obtained from Dr. Maurice C. Corbin, Medical Officer in Charge of the Alcoholism and Drug Addiction Program. D.C. General Hospital, Sept. 29, 1966, and from an interview with Dr. James Ryan, Chief Medical Officer, Psychiatric Division, D.C. General Hospital, Nov. 1965.
91. DPH letter.
92. Interviews, *supra* note 90.
93. See Advisory Commission Rep., 116-17, where resources for rehabilitation centers and treatment and/or rehabilitation programs other than hospitals are listed. There is no listing for the District of Columbia. See also Morgan, *supra* note 29, Oct. 23, 1966, p. A26, regarding the legal difficulties facing addict self-help groups in the District.
94. Permanent Subcommittee of the Senate Committee on Government Operations, Organized Crime and Illicit Traffic in Narcotics, S. Rep. No. 72, 89th Cong., 1st Sess. 120 (1965).
95. National Probation and Parole Association, Advisory Council of Judges, Guides for Sentencing, 59-60 (1957).
96. O'Donnell, "The Relapse Rate in Narcotic Addiction: A Critique of Follow-up Studies," in *Narcotics*, D. M. Wilner and G. G. Kassebaum, eds., 231 (McGraw-Hill, 1965). Sixteen percent of the narcotics offenders convicted in cases filed in the District Court in 1965 had not had previous imprisonment, the lowest proportion in any crime category. App. (SRI), 621.
97. Horlick, *supra* note 82, at 68-71; DPH letter.
98. D.C. Dept. of Public Health, Comprehensive Mental Health Services, 39, 43, 49, 83-85 (1965). See also *The Washington Post*, Nov. 18, 1966, p. B3.
99. Report to the Judicial Conference of the District of Columbia Circuit by the Committee on Laws Pertaining to Mental Disorders, Jan. 21, 1966.
100. *Id.* at 5.
101. For example, only 19% of the narcotics offenders convicted in the District Court in 1965 were raised by their natural parents. This was the lowest proportion for all crime categories. App. (SRI), 548.
102. Brotman, Meyer, and Freedman, "An Approach to Treating Narcotic Addicts Based on a Community Mental Health Diagnosis," *Comprehensive Psychiatry*, vol. 6, No. 2 (Apr. 1965).
103. PHS Monograph, 20-21.
104. Dole and Nyswander, "A Medical Treatment for Diacetylmorphine (Heroin) Addiction," 193 *J.A.M.A.* 64 (1965); Dole and Nyswander, "Rehabilitation of Heroin Addicts After Blockade with Methadone," 66 *N.Y. St. J. Med.* 2011 (1966); letter from Maurice Bachrach, Special Assistant to the Commissioner of Hospitals for Narcotics Addic-

- tion, New York City, Aug. 11, 1966. Other programs for volunteer addicts in New York City include the East Harlem Protestant Parish Narcotics Committee, the Narcotics Addiction Service at Metropolitan Hospital, Daytop Lodge, and Greenwich House Counseling Center. Advisory Commission Rep., 62; Horlick, *supra* note 82, at 27, 35, 51.
105. See, e.g., Yablonsky, "Stoned on Methadone," *New Republic*, Aug. 13, 1966, p. 14 (report of interviews with Synanon residents and former addicts who dispute the methadone project's claims of success, concluding that it merely substitutes one kind of addiction for another).
106. Cole interview. Use of this drug is contemplated for a voluntary treatment program for about 30 addicts being planned at Saint Elizabeths Hospital. See Morgan, *supra* note 29, Oct. 23, 1966, p. A26.
107. See Lindesmith, "The British System of Narcotics Control," 22 *Law & Contemp. Prob.* 138 (1957); PHS Monograph, 18.
108. Ministry of Health, Scottish Home and Health Dept., *Drug Addiction: The Second Report of the Interdepartmental Committee* (1965).
109. Editorial, "New Hope for Addicts," *The Evening Star* (Washington, D.C.), Aug. 10, 1966, p. A22.
110. Cole interview.
111. *Ibid.*
112. See Hearings on Civil Commitment and Treatment of Narcotic Addicts Before Subcommittee No. 2 of the House Committee on the Judiciary, 89th Cong., 1st and 2d Sess. [hereinafter cited as *Hearings on Civil Commitment*], 355-66 (1966).
113. N.Y. Public Health Law § 3341 (1966).
114. See I. Chein, D. L. Gerard, R. S. Lee, et al., *The Road to H: Narcotics, Delinquency, and Social Policy*, 384-85 (Basic Books, 1964).
115. 370 U.S. 660, 665 (1962).
116. Hearings on Civil Commitment, 83 (statement of Attorney General Katzenbach).
117. Pub. L. 89-793, 80 Stat. 1438 (1966).
118. S. 2152, H.R. 9167, 89th Cong., 1st Sess. (1965).
119. Hearings on Civil Commitment, 84-85.
120. Testimony of Dean F. Markham, formerly Executive Director, President's Advisory Commission on Narcotics and Drug Abuse, on S. 2152 Before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary, July 19, 1966. See H.R. Rep. No. 2277, 84th Cong., 2d Sess. 6 (1956), and S. Rep. No. 2033, 84th Cong., 2d Sess. 3 (1956), for an estimate that 10 years ago 70% of the District's addicts were also illegal sellers of drugs.
121. Hearings on Civil Commitment, 152.
122. *Id.* at 97-98, 152, 257-59, 268.
123. Although offenses in the U.S. Branch of the Court of General Sessions are prosecuted in the name of the United States, including prosecutions under the District's Uniform Narcotics Law, pretrial commitment of addicts must be made by a U.S. District Court under the Narcotic Addict Rehabilitation Act of 1966, § 101, 28 U.S.C. § 2902. The U.S. District Court for the District of Columbia, however, has co-extensive jurisdiction with the Court of General Sessions, 11 D.C. Code § 521 (Supp. V, 1966), so that arguably it could commit an addict charged with a misdemeanor in the Court of Gen-

- eral Sessions. Post-conviction commitments of persons convicted of an offense against the United States may be made under the act by "the court"—a U.S. District Court is not specified. Narcotic Rehabilitation Act of 1966, § 201, 18 U.S.C. § 4252. Cf. *Story v. Rives*, 97 F. 2d 182 (D.C. Cir.), *cert. denied*, 305 U.S. 595 (1938), where crimes against the laws of the District of Columbia were held to be "crimes against the United States" for purposes of commitment of a convicted person to the custody of the Attorney General of the United States.
124. See opinion of Judge Greene, in cases cited in note 76 *supra*, applicable to the general vagrancy provisions in 22 D.C. Code § 3302 (1961) as well as the Narcotics Vagrancy Act, 33 D.C. Code § 416(a) (1961): "As administered, the vagrancy law is not even a very effective crime control measure. The typical accused under that law is a miserable derelict whose principal offense is poverty and affinity for cheap wine, or is an individual, male or female, suspected of engaging in prostitution or homosexuality. But those criminal elements who seriously threaten the safety of the citizenry—the armed robbers, burglars, rapist [sic], and murderers—do not turn up in court on vagrancy charges."
125. See title IV, Narcotic Addict Rehabilitation Act of 1966, *supra* note 117.
126. See *Vauss v. United States*, — F. 2d — (D.C. Cir., July 26, 1966) (addict denied bail pending appeal because of lack of medical supervision to ensure that appellant did not return to the use of drugs): "There appears to be no suitable treatment program available to narcotics addicts in the District of Columbia. . . . If no such program is available now or in the reasonable future, we would have to consider the extent, if any, to which the fair administration of criminal justice and the purposes of the Bail Reform Act are adversely affected."
127. 112 Cong. Rec. 11218-53, 11259-60 (May 31, 1966).
128. Advisory Commission Rep., 39-43.
129. The contagion argument is not particularly persuasive in light of the District's experience. There are 19 drug users among the Youth Center's population, 5 of whom were convicted of narcotics offenses. Letter from Reuben S. Horlick, Superintendent, Lorton Youth Center, Aug. 10, 1966. See also note 43 *supra*.
130. See note 86 *supra*.
131. Information supplied by Dr. Roger E. Meyer, Research Psychiatrist, Psychopharmacology Research Branch and Drug Abuse Center, National Institute of Mental Health, Oct. 6, 1966.
132. Information supplied by Dr. Reuben S. Horlick, Superintendent, Lorton Youth Center, Oct. 7, 1966.
133. Advisory Commission Rep., 17.
134. MPD letter.
135. DPH letter.
136. Interviews with Bernice W. Wade, Supervising Director, Dept. of Health and Physical Education, D.C. Board of Education, and John D. Koontz, Asst. Superintendent, Junior and Senior High Schools, D.C. Board of Education, June 17, 1966.
137. Interview with Bernard Russell, Director, Office of Juvenile Delinquency and Youth Development, Welfare Administration, HEW, June 1966.

CHAPTER 7, SECTION V

1. In 1931 the "Wickersham Commission" reported that "the third degree—the inflicting of pain, physical or mental, to extract confessions or statements—is widespread throughout the country," and that "protracted questioning" and "illegal detention" were common police practices. National Commission on Law Observance and Enforcement, "The Third Degree," in *Lawlessness in Law Enforcement* (Fourth Report), 153 (1931).
2. 354 U.S. 449 (1957).
3. 384 U.S. 436, 444 (1966).
4. Rule 5(b) requires the commissioner to advise the defendant of his right to remain silent and to have a lawyer. As amended July 1, 1966, it also provides for the appointment of counsel for indigent defendants. See Criminal Justice Act of 1964, 18 U.S.C. § 3006A. Rule 5(c) gives the defendant the right to a preliminary hearing to determine if there is probable cause to hold him for grand jury action.
5. 318 U.S. 332 (1943). See also *Upshaw v. United States*, 335 U.S. 410 (1948). In *McNabb* the murder convictions of three Tennessee moonshiners were set aside because the statements used against them at trial had been obtained in violation of the federal statutes regulating post-arrest presentment before a magistrate. 318 U.S. at 345-46. Although *McNabb* was susceptible to a different interpretation, it was taken to hold that illegal detentions were a factor to consider in determining whether a confession was the result of psychological coercion. See, e.g., *United States v. Mitchell*, 322 U.S. 65 (1944). In *Upshaw*, a confession had been given during a 30-hour interval between arrest and presentment to a magistrate in violation of Rule 5(a). The Supreme Court held that the case was governed by *McNabb*, interpreting that case to say "that a confession is inadmissible if made during an illegal detention due to failure promptly to carry a prisoner before a committing magistrate, whether or not the 'confession is the result of torture, physical or psychological. . . .'" 335 U.S. at 413. *Upshaw* was not thought to require automatic exclusion of all statements obtained during a period of illegal detention. The courts continued to exclude only those statements which were found to be products of the coercive nature of such detentions. This interpretation had been applied by the United States Court of Appeals for the District of Columbia Circuit when it affirmed Andrew Mallory's conviction. 236 F. 2d 701, 703 (D.C. Cir. 1956).
6. *McNabb v. United States*, 318 U.S. 332, 344 (1943).
7. 354 U.S. at 454.
8. *Id.* at 453.
9. *Id.* at 455.
10. See, e.g., *Harrison v. United States*, 359 F. 2d 214 (D.C. Cir. 1965); *Carter v. United States*, 252 F. 2d 608 (D.C. Cir. 1957); *Watson v. United States*, 249 F. 2d 106 (D.C. Cir. 1957).
11. *Trilling v. United States*, 260 F. 2d 677, 686 (D.C. Cir. 1958) (Bazelon, J., dissenting).
12. *Alston v. United States*, 348 F. 2d 72, 73 (D.C. Cir. 1965) (Bazelon, C.J., concurring).
13. See, e.g., *Spriggs v. United States*, 335 F. 2d 283, 286 (D.C. Cir. 1964); *Coor v. United States*, 340 F. 2d 784, 786 (D.C. Cir. 1964) (dissenting opinion), *cert. de-*

- nied*, 382 U.S. 1013 (1966); *Muschette v. United States*, 322 F. 2d 989, 993 (D.C. Cir. 1963) (dissenting opinion), *judgment vacated on other grounds*, 378 U.S. 569 (1964); *Trilling v. United States*, *supra* note 11.
14. *Seals v. United States*, 325 F. 2d 1006, 1009 (D.C. Cir. 1963), *cert. denied*, 376 U.S. 964 (1964).
 15. See, e.g., *Gardiner v. United States*, 323 F. 2d 275 (D.C. Cir. 1963), *cert. denied*, 375 U.S. 976 (1964); *Muschette v. United States*, *supra* note 13; *Hughes v. United States*, 306 F. 2d 287 (D.C. Cir. 1962); *Turberville v. United States*, 303 F. 2d 411 (D.C. Cir.), *cert. denied*, 370 U.S. 946 (1962).
 16. See, e.g., *Proctor v. United States*, 338 F. 2d 533 (D.C. Cir. 1964), *cert. denied*, 380 U.S. 917 (1965); *Muschette v. United States*, *supra* note 13; *Hughes v. United States*, *supra* note 15; *Turberville v. United States*, *supra* note 15.
 17. See, e.g., *Tony Coleman v. United States*, 317 F. 2d 891 (D.C. Cir. 1963); *Charles Coleman v. United States*, 313 F. 2d 576 (D.C. Cir. 1962).
 18. See, e.g., *Coor v. United States*, *supra* note 13; *Proctor v. United States*, *supra* note 16; *Day v. United States*, 281 F. 2d 33 (D.C. Cir. 1960).
 19. See *Hughes v. United States*, *supra* note 15.
 20. See *Milton Mallory v. United States*, 259 F. 2d 796 (D.C. Cir. 1958) (defendant drunk when arrested and delay sanctioned while he slept in jail); *Porter v. United States*, 258 F. 2d 685 (D.C. Cir. 1958), *cert. denied*, 360 U.S. 906 (1959) (victim of attack died and homicide squad conducted further investigation upon learning of the death).
 21. *Goldsmith v. United States*, 277 F. 2d 335, 345 (D.C. Cir.), *cert. denied*, 364 U.S. 863 (1960) (affirming admission of confession on grounds unrelated to issue of unnecessary delay).
 22. See, e.g., *Scarbeck v. United States*, 317 F. 2d 546 (D.C. Cir. 1962), *cert. denied*, 374 U.S. 856 (1963).
 23. *Seals v. United States*, *supra* note 14. See also *Scarbeck v. United States*, *supra* note 22.
 24. *Metcyer v. United States*, 250 F. 2d 30 (D.C. Cir. 1957). See also *Blackney v. United States*, 257 F. 2d 191 (D.C. Cir.), *cert. denied*, 358 U.S. 850 (1958).
 25. *Edmonds v. United States*, 273 F. 2d 108 (D.C. Cir. 1959), *cert. denied*, 362 U.S. 977 (1960).
 26. *Jones v. United States*, 342 F. 2d 863 (D.C. Cir. 1964).
 27. See, e.g., *Bailey v. United States*, 328 F. 2d 542 (D.C. Cir.), *cert. denied*, 377 U.S. 972 (1964); *Perry v. United States*, 253 F. 2d 337 (D.C. Cir. 1957), *cert. denied*, 356 U.S. 941 (1958), relying on *United States v. Mitchell*, 322 U.S. 65 (1944).
 28. The spontaneous statement differs from the threshold confession, which may have been sought by the police and is admissible under *Mallory* because obtained without unnecessary delay. See, e.g., *Day v. United States*, *supra* note 18.
 29. See, e.g., *Copeland v. United States*, 343 F. 2d 287 (D.C. Cir. 1964), *cert. denied*, 383 U.S. 928 (1965) (apology to victim following a confession); *Goldsmith v. United States*, *supra* note 21 (argument with victim over amount stolen, in confrontation following a confession); as to the problem of apologies generally, see *Veney v. United States*, 344 F. 2d 542 (D.C. Cir.), *cert. denied sub nom. Baylor v. United*

- States, 382 U.S. 852 (1965) (concurring opinion).
30. See, e.g., *Jackson v. United States*, 285 F. 2d 675 (D.C. Cir. 1960), *cert. denied*, 366 U.S. 941 (1961); *Goldsmith v. United States*, supra note 21.
 31. 315 F. 2d 241 (D.C. Cir. 1962).
 32. See also *Ricks v. United States*, 334 F. 2d 964 (D.C. Cir. 1964).
 33. *Starr v. United States*, 264 F. 2d 377 (D.C. Cir. 1958), *cert. denied*, 359 U.S. 936 (1959).
 34. *Tate v. United States*, 283 F. 2d 377 (D.C. Cir. 1960). See also *Inge v. United States*, 356 F. 2d 345 (D.C. Cir. 1966).
 35. *Walder v. United States*, 347 U.S. 62, 65 (1954) (evidence obtained through an illegal search and seizure).
 36. See *Silverthorne Lumber Co. v. United States*, 251 U.S. 385, 391-92 (1920).
 37. See, e.g., *Killough v. United States*, 336 F. 2d 929 (D.C. Cir. 1964), reversed on other *Mallory* grounds (confession led to well-hidden body of victim).
 38. See *Smith v. United States*, 324 F. 2d 879 (D.C. Cir. 1963), *cert. denied*, 377 U.S. 954 (1964).
 39. See, e.g., *Pee v. United States*, 274 F. 2d 556 (D.C. Cir. 1959). But see *Lockley v. United States*, 270 F. 2d 915 (D.C. Cir. 1959).
 40. See, e.g., *Coor v. United States*, 325 F. 2d 1014 (D.C. Cir. 1963).
 41. *Inge v. United States*, supra note 34; *Spriggs v. United States*, supra note 13.
 42. See, e.g., *Pea v. United States*, 324 F. 2d 442 (D.C. Cir. 1963); *Gilliam v. United States*, 257 F. 2d 185 (D.C. Cir. 1958), *cert. denied*, 359 U.S. 947 (1959); *Lawson v. United States*, 248 F. 2d 654 (D.C. Cir. 1957), *cert. denied*, 355 U.S. 963 (1958). But see *Perry v. United States*, supra note 27.
 43. See, e.g., *Lewis v. United States*, 294 F. 2d 209 (D.C. Cir.), *cert. denied*, 368 U.S. 949 (1961); *Edwards v. United States*, 256 F. 2d 707 (D.C. Cir.), *cert. denied*, 358 U.S. 847 (1958).
 44. *White v. United States*, 314 F. 2d 243 (D.C. Cir. 1962). But see *Perry v. United States*, supra note 27.
 45. *Escobedo v. Illinois*, 378 U.S. 478 (1964).
 46. *Id.* at 487.
 47. *Miranda v. Arizona*, 384 U.S. 436, 478-79 (1966).
 48. *Id.* at 467.
 49. *Id.* at 444.
 50. *Ibid.*
 51. *Id.* at 468-69.
 52. *Id.* at 474.
 53. *Ibid.*
 54. *Id.* at 475-76.
 55. *Id.* at 476.
 56. *Ibid.*
 57. *Id.* at 477.
 58. *Id.* at 477-78.
 59. *Id.* at 478.
 60. *Id.* at 478-79.
 61. *Id.* at 467.
 62. *Id.* at 463.
 63. 378 U.S. 368 (1964).
 64. Testimony of Chief of Police Robert V. Murray, Hearings on H.R. 7525 and S. 486 Before the Senate Committee on the District of Columbia, 88th Cong., 1st Sess. 470 (1963).
 65. *Ibid.*
 66. Testimony of U.S. Attorney David C. Acheson, *id.* at 441-42.
 67. *Id.* at 442.
 68. *Id.* at 448.
 69. *Ibid.*
 70. Letter from David C. Acheson, U.S. Attorney for the District of Columbia, to Chief of Police Robert V. Murray, October 21, 1964.
 71. Letter from David C. Acheson, U.S. Attorney for the District of Columbia, to Chief of Police Robert V. Murray, Nov. 7, 1964.
 72. Hearings on S. 1526 Before the Senate Committee on the District

- of Columbia, 89th Cong., 1st Sess. 499 (1965).
73. Metropolitan Police Department, Washington, D.C. [hereinafter cited as MPD], General Order No. 9-B, Series 1964.
 74. Letter from David G. Bress, U.S. Attorney for the District of Columbia, to Chief of Police John B. Layton, May 20, 1966.
 75. MPD General Order No. 9-C, Series 1964.
 76. This is one objective of a survey which was conducted by the Institute for Social Research, University of Michigan, Ann Arbor, Michigan, under the Office of Law Enforcement Assistance, U.S. Department of Justice, Grant No. 006 (February 1966). In addition, efforts are underway to develop new forms for completion by police officers regarding their interrogation of suspects.
 77. Hearings on H.R. 7525 and S. 486 Before the Senate Committee on the District of Columbia, 88th Cong., 1st Sess. pt. 1, 77, 452 (1963) (Chief Murray).
 78. Senate Hearings on S. 1526, supra note 72, at 57-58 (U.S. Attorney Acheson), 301 (Chief Layton).
 79. Pye, "The Supreme Court and the Police," scheduled for publication in late 1966 in the Northwestern University Law Review. These facts were offered not to suggest that more crimes will be solved without interrogation but simply to suggest "that the data available does not support the contrary position." See also California Bureau of Criminal Statistics, *Crime and Delinquency in California*, 19 (1965), suggesting that decreasing clearance rates in that state might be accounted for by the greater proportion of lesser offenses reported. These offenses are often more difficult to solve and receive less police attention than do serious crimes.
 80. Office of the District Attorney, County of Los Angeles, "Dorado-Miranda Survey." See *The New York Times*, Aug. 19, 1966, p. 20.
 81. See, e.g., Joint Hearings on H.R. 1930 Before the District of Columbia Committees of the Senate and House of Representatives, 88th Cong., 1st Sess. 7 (1963) (Chief Murray).
 82. *The New York Times*, Dec. 2, 1965, p. 1.
 83. A study made by Supreme Court Justice Nathan Sobel of Kings County (Brooklyn) analyzed 1000 indictments filed in his County in early 1965 and found that in only 86 cases were the required notices filed indicating that the prosecutor intended use of a confession at trial. Sobel, *The Exclusionary Rules in the Law of Confessions: A Legal Perspective—A Practical Perspective*, N.Y. L.J., Nov. 22, 1965, p. 1. This study is subject to many qualifications. First, the statutory notice is required only in cases that are not disposed of by plea. American Law Institute (ALI) Model Code of Pre-Arraignment Procedure § 5.01, commentary, p. 171, n. 6 (Tent. Draft. No. 1, 1966). Confessions may be involved in a disproportionate number of cases where pleas of guilty are obtained. Second, the study was made shortly after the *Escobedo* decision when many police officials were proceeding cautiously in interrogating suspects. See Note, *Developments in the Law*, 79 Harv. L. Rev. 938, 942, n. 19 (1966). Third, "the figures do not indicate the cases where a statement led to extrinsic evidence and was thus helpful in solving the case without a need to use the statement itself." ALI Code, supra.

84. Senate Hearings on S. 1526, supra note 72, at 56.
85. Pye, supra note 79.
86. Subsequent to the *Miranda* case the police continued to keep records on their questioning of arrested persons, although the forms were not revised to reflect the new considerations relevant under the *Miranda* ruling. A review of 352 forms completed between June 13 and mid-November of 1966 does, however, reveal some general data on the effect of *Miranda* on police questioning. In the 352 cases detectives or special squad personnel or arresting officers conducted some questioning in all but 13 cases, either at the scene, en route to the station, in the stationhouse, or in a few cases prior to arrest. In 168 cases (47%) the defendant refused to make any statement at all or denied the offense outright without elaboration or explanation. Of these 168, 64 (37%) had consulted a lawyer (some only for a few minutes on the telephone), while 104 (63%) had consulted no one or a friend or relative. One hundred eighty-four defendants (53%) made some kind of statement to the police (*Miranda* does not distinguish between incriminatory or exculpatory statements); 37% (139) could be classified as full or partial admissions or admissions with justifications or excuses. Of the 184 who made statements, 36 (20%) consulted with lawyers; it was not always possible, however, to tell from the reports whether the statements were made before or after consulting with the lawyer. In brief, 35% of all the defendants talked to lawyers; of this group 64% made no statement and 36% did some talking. Also to be noted is that questioning exceeded 1 hour in only 58 of the cases (13%) and lasted beyond 2 hours in only 8 cases (2%).
87. Staff analysis of monthly reports filed by trial assistants in the United States Attorney's Office from June 1957 to February 1961 in which they were asked by the United States Attorney to describe every case that presented a *Mallory* problem. The 138 cases reported during the time period represented only 2 to 2½% of the total defendants in cases terminated. Since the Commission's four-month survey revealed *Mallory* problems in 22% of the cases (69 out of 316), the U.S. Attorney's data appears to be understated.
88. This figure was obtained by a review of appellate briefs filed between January 1, 1956, and June 30, 1965. The staff sought out the most complete set of briefs known to it—the briefs bound for the library of the United States Court of Appeals for the District of Columbia Circuit. The cases thus located were followed to the court's dockets and printed opinions. Some of these cases were reversed on other grounds, but for the purposes of an inquiry limited to *Mallory* grounds, they must be counted as cases in which the court voted to sustain the Government position on the *Mallory* question.
89. Since each defendant in a criminal appeal initially receives a separate docket number, the total criminal cases terminated in each year, as reported in the Annual Reports of the Director of the Administrative Office of the United States Courts, 1958–1965, is taken to represent the total defendants. Only one misdemeanor case involving a

- Mallory* question has reached the U.S. Court of Appeals by petition from the D.C. Court of Appeals. *Larkin v. United States*, 281 F. 2d 72 (1960) (confession of indecent assault made spontaneously upon confrontation with complainant held admissible.)
90. Among these 163 defendants, 6 had 2 appeals before final disposition. These were *Bynum v. United States*, 262 F. 2d 465 (D.C. Cir. 1958), and 274 F. 2d 767 (D.C. Cir. 1960); *Coor v. United States*, 325 F. 2d 1014 (D.C. Cir. 1963), and 340 F. 2d 784 (D.C. Cir. 1964), *cert. denied*, 382 U.S. 1013 (1966); *Lester Jackson v. United States*, 273, F. 2d 521 (D.C. Cir. 1959), and 285 F. 2d 675 (D.C. Cir. 1960), *cert. denied*, 366 U.S. 941 (1961) (each of these defendants was reconvicted of the same offense and had his conviction affirmed); *Naples v. United States*, 307 F. 2d 618 (D.C. Cir. 1962), and 344 F. 2d 508 (D.C. Cir. 1964); *Killough v. United States*, 315 F. 2d 241 (D.C. Cir. 1962), and 336 F. 2d 929 (D.C. Cir. 1964); *Greenwell v. United States*, 317 F. 2d 108 (D.C. Cir. 1963), and 336 F. 2d 962 (D.C. Cir. 1964) (each of these defendants was reconvicted and obtained a second reversal on remand; *Naples'* second reversal was on non-*Mallory* grounds; *Greenwell* was reconvicted and that conviction was affirmed by order, No. 19516, February 7, 1966).
 91. Staff analysis of FBI identification records and court records.
 92. Uniform Arrest Act § 2.
 93. ALI Model Code of Pre-Arrestment Procedure § 2.02 (Tent. Draft No. 1, 1966) [hereinafter cited as ALI Code].
 94. 384 U.S. at 481.
 95. *Id.* at 477-78.
 96. H.R. 5688, § 101(a), 89th Cong., 1st Sess. (1965), as passed by the House of Representatives, 111 Cong. Rec. 5595 (March 22, 1965).
 97. *Id.*, § 101(b).
 98. *Id.*, § 301.
 99. H.R. 5688, §§ 102, 103(3), 89th Cong., 1st Sess. (1965), as amended, 111 Cong. Rec. 21448 (Aug. 30, 1965), and passed by the Senate, 111 Cong. Rec. 21469 (Aug. 31, 1965).
 100. *Id.*, § 103(1) and (2).
 101. *Id.*, § 103(4).
 102. H.R. 5688, § 101(b), 89th Cong., 1st Sess. (1965), as passed after conference by the Senate, 112 Cong. Rec. 26231 (Oct. 17, 1966), and the House, 112 Cong. Rec. 26633 (Oct. 19, 1966).
 103. *Supra* note 93.
 104. Where the charging decision has been made by issuance of a warrant and arrest pursuant thereto, immediate presentment is required. ALI Code § 4.06.
 105. *Id.*, § 4.04.
 106. *Id.*, § 5.01.
 107. *Id.*, § 4.01(2).
 108. *Id.*, § 4.01(2)(d).
 109. *Id.*, § 4.09(3).
 110. See *id.*, art. 4, commentary, p. 149, n. 27.
 111. *Id.* at 148-50.
 112. *Ibid.*
 113. *Miranda v. Arizona*, 384 U.S. 436, 477-78 (1966).
 114. *Watts v. Indiana*, 338 U.S. 49, 59 (1949).
 115. See Annual Report of the Proceedings of the Judicial Conference of the United States, 6-7 (1958).

CHAPTER 7, SECTION VI

1. Rifles and shotguns, which cannot be concealed, are not major implements of crime. In fiscal 1966 these weapons were used in no homicides in the District of Columbia, in 74 aggravated assaults, and in 33 robberies, whereas handguns were used in 73 homicides, 640 aggravated assaults and 1,137 robberies. Letter from Insp. Jerry V. Wilson, Asst. Chief Clerk, Metropolitan Police Department, Washington, D.C. [hereinafter cited as MPD], Aug. 29, 1966.
2. Letter from U.S. Attorney David C. Acheson, July 28, 1965.
3. MPD Annual Report, 21 (1965). These 705 cases record circumstances in which the weapons offense was the most serious. Under police practice only the most serious offense reported is recorded.
4. App (SRI), 577-78.
5. Hearings on S. 1592 Before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary, 89th Cong., 1st Sess. 290 (1965).
6. *Ibid.*
7. Staff compilation of data maintained by the Homicide Squad, MPD.
8. The Dangerous Weapons Act of 1932, 47 Stat. 650, as amended, 67 Stat. 93 (1953), 22 D.C. Code, ch. 32 (1961).
9. 22 D.C. Code § 3207 (1961).
10. Interview with Captain Thomas I. Herlihy, Special Investigations Squad, MPD, May 31, 1966.
11. Hearings, *supra* note 5, at 286.
12. The Federal laws applicable to guns in the District of Columbia are the Federal Firearms Act, 52 Stat. 1252 (1938), 15 U.S.C. §§ 901-909 (1958), which specifies that: (1) No interstate shipments of firearms may be made by manufacturers or dealers who are not licensed; (2) shipments may not be made to any person other than a dealer or manufacturer in contravention of licensing provisions in the state in which the recipient resides; (3) firearms may not be shipped to persons whom the shipper knows or believes to be under indictment, convicted of a felony, or a fugitive; and (4) stolen firearms or those without manufacturer's identification may not be introduced into interstate commerce; and the National Firearms Act, Int. Rev. Code of 1954 §§ 5801-62, which regulates "gangster-type" weapons through the power to tax.
13. 22 D.C. Code § 3203 (1961).
14. *United States v. Waters*, 73 F. Supp. 72 (D.D.C. 1947), *case certified*, 175 F. 2d 340 (D.C. Cir.), *appeal dismissed*, 335 U.S. 869 (1948).
15. Interview, *supra* note 10.
16. 22 D.C. Code § 3205 (1961).
17. 4 D.C. Code § 115 (1961).
18. Interview, *supra* note 10. See also *McKenzie v. United States*, 158 A. 2d 912 (D.C. Ct. App. 1960).
19. 22 D.C. Code §§ 3201, 3202 (1961).
20. MPD Ann. Rep., 29 (1965).
21. *The Evening Star* (Washington), Aug. 30, 1965, p. B1. This "crack-down" resulted in the non-renewal of the licenses of 14 of the 80 federally licensed gun dealers in the District of Columbia. Interview with Francis J. Sweeney, Assistant Supervisor, Baltimore Office of the Alcohol and Tax Division, Internal Revenue Service, June 20, 1966.
22. Hearings on S. 1632 Before the Senate Committee on the District of Columbia, 89th Cong., 1st Sess. 490 (1965).

23. Data collection for the Commission by C-E-I-R, Inc., from the criminal jackets of the U.S. District Court for the District of Columbia for calendar years 1950, 1955, 1960 and 1965 (1966).
24. Staff survey of every fourth case recorded in the dockets of the U.S. Branch, Criminal Division, D.C. Court of General Sessions.
25. Montgomery County, Md., Ordinance 5-140, Nov. 9, 1965, amending Montgomery County Code ch. 103 (1960); Prince Georges County, Md., Ordinance Regulating the Sale and Transfer of Pistols in Prince Georges County, June 1, 1965; Arlington County, Va., Acts of the Assembly, ch. 297 (1944); Alexandria, Va., City Code §§ 41-1, 24 (1963).
26. Maryland Pistol Law, Md. Code art. 27, §§ 441-48 (1966).
27. Other principal provisions of the bill include further prohibition on interstate shipment of firearms; a 7-day delay in shipment in order to forward to the law enforcement authorities at the buyer's residence a sworn statement from the buyer concerning age and eligibility to purchase; prohibition on interstate procurement of firearms by persons who cannot lawfully obtain them in their own jurisdiction; and certain prohibition on sales to minors.
28. See Hearings on S. 1632, *supra* note 22. This bill, sponsored by Senator Tydings, was considered by the Senate District Committee during the last Congress. Its companion in the House of Representatives, H.R. 6745, 89th Cong., 1st Sess. (1965), was referred to Subcommittee No. 5 of the House District Committee on April 28, 1965.
29. N.Y. Penal Law § 1903 (1965). The Sullivan Law requires a license either to possess or to carry a concealable firearm. No pistol or revolver may be purchased until the purchaser has a license. Licenses are issued only after police investigation of the applicant, which includes fingerprinting and examination of records such as those of mental hospitals and other appropriate sources. Licenses are issued only to persons who are of good moral character; who have not been convicted anywhere of offenses which are not bailable; who have no prior felony conviction and no more than one prior misdemeanor conviction for specified offenses including weapons violations, theft, unlawful entry, rape and narcotics; who have no history of mental confinement; and concerning whom no good cause exists for denial of the license. Licenses may also be restricted to possession in limited circumstances as in the home or place of business. Licenses are valid for a 2-year period in New York City and cost \$20 on initial issuance and \$10 on renewal.
30. C. Bakal, *The Right to Bear Arms*, 155-56 (McGraw-Hill, 1966).
31. Hearings on S. 1592, *supra* note 5, at 603.
32. Staff computations based on data in note 1, *supra*; letter from H. R. Leary, Police Commissioner of the City of New York, Sept. 7, 1966; information supplied by the Bureau of the Census, U.S. Dept. of Commerce.
33. Legislation controlling guns has been tested and upheld in the courts despite Second Amendment challenges. See *United States v. Miller*, 307 U.S. 174 (1939); *United States v. Tot*, 131 F. 2d 261 (3d Cir. 1942), *reversed on other grounds*, 319 U.S. 463 (1943); *Cases v. United States*, 131 F. 2d

916 (1st Cir. 1942), *cert. denied sub nom. Velazquez v. United States*, 319 U.S. 770 (1943); *United States v. Adams*, 11 F. Supp. 216 (S.D. Fla. 1935). The

Amendment provides that "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed."

CHAPTER 7, SECTION VII

1. J. Michael and H. Wechsler, *Criminal Law and its Administration*, 6 (Foundation Press, 1940); R. M. Perkins, *Criminal Law*, 4 (Foundation Press, 1957).
2. J. Hall, *Studies in Jurisprudence and Criminal Theory*, 253 (Oceana Publications, 1958); American Law Institute [hereinafter cited as ALI] *Model Code of Pre-Arrestment Procedure, Reporters' Introductory Memorandum*, p. xx (Tent. Draft No. 1, 1966).
3. ALI *Model Penal Code* § 1.02, comment (Tent. Draft No. 2, 1954), citing Indiana Constitution art. 1, § 18 ("The penal code shall be founded on the principles of reformation, and not of vindictive justice"); Montana Constitution art. III, § 24 ("Laws for the punishment of crime shall be founded on the principles of reformation and prevention"); North Carolina Constitution art. XI, § 2 ("The object of punishment being not only to satisfy justice, but also to reform the offender and thus prevent crime . . ."). See also Hall, *supra* note 2, at 242; Hart, "The Aims of the Criminal Law," 23 *Law & Contemp. Prob.* 400 (1958).
4. Letter from U.S. Attorney General Nicholas deB. Katzenbach, H.R. Rep. No. 1891, 89th Cong., 2d Sess. 6 (1966).
5. Hall, *supra* note 2, at 254; H.R. Rep. No. 1891, *supra* note 4, at 3. See Remington, "Criminal Law Revision—Codification vs. Piecemeal Amendment," 33 *Neb. L. Rev.* 396 (1954).
6. Wechsler, "The Challenge of a Model Penal Code," 65 *Harv. L. Rev.* 1097, 1101-02 (1952).
7. *Id.* at 1103-04.
8. 14 *La. Rev. Stat. ch. 1* (1950). Louisiana's Criminal Code became effective on July 29, 1942.
9. 41 *Wis. Stat. Ann.* (1958). Wisconsin's Criminal Code became effective on July 1, 1956. For the legislative background of the Wisconsin revision see Platz, "The Criminal Code," 1956 *Wis. L. Rev.* 350.
10. 38 *Ill. Ann. Stat. div. I* (1964). The Illinois Criminal Code became effective on Jan. 1, 1962. For legislative history see 50 *Ill. B.J.* 34 (1964).
11. 40 and 40A *Minn. Stat. Ann.* (1964). The Minnesota Criminal Code became effective Sept. 1, 1963.
12. *N.Y. Rev. Pen. Law* (1965). The Revised Penal Law becomes effective Sept. 1, 1967.
13. House Bill No. 2272, An Act to consolidate, amend, and revise the Penal Laws of the Commonwealth (1965).
14. *Cal. Stat. ch. 1797* (1963). See Phil S. Gibson, Chief Justice, "The Revision of Criminal Law in California—A Challenge to Bench and Bar," in *Proceedings, California Conference of Judges* (Sept. 25, 1963).
15. The ALI's efforts on a Model Code spanned more than 10 years. See Tent. Draft No. 1 (1963); Proposed Official Draft (1962).
16. F. J. Remington, "Reform in State Criminal Procedure," 4, 10-13

- (White Lectures, Georgetown University, Washington, D.C., 1963) (mimeo).
17. Message of the President on Crime and Law Enforcement, March 9, 1966, 112 Cong. Rec. 5146, 5148.
 18. Pub. L. 89-801, 80 Stat. 1516 (1966).
 19. See also Remington, *supra* note 16, at 10-13, where it is suggested that an additional benefit of code revision is the greater willingness of lawyers to participate in criminal cases who would not otherwise do so due to unfamiliarity with the substantive and procedural intricacies of an unrevised criminal code.
 20. 31 Stat. 1321 (1901).
 21. 22 D.C. Code § 2405 (1961).
 22. See, e.g., *Guarro v. United States*, 237 F. 2d 578 (D.C. Cir. 1956) (consent, entrapment); *Durham v. United States*, 214 F. 2d 862 (D.C. Cir. 1954) (insanity); *Edwards v. United States*, 172 F. 2d 884 (D.C. Cir. 1949) (intoxication); *Josey v. United States*, 136 F. 2d 809 (D.C. Cir. 1943) (self-defense); *Smith v. United States*, 36 F. 2d 548 (D.C. Cir. 1929) (insanity).
 23. 22 D.C. Code § 1117 (1961).
 24. *Id.*, § 1108.
 25. *Id.*, § 1102.
 26. *Id.*, § 1103.
 27. *Id.*, §§ 2201-2204a, 2206.
 28. *Id.*, §§ 2205, 2207.
 29. *Id.*, §§ 1201-1203, 1205-1211.
 30. *Id.*, § 1204.
 31. *Id.*, § 1301.
 32. *Id.*, §§ 1303-1307.
 33. *Id.*, § 1401.
 34. *Id.*, § 1402.
 35. *Id.*, § 1403.
 36. *Id.*, § 1404.
 37. *Id.*, § 1407.
 38. *Id.*, § 1410.
 39. *Id.*, § 1411.
 40. See e.g., *Skantze v. United States*, 288 F. 2d 416 (D.C. Cir.), *cert. denied*, 366 U.S. 972 (1961). *Milner v. United States*, 41 App. D.C. 52, *cert. denied*, 231 U.S. 755 (1913); *Woodward v. United States*, 38 App. D.C. 323 (1912).
 41. Cf. Friendly, "The Bill of Rights as a Code of Criminal Procedure," 53 Calif. L. Rev. 929 (1965).
 42. Perkins, *supra* note 1, at 237.
 43. 22 D.C. Code § 2201 (1961).
 44. *Id.*, § 2901.
 45. *Id.*, § 201.
 46. *Id.*, §§ 401, 403.
 47. *Id.*, § 701.
 48. *Id.*, § 1401.
 49. *Id.*, § 1407.
 50. *Id.*, § 2902 (attempt to commit robbery).
 51. *Id.*, § 103.
 52. *United States v. Pearson*, 202 A. 2d 392 D.C. Ct. App. 1964).
 53. For example, larceny from a private citizen is subject to imprisonment up to 1 year if the value of the property stolen is less than \$100, and 1 to 10 years if the value of the property is \$100 or more. 22 D.C. Code §§ 2201, 2202 (1961). For stealing property of the District of Columbia, however, there is no distinction based on value of the property and all thefts may be punished by terms up to 5 years. 22 D.C. Code § 2206 (1961).
 54. For example, robbery, as defined by 22 D.C. Code § 2901 (1961), may include picking a pocket, yoking or an armed hold-up.
 55. 22 D.C. Code §§ 1401 (forgery), 2201 (grand larceny), 2404 (murder), 2501 (perjury), 2901 (robbery) (1961). See also 24 D.C. Code § 203 (1961) imposing minimum sentences for violations after previous convictions.
 56. District of Columbia Omnibus Crime Bill, H.R. 5688, 89th Cong., 1st Sess. (1965), as passed after conference by the Senate, 112 Cong. Rec. 26231 (Oct. 17, 1966), and the House, 112 Cong. Rec. 26633 (Oct. 19, 1966), titles V and VI. Vetoed by the President, Nov. 13, 1966. See 112 Cong. Rec.

- 26134 (1966) for the bill as it emerged from conference and passed both houses.
57. 24 D.C. Code, ch. 2 (1961).
 58. See the list of special consultants utilized by the ALI in the preparation of its Model Penal Code, pp. iv-vi (Proposed Official Draft, 1962). See also Wechsler, *supra* note 6, at 1130.
 59. 4 D.C. Code § 143 (1961).
 60. 4 D.C. Code § 140 (1961).
 61. 23 D.C. Code § 610 (1961) ; 16 D.C. Code § 704 (Supp. V, 1966).
 62. ALI Model Code of Pre-Arrestment Procedure §§ 3.02, 4.04(5), 4.07 (Tent. Draft No. 1, 1966).
 63. In 1965 the police reported 20,446 charges and 14,885 arrests for disorderly conduct. MPD Ann. Rep., 39, 43 (1965).
 64. 30 Stat. 723, ch. 638 (1898), 22 D.C. Code § 1107 (1961).
 65. 67 Stat. 98, ch. 159, § 211a, 22 D.C. Code § 1121 (1961). See H.R. Rep. No. 538, 82d Cong., 1st Sess. 10 (1951).
 66. Public Hearings, Shaw Junior High School, Feb. 17, 1966. In 1965 there were 3,434 disorderly charges in the 13th Precinct, 2,449 in the 10th, 2,812 in the 9th, and 2,641 in the 2d Precinct. MPD Ann. Rep., 39 (1965). This represented an increase of almost a thousand disorderly conduct charges in the 10th Precinct. See MPD Ann. Rep., 39 (1964). In 1951 and 1955 the 2d Precinct had over 5,000 disorderly conduct arrests, while the 10th had only 475 (1951) and 785 (1955). By 1961 the 2d Precinct had gone down to 3,371 and the 10th had come up to 2,852. MPD Ann. Reps. (1951, 1955, 1961).
 67. See The Washington Post, April 2, 1966, p. A1, reporting a policeman slashed with a razor while making a disorderly conduct arrest. He in turn shot the accused. A crowd of 100 people from the 13th Precinct assembled during the fracas. See also The Evening Star (Washington, D.C.), May 18, 1966, p. A2, May 4, 1966, p. C4.
 68. *Id.*, May 19, 1966, p. A1.
 69. Opinion of the Corporation Counsel, June 7, 1966.
 70. *Cox v. Louisiana*, 379 U.S. 536 (1965); *Shuttlesworth v. Birmingham*, 382 U.S. 87 (1965).
 71. 221 A. 2d 94 (D.C. Ct. App. 1966).
 72. No. 20,275, appeal allowed Oct. 19, 1966.
 73. See ALI Model Penal Code § 250.2, commentary (Tent. Draft No. 13, 1961). See, e.g., 38 Ill. Stat. Ann. § 26-1 (1964).
 74. D.C. Court of General Sessions, Annual Report, Table I (1965).
 75. Definitions of petty offenses vary. Federal law identifies them as misdemeanors with a penalty which does not exceed 6 months imprisonment, \$500 fine, or both. 18 U.S.C. § 1 (1950).
 76. Compare Netherton, "Fair Trial in Traffic Court," 41 Minn. L. Rev. 577 (1957), and Conway, "Is Civil or Criminal Procedure Proper for Enforcement of Traffic Law?," 1959 Wis. L. Rev. 418, 444 (1959), with J. P. Economos, *Traffic Court Procedure and Administration* (American Bar Association, 1961), and Mueller, "How to Increase Traffic Fatalities: A Useful Guide for Modern Legislators and Traffic Courts," 60 Col. L. Rev. 944 (1960).
 77. 40 D.C. Code § 302(a) (Supp. V, 1966).
 78. ALI Model Penal Code, introduction to § 250 (Tent. Draft No. 13, 1961).
 79. See MPD Ann. Rep., 49 (1965). "Other dispositions" shown therein include forfeitures of collateral and court-imposed fines. Most, however, are forfeitures.
 80. Address by Hon. Bernard Botein, Governor's Conference on Crime

(New York City, April 22, 1966) (mimeo).

81. Cal. Stat., ch. 1797, § 2 (1961). The State of Illinois appears to be the only state which has enacted a completely revised code of criminal procedure, 38 Ill. Ann. Stat. div. III (1964), but California, supra, and New York contemplate revision of criminal pro-

cedures. Information supplied by Richard Denzer, Chief Counsel, New York Temporary Commission on Revision of the Penal Law and Criminal Code, Sept. 1963. The ALI is now engaged in developing a model code of criminal procedures. ALI Model Code of Pre-Arrestment Procedure (Tent. Draft No. 1, 1966).

CHAPTER 8

1. Metropolitan Police Department, Washington, D.C., Annual Reports [hereinafter cited as MPD Ann. Rep.]. See chapter 2, p. 29. Figures on arrests of juveniles are not presently available for fiscal 1966. The Youth Aid Division of the Department [YAD] reports a 1966 decrease of 6.4 percent in police referrals to the Juvenile Court from 1965. YAD Ann. Rep., 5-6 (1966). The District's general upward trend in juvenile arrests parallels the national experience, which shows an increase in 1965 of 3.4 percent over 1964 and 54.4 percent over 1960. Federal Bureau of Investigation, U.S. Dept. of Justice, Uniform Crime Reports, 110 (1965).
2. The jurisdiction of the Juvenile Court is set forth in 11 D.C. Code § 1551 (Supp. V, 1966). See also 16 D.C. Code § 2306 (Supp. V, 1966). Dependent children taken into custody by the police are referred to the Department of Public Welfare [hereinafter cited as DPW] which decides if a petition to the Juvenile Court is necessary.
3. MPD General Order No. 1, dated June 1, 1955, is the basic regulation establishing the YAD, and has been superseded by General Order No. 6 [hereinafter cited as Order No. 6], dated June 29, 1964.
4. YAD Ann. Rep., 19 (1966). The Form No. 379 "provides the means of identifying potential delinquents and the initiation of action before a pattern of behavior begins to develop." Ibid.
5. YAD Ann. Rep., 25 (1965). In 1966, 6,924 forms were received by the Division. YAD Ann. Rep., 20 (1966).
6. MPD Ann. Rep., 50 (1965).
7. The two other sections of the YAD are the Women's Bureau and the Boys' Activities Bureau. There are 81 male officers and 32 female officers attached to the YAD. The YAD is generally reviewed in the IACP Survey. App. (IACP), 285-307.
8. The training consists principally of one week's reading in the field of juvenile delinquency before entering on active duty and 48 hours of in-service training each year. In fiscal year 1966 a special in-service training course of 52 hours was held for all members of the Juvenile Bureau. YAD Ann. Rep., 31 (1966). The IACP has recommended improved training for YAD officers and all recruits. App. (IACP), 309.
9. Order No. 6, at 7 (1964).
10. YAD Ann. Rep., 24 (1965); YAD Ann. Rep., 18 (1966).
11. Interview with Inspector John F. Ryan, YAD, June 9, 1966.
12. Order No. 6, 7.

13. YAD Ann. Rep., 7-8 (1965); 15 (1966).
14. 16 D.C. Code § 2306(a) (Supp. V, 1966).
15. Order No. 6, at 6. The summary of detention criteria used by Juvenile Court officials provides in addition that detention is authorized when there is a "strong possibility that the juvenile may abscond from the jurisdiction of the Court or from home." See Social Service Dept., Juvenile Court, Washington, D.C., Memorandum No. 38, June 16, 1964.
16. Receiving Home, DPW, Biennial Statistical Report (1965-66 unpublished) [hereinafter cited as Rec. Home Bienn. Stat. Rep.]. The YAD does not keep records reflecting the reason for ordering detention.
17. Another facility, providing shelter-care for up to 10 boys, has recently become available.
18. Receiving Home, DPW, Annual Statistical Report [hereinafter cited as Rec. Home Ann. Rep.], 2 (1964).
19. Rec. Home Bienn. Stat. Rep.
20. The Welfare Department claims 75 percent of first offenders detained have been released as a result of this review. Interview with William J. Stone, Administrator, Receiving Home for Children, Sept. 6, 1966.
21. Rec. Home Bienn. Stat. Rep.
22. The children may have visitors from family or relatives up to four times weekly at the convenience of the Home. Letters are read by the staff. Police, probation officers and caseworkers may visit the child in the Home for official interviews.
23. The major contribution of the Juvenile Court movement was the doctrine of *parens patriae*, by which the court assumed a parental responsibility for the child's welfare and rehabilitation. For historical background, see H. H. Lou, *Juvenile Courts in the United States*, 1-25 (University of North Carolina Press, 1927); M. Rosenheim, "Perennial Problems in the Juvenile Court," in *Justice for the Child*, ed. M. Rosenheim, 1-11 (Free Press of Glencoe, 1962); Ketcham, "The Unfulfilled Promise of the Juvenile Court," 7 *Crime and Delinquency*, 97 (1961).
24. Juvenile Court Act, ch. 960, 34 Stat. 73 (1906).
25. Act of June 1, 1938, ch. 309, 52 Stat. 596.
26. Act of Aug. 24, 1962, 76 Stat. 398.
27. 11 D.C. Code § 1551 (Supp. V, 1966).
28. Annual Report of the Juvenile Court [hereinafter cited as *Juv. Ct. Ann. Rep.*], 6 (1966).
29. *Ibid.* All statistics must be read in light of the different terminology used by each agency. Court figures on police referrals tend to differ from YAD figures slightly; the YAD counts the number of complaints referred, whereas the Juvenile Court combines the complaints on an individual child when they are referred to its Intake Section on the same date.
30. *Juv. Ct. Ann. Rep.*, 8 (1966). The violent offenses were 17.8 percent of the delinquency referrals in 1965 and 14.9 percent in 1964. *Ibid.*
31. App. (SRI), 467-69.
32. 16 D.C. Code § 2302 (Supp. V, 1966). The Intake Section processes traffic cases but is not required to make any investigation. Dependency and neglect cases referred by the Welfare Dept. are not processed by the Intake Section. Truancy and "beyond control" cases are handled in the same way as delinquency complaints.

33. Juv. Ct. Ann. Rep., 30 (1966). The 1,283 total includes 645 cases closed upon a finding by the Director of Social Service that jurisdiction need not be acquired, 192 referrals disposed of in connection with another case, 167 cases involving wards of DPW and the National Training School, and 126 cases involving probationers. *Id.* at 33.
34. Interviews with seven members of the Intake Section staff, Juvenile Court, Mar. 1966.
35. 16 D.C. Code § 2306 (Supp. V, 1966).
36. Juvenile Court, District of Columbia, "Rules Regarding Practice and Procedure in the Juvenile Court of the District of Columbia," Jan. 4, 1965, Rule 6A.
37. Interview with Louis Levathes, Executive Director, Juvenile Court, May 25, 1966.
38. App. (SRI), 485. In the remaining 9.3 percent of the cases, this information was not available.
39. *Ibid.*
40. At least 1,219 delinquency cases in 1966 were dismissed by judicial action, of a total of 8,497 disposed of by the court. This includes 204 cases where the juvenile was found involved and the case was dismissed, 40 cases where the juvenile was found not involved or not dependent, and 975 cases which were dismissed without a finding. Another 1,313 cases were disposed of in connection with another case. Juv. Ct. Ann. Rep., 33 (1966).
41. 16 D.C. Code § 2307 (Supp. V, 1966). Only three jury trials were held between Mar. 1, 1964, and Feb. 28, 1966. Since the Neighborhood Legal Services lawyers have begun to practice in Juvenile Court, more requests have been made. According to the court, a typical jury trial takes the time of a single judge for an entire day, a period in which 25 initial hearings could be held. Juv. Ct. Ann. Rep., 12 (1966).
42. Juvenile Court Rules, Rule 12.
43. 11 D.C. Code § 1553 (Supp. V, 1966). The provision for transfer of capital cases was added to the statute in 1947 after a particularly flagrant case involving a child under 16. Act of May 15, 1947, ch. 56, 61 Stat. 92.
44. Juv. Ct. Ann. Rep., 34 (1966). These 16 juveniles were involved in 22 cases based on 33 complaints. The comparable waiver figures for 1965 were 49 juveniles involved in 66 cases based on 93 complaints. Juv. Ct. Ann. Rep., 26 (1965).
45. 383 U.S. 541 (1966).
46. Rule 23 (Waiver Proceedings), issued by Order of the Juvenile Court on Mar. 30, 1966.
47. Statement of Uniform Policy Positions of the Judges on Waiver Standards and Factors Relevant Thereto (May 18, 1966).
48. Interview with Dr. Harold Blessing, Director, Child Guidance Clinic, Juvenile Court, Apr. 14, 1966.
49. 16 D.C. Code § 2308 (Supp. V, 1966).
50. Juv. Ct. Ann. Rep., 33 (1966). The figures also show that 418 cases were continued on probation, 787 continued as a ward of the Welfare Department, and 2 continued as a ward of the National Training School. *Ibid.* A very few children were referred by the court to private institutions, usually in connection with release on probation. In contrast, the court in 1965 disposed of only 742 cases by probation and committed 617 cases to Welfare and 136 to the National Training School. Juv. Ct. Ann. Rep., 25 (1965).

51. Delinquency dispositions were 10,426 in 1965, 7,447 in 1964, and 6,067 in 1963. The figures include actions in new cases which were received at the court during the year as well as those cases from prior years which were in an active status at the court. Juv. Ct. Ann. Rep., 24-25 (1965).
52. 16 D.C. Code § 2308(d) (Supp. V, 1966). None of the civil disabilities imposed on adults convicted of crimes are attached to a juvenile whose status is adjudicated by the Juvenile Court. Neither the evidence presented to the court nor its final disposition can be used against the child in another court, although the fact of a prior juvenile record may be set forth in a presentence report in an adult court in which the juvenile is convicted for a subsequent crime.
53. 16 D.C. Code § 2308 (Supp. V, 1966).
54. The hearing officer also processes most traffic cases that come before the court. Juvenile traffic violators are referred to court by the YAD only for flagrant violations, second offenses, or where the child is already on probation to the court. In 1966, the court handled 584 traffic cases; only 3 were put on probation, 2 were committed, and 318 paid a fine or restitution only. Juv. Ct. Ann. Rep., 32 (1966).
55. The commitment order may require a periodic report to the court on the child's adjustment, or the parents or a "near friend" may request a review of the commitment. 16 D.C. Code § 2309 (Supp. V, 1966).
56. The Children's Center was created by D.C. Commissioners' Reorganization Order No. 58 (June 30, 1953, as amended) pursuant to Reorganization Plan No. 5 of 1952, authorized by the Reorganization Act of 1949, 63 Stat. 203, as amended.
57. Interview with Mary Williams, Budget and Accounting Officer, Children's Center, in Laurel, Md., Aug. 31, 1966. For the 1967 fiscal year the D.C. Board of Commissioners requested 1,031 positions for the Center. Congress approved 1,022 positions at a cost of \$7,692,561. Information supplied by D.C. Budget Office, Nov. 2, 1966.
58. Letter from Donald Brewer, Director, DPW, July 28, 1966.
59. Interview with Abram Millar, Chief, Research and Statistics, DPW, Mar. 9, 1966.
60. The attendance laws applicable to the public schools are generally followed at the Children's Center. Students over the age of 16 are usually included in the program. Exemptions from school attendance may be made for medical, psychological, security or other important considerations.
61. Children's Center, DPW, Annual Report, 20 (1966).
62. Information compiled from questionnaires completed by the Children's Center staff.
63. Interview with Deputy Director for Institutional Services, DPW, Nov. 2, 1966.
64. Youth Group Homes Project, DPW, Washington, D.C., Part III—Youth Shelter House Program Plan, 2-3 (1966); Part I—Youth Probation House Program Plan, 2-4 (1966); Part II—Rehabilitation House Program Plan, 2-4 (1965).
65. Separate arrangements have been made in the past for post-release supervision of juveniles released from the National Training School. Some of the boys leaving the Training School who are still wards of the Juvenile Court are placed under the supervision of Federal parole officers. About

- 20 percent have been discharged without any provision for supervision, since the court order specified that upon the expiration of the sentence or commitment absolute discharge was to be effected.
66. Interview with Mrs. Jean Schreiber, Section Chief, Child Welfare Division, DPW, Oct. 8, 1965.
 67. App. (SRI), 490. During fiscal 1965 the court reported that 57.7 percent of the referrals were previously known to the court. *Juv. Ct. Ann. Rep.*, 5 (1965). In 1966 the figure was 55.4 percent. *Juv. Ct. Ann. Rep.*, 10 (1966). As the court points out, these recidivism figures do not reflect the reason for the prior referral or its disposition. *Id.* at 9-10. The percentage of serious delinquency repeaters is undoubtedly less than these figures would indicate.
 68. App. (SRI), 597-98.
 69. *Id.* at 620.
 70. *YAD Ann. Rep.*, 25 (1965).
 71. Of the other forms involving male juveniles, a hearing was held in 2,831 instances and 12 cases were referred to the Juvenile Court. *YAD Ann. Rep.*, 20 (1966).
 72. App. (IACP), 301, 304.
 73. *Id.* at 301-02.
 74. *Id.* at 297-98, 300.
 75. *Id.* at 304.
 76. *Id.* at 302.
 77. *Id.* at 305.
 78. Children's Bureau, Dept. of Health, Education, and Welfare, [hereinafter cited as HEW], Bull. No. 437, Standards for Juvenile and Family Courts [hereinafter cited as Standards], 49-50 (1966).
 79. App. (IACP), 305.
 80. E.g., In the Matter of Four Youths (D.C. Juv. Ct., April 7, 1961).
 81. *Harling v. United States*, 295 F. 2d 161 (D.C. Cir. 1961). See "Pre-Waiver Admissions of Juveniles Inadmissible in Subsequent Criminal Trial," 46 *Minn. L. Rev.* 967 (1962).
 82. B. Lander, report to the President's Commission on Crime in the District of Columbia.
 83. *Id.*
 84. *YAD Ann. Rep.*, 4 (1966).
 85. Downs, "Order in the Court," 9 *Children* 141 (1962).
 86. Judge Ketcham recently stated that the most effective means of assuring appropriate allocation of responsibility is through joint in-service training of both police and court personnel. Address by Associate Judge Ketcham on "A Juvenile Court Judge's View of Police Procedures in the Handling of Juvenile Offenders" before the Family Law Section, American Bar Association, Montreal, Quebec, Aug. 9, 1966.
 87. *Juv. Ct. Ann. Rep.*, 33 (1966).
 88. Information supplied by Sgt. Finley of the YAD, May 26, 1966 and Sept. 7, 1966.
 89. Information supplied by Captain Culpepper of the 14th Precinct, May 26, 1966.
 90. *YAD Ann. Rep.*, 19 (1966). There is no record in the *YAD Ann. Rep.* of the number referred to public or private agencies, other than the court, after the police hearing. Of the 1,681 cases involving traffic violations, 256 were released to parents, 441 were referred to the Juvenile Court, and 984 were sent to Traffic School. *Ibid.*
 91. Two hearing cases observed by the Commission staff illustrate this problem. One involved an 11-year-old boy accused of stealing a pair of cufflinks. On questioning, it appeared he had merely received the goods which were stolen by another child. The mother grew hysterical during the hearing, upbraiding the child and asking the police to "keep

- him." The only reply was advice to file a "beyond control" petition in Juvenile Court, which had already turned her down once. In the second case a boy admitted stealing a one-dollar billfold. His father appeared concerned and capable of handling the boy firmly yet kindly. The policy officer's lecture appeared superfluous under the circumstances.
92. App. (IAPC), 297.
 93. The majority of intake workers interviewed indicated they made no contacts with the child during this observation period.
 94. See Wallace and Brennan, "Intake and the Family Court," 12 *Buffalo L. Rev.* 442 (1963); Standards, 57.
 95. California Welfare and Institutional Code § 854. See also the Report of the California Governor's Special Study Commission on Juvenile Justice, pt. 1, 38 (1960). Further restrictions include advising the parent and child of the voluntary nature of informal probation and their right to a hearing.
 96. Family Court Act, N.Y. Sess. Laws 1962, ch. 686 as amended by N.Y. Sess. Laws 1962, ch. 687, 700, 702 and 703. The New York law also provides that no person can be compelled to submit papers, attend conferences, or make any visits.
 97. Interview with May Zurzolo, Director of Intake, N.Y. Family Court, in New York City, Jan. 25, 1966.
 98. The YAD has credited these agencies with helping to reduce the number of police referrals to the court in fiscal 1966. The *Washington Post*, July 29, 1966, p. C1.
 99. Interview with Pauline Ryder, Chief of the Intake Section, Juvenile Court, Feb. 24, 1966.
 100. SSG-YOB Delinquency Prevention Project, 12 *Annals S. Pacific Regional Conference of Child Welfare League of America*, Los Angeles (1965). This pilot project was designed by a private social agency supported by the United Givers Fund and the local poverty agency.
 101. Interview with Robert Goe, Administrative Assistant to Mayor Yorty of Los Angeles, in Washington, D.C., March 17, 1966 and (by telephone) Sept. 16, 1966.
 102. Such boards are used in many European countries. In England a white paper, "The Child, the Family and the Young Offender," proposes a new kind of family council which will handle most of the work being done by the juvenile courts. Walker, "Children and the Criminal Law," 74 *The Listener* 571 (1965). In Norway a child welfare committee, elected by each commune, handles many kinds of delinquency cases. In Sweden child welfare boards have even greater authority. Elson and Rosenheim, "Justice for the Child at the Grassroots," 51 *A.B.A.J.* 341 (1965). These boards are also in use in King County, Washington.
 103. See Hubin, "Volunteers Serve the Court," 15 *Juvenile Court Judges J.* 24 (1964). The system does have its critics. See e.g., Woodson, "Lay Panels in Juvenile Court Proceedings," 51 *A.B.A.J.* 1141 (1965). The chief complaint is that only a duly appointed judge should have the authority to counsel treatment or make any demands upon the child. However, the kind of case the panel handles is not the one usually referred to the court but, rather, that which would be considered by a police "hearing" in the District of Columbia. More-

- over, the panel has no formal legal authority over the child and his compliance with the panel's recommendations is entirely voluntary.
104. In 1965 the children admitted to the Receiving Home included 5 charged with homicide or manslaughter, 233 charged with assault, 378 charged with house-breaking and unlawful entry, and 297 charged with juvenile offenses such as incorrigibility, truancy and loitering. Rec. Home Bienn. Stat. Rep.
 105. National Council on Crime and Delinquency, *Standards and Guides for the Detention of Children and Youth* [hereinafter cited as *NCCD Standards and Guides*], 5-6 (1961).
 106. Shelter-care is defined as "a broader child welfare service for the court and other public and private child and family agencies, not for exclusive use by the court." *Id.* at 2.
 107. New York City utilizes several open type facilities as alternatives to secure detention. They incorporate the experience of Denmark and Switzerland and cater to the younger boys and less aggressive girls. Interview with Martin Poland, Director, Youth House, in New York City, Dec. 16, 1965.
 108. The National Council on Crime and Delinquency has concluded that "detention care should never be used for dependent and neglected children." *NCCD Standards and Guides*, 2.
 109. Sherwood Norman, *Detention Practice* [hereinafter cited as *Norman*], 21 (National Probation and Parole Association, 1960).
 110. *Id.* at 9-16.
 111. *Id.* at 10.
 112. App. (IACP), 299.
 113. Norman, 33. Moreover, a short period of detention is "particularly undesirable," even if the detention home is a good one. *Id.* at 12.
 114. Brewer, *Detention Planning*, 2 (HEW, 1960). To the extent that the criteria permit detention in order to prevent future violations, we believe that great caution must be exercised. See the discussion of preventive detention in the adult context in chapter 8.
 115. Rec. Home Bienn. Stat. Rep.
 116. Council of State Governments, *Interstate Compact on Juveniles* (1959).
 117. *NCCD Standards and Guides*, 13. See also the Report of the California Governor's Special Study Commission, *supra* note 95, at pt. I, 42, where it was concluded that "detention is clearly and unmistakably a judicial responsibility which must be arrived at after Juvenile Court jurisdiction has been established."
 118. Letter from Donald Hammergren, Superintendent, Hennepin County Juvenile Center, Minneapolis, Minnesota, Sept. 16, 1966.
 119. Interview with William Stone, Administrator, Receiving Home for Children, Sept. 7, 1966.
 120. Norman, 15. Other cities have successfully established 24-hour intake service. See *NCCD Standards and Guides*, 26.
 121. *Id.* at 13.
 122. N.Y. Family Court Act §§ 727, 729 (1962). California Welfare and Institutional Code § 702.
 123. *Juv. Ct. Ann. Rep.*, 12 (1966).
 124. *NCCD Standards and Guides*, 1.
 125. The NCCD recommends that all sleeping rooms in detention facilities should be individual rooms. *Id.* at 127.
 126. Edgar W. Brewer, a Children's Bureau detention expert, cites

three major handicaps which result when the detention facility indiscriminately mixes children: (1) adequate physical care cannot be provided; (2) only limited activity programs can be organized; and (3) it is difficult to staff the detention facility with the variety of personnel needed to give the proper professional guidance required by children in such a heterogeneous grouping. Brewer, *supra* note 114, at 4-5.

127. Norman, 11-12.
128. NCCD Standards and Guides, 48-53.
129. DPW, Long Range Plans for Juvenile Delinquents [hereinafter cited as DPW Long Range Plans], 1 (1966).
130. Letter from Elizabeth R. Smith, Chief, Community Mental Health Program Development, D.C. Dept. of Public Health [hereinafter cited as DPH] June 27, 1966.
131. Maryland Children's Center, Maryland Dept. of Public Health, Personnel Detail of Maryland State Budget—Fiscal Year 1967, 117.
132. F. H. Maloney, "The Physical Plant," in *Delinquent Children in Correctional Institutions—State Administered Reception and Diagnostic Centers*, eds. W. E. Amos and R. L. Manella, ch. 8 (Charles C. Thomas, 1966).
133. Some community volunteers have been enlisted to conduct hobby sessions, dancing, arts and crafts instruction, and to assist the children in producing variety shows.
134. Since August 1966 the educational program at the Home has been supplemented by a special project of the District's Dept. of Vocation Rehabilitation (DVR). Designed eventually to serve 10 juveniles each month, the program will provide special vocational training for juveniles 16 or over who do not plan to return to school. The DVR staff member assigned to the Receiving Home will administer various tests and develop a rehabilitation program for the juvenile which will be submitted to the Juvenile Court or DPW. Under the eligibility requirements of the program, the juveniles given these services will be those who are scheduled to be returned to the community under the supervision of the court or Welfare Department. Interview with William Stone, Administrator, Receiving Home for Children, September 7, 1966.
135. Florence M. Warner, *Juvenile Detention in the United States* (University of Chicago Press, 1933), quoted in Norman, 78.
136. As described in 1960, the educational program offered at the Youth House for Boys in New York City, with a daily population of 135 boys, had a professional staff of about 20 persons and an annual budget of \$90,000. Norman, 93-95.
137. A well-designed recreation program can help reduce discipline problems and serve diagnostic and training purposes. NCCD Standards and Guides, 69-77; Norman, 107-124. No one person at the Receiving Home is in charge of the institution's recreation program. In place of a full-time, clinically trained chaplain to direct the religious program, the Receiving Home currently depends upon chaplains who visit infrequently and upon volunteers.
138. One authority recommends case-loads of not more than 20 children at a time in a detention facility. Norman, 141.
139. B. W. MacLennan and S. I. Belton, *Receiving Home Counselor Training Report and Evaluation*, 3 (Howard University Center for

- Youth and Community Studies, April 1965).
140. Guidelines for detention facilities are set forth in NCCD Standards and Guides, 106-22. The institution also lacks an adequate audio-visual system for security communications and recreational purposes, special isolation rooms in the living units, an elevator, and an air-conditioning system. In general, the doors, windows, furnishings, and equipment are poorly designed.
 141. DPW Long Range Plans, 2.
 142. Schram, "Philosophy of the Juvenile Court," 261 *Annals* 101 (1949); Mack, "The Juvenile Court," 23 *Harv. L. Rev.* 104 (1909).
 143. P. R. Tappan; "Judicial and Administrative Approaches to Children With Problems," in *Justice for the Child*, 144 (Free Press of Glencoe, 1962).
 144. As one commentator has observed, "when, in an authoritative setting, we attempt to do something for a child 'because of what he is or needs,' we are also doing something to him." Allen, *The Borderland of Criminal Justice* (University of Chicago Press, 1964). See Pound, *The Juvenile Court and the Law* (1944), reprinted in 10 *Crime and Delinquency* 490, 499 (1964).
 145. *Kent v. United States*, 383 U.S. 541 (1966). See also Antieau, "Constitutional Rights in Juvenile Courts," 46 *Cornell L. Q.* 387 (1961); Note, "Juvenile Delinquents: The Police, State Courts, and Individualized Justice," 79 *Harv. L. Rev.* 775 (1966); Handler, "The Juvenile Court and the Adversary System," 1965 *Wis. L. Rev.* 7 (1965). On June 30, 1966, the Supreme Court noted jurisdiction in the Matter of Gault, 384 U.S. 997 (1966), involving an attack upon the absence of several basic constitutional guarantees in a juvenile court proceeding.
 146. See *Juv. Ct. Ann. Rep.*, 3 (1966).
 147. In *Pee v. United States*, 274 F. 2d 556, 559 (D.C. Cir. 1959), the court held that "the constitutional safeguards vouchsafed a juvenile in such proceedings are determined from the requirements of due process and fair treatment, and not by the direct application of the clauses of the Constitution which in terms apply to criminal cases."
 148. As the court points out, the Juvenile Court is "a court of law" and "not a community social agency;" its legal assignment, however "is carried out in a social context." *Juv. Ct. Ann. Rep.*, 3 (1966).
 149. Testimony of Judge Edith Cockrill, Hearings pursuant to S. Res. 89 Before Subcommittee to Investigate Juvenile Delinquency, of the Senate Judiciary Committee, 83d Cong., 1st and 2d Sess. 238 (1954).
 150. Hearings Before House District Committee on S. 1456, 86th Cong., 1st Sess. 6 (1959).
 151. *Juv. Ct. Ann. Rep.*, 30 (1966); 1,945 of these were delinquency cases. In addition, there were 2,335 adult cases pending. *Ibid.*
 152. *Id.* at 7.
 153. *Id.* at 12.
 154. In support of this recommendation the court also points out that "some of the stages of adjudication in the Juvenile Court which require the longest time are being resorted to more frequently" and that waiver proceedings "demand more time now than formerly." *Id.* at 12-13.
 155. Information supplied by Associate Judge Orman W. Ketcham, District of Columbia Juvenile Court, Mar. 9, 1966. The Chief

- Judge indicates, however, that "the court's finite time is now stretched to the limit." *Juv. Ct. Ann. Rep.*, 12 (1966).
156. Thirty-five percent of the referrals in 1965 previously known to the court committed the new law violation while under social study for the previous offense. *Juv. Ct. Ann. Rep.*, 19 (1965). In fiscal 1966, 633 (31 percent) of the 2,051 children referred more than once were under social study at the time of the latest referral. *Juv. Ct. Ann. Rep.*, 26 (1966).
 157. Hearings Before the House District Committee on Additional Judges for the Juvenile Court, 86th Cong., 1st Sess. 6 (1959). See also Committee to study the Juvenile Court composed of representatives from United Community Services, U.S. Dept. of Justice, and the Children's Bureau of the Federal Security Agency, *The Juvenile Court of the District of Columbia*, 16 (1951).
 158. N.Y. Family Court Act, §§ 727, 729, 746(a), 749 (1962). These time limitations can be waived by the law guardian who may request or consent to a delay. *Id.*, §§ 748, 749.
 159. California Welfare and Institutional Code § 702 requires disposition within 30 days of filing petition, or within 15 days if child is detained. The Illinois Court Act, art. 4, § 4-2, sets adjudicatory hearings within 30 days, or within 10 days if juvenile is detained.
 160. During one 3-month period in 1965, almost 15 percent of the scheduled initial hearings did not take place. *Juv. Ct. Quar. Rep.*, Table 9 (Oct.-Dec. 1965).
 161. Interview with Judge Florence Kelly, Chief Judge, Family Court of New York City, in New York, Jan. 25, 1966, and Sept. 8, 1966.
 162. Rule 63 of the Federal Rules of Civil Procedure (1961) provides that the trial judge may be replaced only "after . . . findings of fact and conclusions of law are filed," or if he is disabled. Fed. R. Civ. P. 63 (1961). Rule 25 of the Federal Rules of Criminal Procedure (1966) allows the replacement, during trial or after trial, of a judge only if he is dead, disabled, or absent from the area.
 163. Under the statute the petition "shall be verified by the officer making the investigation, or other person having personal knowledge of the case." 16 D.C. Code § 2302 (Supp. V, 1966). Requiring the arresting officer to be at the initial hearing would be helpful in reducing the number of frivolous denials and subsequent trials.
 164. Report of California Governor's Special Study Committee, *supra* note 95, at p. 1, 27. Since the juvenile court was a non-adversary tribunal designed to treat the child, not punish him, it was reasoned that there was little need for the child to be represented by counsel. *Supra* note 142.
 165. *Black v. United States*, 355 F. 2d 104 (D.C. Cir. 1965); *Schioutakon v. District of Columbia*, 236 F. 2d 666 (D.C. Cir. 1956).
 166. A recent national survey of juvenile court practice suggested that juveniles are represented by counsel in less than 5 percent of the delinquency proceedings. Skoler and Tenney, "Attorney Representation in Juvenile Court," 4 *J. Family Law* 77, 81 (1964).
 167. It is clear that the right to counsel is meaningless unless assigned counsel is readily available. See

- Isaacs, "Should A Right to Assigned Counsel be Established in Juvenile Court Proceedings?" 15 *Juvenile Court Judges J.* 6 (1964).
168. Letter from Chief Judge Morris Miller, Juvenile Court, Attachment No. 2, July 20, 1966.
169. *Ibid.*
170. *Ibid.*
171. N.Y. Family Court Act. § 241 (1962).
172. For a general discussion, see, e.g., Isaacs, "The Role of the Lawyer in Representing Minors in the New Family Court," 12 *Buffalo L. Rev.* 501 (1963).
173. Based upon a check of Notices of Appearance, 92 percent of the New York children were unrepresented by counsel in 1959. Schinitzky, "The Role of the Lawyer in the Children's Court," 17 *NYCBA Record* 10, 15 (1962).
174. E. Biskind, *Bordman's N.Y. Family Law* § 300.05. (1964). It is estimated that the same percentage was represented in 1965. Interview with Charles Schinitzky, Director of Law Guardians, in New York City, June 24, 1966.
175. Schinitzky, *supra* note 173, at 24-25. See also Proceedings, National Conference on Role of the Lawyer in Juvenile Court (NCJ CJ, 1964); Isaacs, *supra* note 172.
176. Skoler and Tenney, *supra* note 166, at 91.
177. See remarks of Judge Florence M. Kelly, Summary of Conference Proceedings, National Legal Aid and Defender Association, 149 (1963); Interview with Charles Schinitzky, *supra* note 174.
178. 11 D.C. Code § 1583 (Supp. V, 1966).
179. See 11 D.C. Code § 1586 (Supp. V, 1966) and Juvenile Court Rules, 4C.
180. *Kent v. United States*, 383 U.S. 541 (1966).
181. See generally Krasnow, "Social Investigation Reports in the Juvenile Court: Their Uses and Abuses," 12 *Crime and Delinquency* 151 (1966).
182. 11 D.C. Code § 1551 (Supp. V, 1966).
183. NCCD, *Standard Juvenile Court Act* (6th ed. 1959). The proposed statute was developed in cooperation with the National Council of Juvenile Court Judges and the Children's Bureau of HEW.
184. *Id.* at § 8.
185. *Id.* at § 24.
186. Although some State statutes require that the court specify whether a child is delinquent or dependent, the Standard Juvenile Court Act rejects this view on the grounds that classifying or labelling children is always unnecessary, sometimes impractical, and often harmful. *Standard Juvenile Court Act* § 8.
187. Section 758 of the Family Court Act in New York, for example, prohibits commitment over 3 years.
188. *Standard Juvenile Court Act* § 24.
189. This figure was calculated for the period from Feb. 1965 through Jan. 1966. Information supplied by Edgar Silverman, Director, Social Service Dept., Juvenile Court, Feb. 16, 1966.
190. Interview with John Wallace, Director, and Marion Brennan, Deputy Director, Office of Probation for the Courts of New York City, in New York, Jan. 25, 1966.
191. Juvenile Court, Budget Request—1967.
192. 11 D.C. Code § 1556 (Supp. V, 1966); 22 D.C. Code §§ 903-906 (Supp. V, 1966); 16 D.C. Code § 2381 (Supp. V, 1966).
193. Information supplied by Edgar Silverman, Director, Social Serv-

- ice Dept., Juvenile Court, Feb. 24, 1966.
194. Interviews with section workers emphasizes frequent errors in orders, delay in giving reports, and lack of any automatic system to relieve the probation officer of his bookkeeping functions. The major reason for the breakdown between the Child Support Section and the Financial Office appears to be the lack of understanding of the functions of each operation.
 195. Standards, 60.
 196. The Juvenile Court submitted a proposal for an intake unit to UPO on May 26, 1966, which will give intake services to criminal non-support cases only.
 197. Committee to study the Juvenile Court, *supra* note 157, at 36.
 198. *Id.* at 35.
 199. *Supra* note 193.
 200. Juv. Ct. Ann. Rep., 5 (1965).
 201. The Advisory Council of Judges of the National Council on Crime and Delinquency recognizes that the value of a probation office to the courts is in considerable part dependent upon the written records provided, and the most important of these is the social study. Advisory Council of Judges of the NCCD, Guides for Juvenile Court Judges [hereinafter cited as Guides for Judges], 35 (1963).
 202. Interviews with members of the Probation Section. The same problem apparently existed in 1951. Committee to study the Juvenile Court, *supra* note 157, at 25.
 203. App. (SRI), 460.
 204. Standards, 67.
 205. Interviews with 10 members of the Probation Section of the Juvenile Court, Feb. 1966.
 206. In the parole department throughout the State of California, the officers are available during the evening and on weekends. Interview with Herman G. Stark, Director, California Youth Authority, in Sacramento, Calif., Jan. 14, 1966.
 207. Guides for Judges, 15, 106, 113-14.
 208. Letter from Chief Judge Morris Miller, Juvenile Court, July 20, 1966. [hereinafter cited as Miller letter] Judge Miller states that the UPO Board promised funding of this project and as a result no new juvenile probation officers were requested in the 1967 budget. After the proposal was disapproved by OEO for budgetary reasons, it was sent by UPO to HEW in revised form and without any consultation with the court.
 209. California Department of the Youth Authority, Community Treatment Project—Progress Report, 10 (1965).
 210. Interview with Warren Moore, former Chief, Juvenile Probation Section, Juvenile Court, Feb. 2, 1966. The Chief Judge reports that 20 percent "is a reasonable estimate of the number of active cases requiring only a minimum amount of supervision." Miller letter.
 211. H. J. Meyer, E. F. Borgatta, and W. D. Jones, Girls at Vocational High (Russell Sage Foundation, 1966); Miller, "The Impact of a Total Community Delinquency Control Project," 10 Social Problems 168 (1962).
 212. *Supra* note 209.
 213. Standards for Specialized Courts, 93.
 214. Miller letter.
 215. Three positions, totaling slightly over \$21,000, were requested in the 1967 budget; none were approved by Congress.
 216. See Juv. Ct. Ann. Rep., 4 (1965). For fiscal 1965 the Juvenile Court requested 6 probation of-

- filcers; the Commissioners approved 5 positions; these were approved by Congress. For fiscal 1966 the court requested 12 probation officer positions; the Commissioners approved 3; and the Congress approved only 1. For fiscal 1967 the court requested 9 positions; the Commissioners approved 6. Miller letter. Congress approved 3 positions—1 intake supervisor and 2 intake workers. Information supplied by D.C. Budget Office, Nov. 2, 1966.
217. The figure should be significantly less if the officer is also making investigations, since each investigation is considered equivalent to supervision of three to five cases. Guides for Judges, 24-25.
218. Interview with Edgar Silverman, Director, Social Service Dept., Juvenile Court, May 10, 1966.
219. Standards, 109-10.
220. Interview with Mrs. John Davis, Coordinator of the Friends of the Juvenile Court, Mar. 31, 1966.
221. Miller letter.
222. For example, we believe that the court should provide orientation programs for all new staff members, work-study stipends for staff, more consultant services, regular staff meetings, development of intra-agency workshops, and an expansion of the group counseling program.
223. D.C. Dept. of Buildings and Grounds, Status of Work Schedule, Sept. 1965, Sheet #1.
224. Children's Bureau, HEW, Bull. No. 360, Institutions Serving Delinquent Children—Guides and Goals, [hereinafter cited as Guides and Goals], 4, 102-03 (1962).
225. Children's Bureau, HEW, Bull. No. 81, Delinquent Children in Public Institutions, 6 (1964). The fact that dependent children are included in the average stay figure contributes to a higher average length of stay.
226. Guides and Goals, 38-39; American Psychiatric Association, Training Schools for Delinquent Children, 19 (1952).
227. DPW Long Range Plans, 2-4. The fiscal 1967 budget approved by Congress includes funds for one psychiatrist, one psychologist, two psychiatric nurses, and one psychologist aide for the Children's Center.
228. Guides and Goals, 57-71.
229. F. H. Maloney, "The Physical Plant," in Delinquent Children in Correctional Institutions—State Administered Reception and Diagnostic Centers, eds. W. E. Amos and R. L. Manella, ch. 8 (Charles C. Thomas, 1966).
230. Eleventh Report of the Commission to Study the Administrative Organization of the State of Maryland, 17 (1952). See also K. S. Griffith, "The Role of Research," in Delinquent Children in Correctional Institutions, supra note 229, ch. 3.
231. The National Education Association reports that the average school system had an overall expenditure of \$533 per pupil in 1965. Interview with Jean Flanagan, Assistant Director of the Research Division, National Education Association, in Washington, D.C., Feb. 21, 1966.
232. Other standard ratios suggest one academic teacher for every 15 students and one shop instructor for every 10 students. Maryland State Department of Public Welfare, Educational Programs in Maryland State Training Schools, 11 (1953).
233. Information supplied by D.C. Budget Office, Nov. 2, 1966. The total educational staff at the Children's Center consists of 66 positions, 4 assigned to the Super-

- intendent's Office and the remainder divided among the three schools.
234. H. L. Cohen, "Contingencies Applicable For Special Education" in *A Book on Education and Delinquency*, ed. R. E. Weber, ch. 3 (HEW, unpublished).
 235. Letter from Donald Brewer, Director, DPW, July 28, 1966.
 236. Summary of the Final Report of a Planning Study Conducted by the District of Columbia's Dept. of Vocational Rehabilitation, Nov. 1, 1964 to July 1, 1965. Grant Number RC-1808-G, 6. The project aims at a comprehensive program of rehabilitation for older Center residents.
 237. Information supplied by D.C. Budget Office, Nov. 2, 1966.
 238. *Guides and Goals*, 39-40.
 239. Compare the newspaper accounts of these incidents. *Washington Daily News*, May 27, 1966, "Breakout is A Lark"; *Washington Post*, May 28, 1966, p. A3.
 240. J. C. Pulliam, "The Administrative Organization of the Training School," in *Readings in the Administration of Institutions for Delinquent Youths*, eds. W. E. Amos and R. L. Manella, ch. 2 (Charles C. Thomas, 1965); *Guides and Goals*, 19-20. See the similar recommendation for the Dept. of Corrections in ch. 6.
 241. G. P. Wittman, "Training: Key to Institutional Improvement" in *Readings in the Administration of Institutions for Delinquent Youths*, eds. William E. Amos and Raymond L. Manella, ch. 4 (Charles C. Thomas, 1965).
 242. United Nations, Department of Economic and Social Affairs, *The Institutional Care of Children*, 53-54 (1966). For a general discussion of aftercare, see F. L. Manella, "Aftercare Programs," *National Probation and Parole Association*, 74 (Jan. 1958).
 243. In 1965 approximately 20 boys left the National Training School at the expiration of their commitment date and received no aftercare services.
 244. Interview with Jean Schreiber, Section Chief, Child Welfare Division, DPW, Oct. 7, 1965. There is no statistical information available to verify these figures. Mrs. Schreiber made this estimate on the basis that each child spends an average of 2 years under the aftercare program, approximately 11 months being spent at the Children's Center.
 245. Texas Youth Council, *Texas Juvenile Court Statistics for 1964*, 11 (1964).
 246. *Guides and Goals*, 136.
 247. Council on State Governments, *Juvenile Delinquency: A Report on State Action and Responsibilities*, 44 (1962).
 248. As to the desirability of having a single, coordinated program, see Manella, *supra* note 242, at 75; *Guides and Goals*, 136.
 249. *Standards for Specialized Courts*, 70. See also Renee Berg, "A New Program for Boys and Girls Returning Home from Training School," *Public Welfare*, 133-36 (June 1951).
 250. Interview with Warren Moore, Assistant Director, Child Welfare Division, DPW, Oct. 11, 1965.
 251. Information compiled from questionnaires completed by juveniles active in the aftercare program (Sept.-Nov., 1965).
 252. A staff training program might begin with the following: (1) in-service professional training including group counseling, professional seminars and workshops, and conferences with consultants; (2) development of a student training unit from a school of social work to be supervised by experienced aftercare workers; (3) training courses for the de-

- velopment of supervisory skills including the financing of academic courses by the Department; (4) development of a research evaluation program to help develop professional skills; and (5) expansion of the case aide program using non-professionals for certain types of case aide responsibilities.
253. DPW Long Range Plans, 2.
 254. Children's Bureau, HEW, Bull. No. 19, *The Institutional Care and Treatment of Hyper-Aggressive Children*, 2 (1965).
 255. *Delinquent Children in Juvenile Correctional Institutions*, supra note 132. Ohio operates a secure-custody institution for 175 boys. Maryland is planning a 200-bed training school with security features.
 256. *Guides and Goals*, 38-39. On February 28, 1966, there were 851 District children assigned to the following facilities: Cedar Knoll (465), Maple Glen (224), National Training School (107), Federal penal institutions (40), and group homes (15).
 257. The Juvenile Court anticipates that its caseload will increase in the coming years because of the growth in the number of juveniles in the District's population. *Juv. Ct. Ann. Rep.*, 12 (1966).
 258. State of Washington Dept. of Institutions, *Perspectives, "Group Homes for Delinquents"* (1966); California Dept. of the Youth Authority, *A Demonstration Project: An Evaluation of Community-Located Treatment for Delinquents* (March 1, 1961); California Dept. of the Youth Authority, *Community Treatment Project* (Feb. 1, 1964); New York State Division for Youth, *Report on Programs of the State Division for Youth*, 2 (Fall 1965).
 259. DPH and DPW, *Survey of Mental Health Needs of Children Under Care of the Child Welfare Division*, DPW (March 1964).
 260. Letter from Elizabeth Smith, Chief, Community Mental Health Program Development, DPH, June 27, 1966.
 261. Youth Guidance Project of the District of Columbia, *Annual Reports, 1961 and 1962* (mimeo).
 262. California Dept. of the Youth Authority, *Community Treatment Project—Fourth Progress Report* (Oct. 1965).
 263. Other programs might be patterned after the Highfields in New Jersey, and the Provo, Utah experiments. A. H. Weeks, *Youthful Offenders at Highfields* (University of Michigan Press, 1958); Empey and Rabow, "The Provo Experiment in Delinquency Rehabilitation," 26 *American Sociological Review*, 679-96 (1961).
 264. Interview with Billy G. Meese, Administrator, Children's Center, Sept. 12, 1966.
 265. *Standards*, 82.
 266. M. A. Harmon, "The Training School and the State Agency," in *Readings in the Administration of Institutions for Delinquent Youths*, eds. W. E. Amos and R. L. Manella, ch. 17 (Charles C. Thomas, 1965). See also Children's Bureau, HEW, *Proposals for Drafting Principles and Suggested Language for Legislation on Public Child Welfare and Youth Services* (1957).
 267. DPW Long Range Plans, 13.
 268. No specific legislation exists regarding the police powers of Center personnel relative to the pursuit and apprehension of escapees, eviction of trespassers, searching vehicles, or prosecution of ward visitors or staff who commit crimes on the Center grounds. Other omissions in the basic legislation include provisions for the voting rights of certain Center employees, restitution for prop-

- erty damages, and the nature of the legal relationship between the Center and Maryland State and Federal law enforcement and judicial agencies.
269. Winters, Proposal for Consideration of a Youth Court in D.C. (Feb. 16, 1966) (Mimeo); Ketcham, "The Juvenile Court for 1975," 40 Social Service Review 283 (1966).
270. According to the SRI study of 1965 referrals, the percentages of referrals attributable to the older juveniles are slightly larger. App. (SRI), 467-69.
271. YAD Ann. Rep., 12 (1966).
272. Juv. Ct. Ann. Rep., 34 (1966).
273. Juv. Ct. Ann. Rep., 26 (1965).
274. Juv. Ct. Quar. Reps. (Oct.-Dec., 1962; Jan.-March, 1963; and Apr.-June, 1963); Juv. Ct. Ann. Reps. (1964 and 1965).
275. Memorandum from U.S. Attorney, filed in *Harrison v. United States*, 359 F. 2d 214 (D.C. Cir. 1965).
276. Juv. Ct. Ann. Rep., 12-13 (1966).
277. Hearings Before Senate District Committee, 89th Cong., 1st Sess., on H.R. 5688, 245, (1965).
278. H.R. 6747, 87th Cong., 1st Sess., proposed lowering the maximum age for juveniles to 16, but the bill passed without this provision. The Judicial Conference of the District of Columbia Circuit on Nov. 24, 1959 unanimously resolved "that age limits should not be lowered."
279. Acts of the General Assembly of Maryland, Chapter 126, 1966.
280. Report of Md. Legis. Council Spec. Comm. on Juv. Ct., 7 (Jan. 1966).
281. *Harling v. United States*, 295 F. 2d 161 (D.C. Cir. 1961); see Winters, *supra* note 269.
282. Letter from Orman Ketcham, Associate Judge, Juvenile Court, to Congressman Charles McC. Mathias, Jr., Oct. 20, 1964.
283. Winters, *supra* note 269.
284. Some proposals suggest that like the United States District Court the Youth Court could declare itself a Juvenile Court in individual cases and revert to those procedures. Ketcham, *supra* note 282.
285. Information supplied by Mrs. A. B. Freer, Program Analyst, Division of Juvenile Delinquency Service, HEW, May 18, 1965. See also American Law Institute, Model Penal Code, Tentative Draft No. 3, 8 (Apr. 25, 1955), where an ALI committee in drafting a model code advocated a special court for youths between 17 and 21.
286. MPD Ann. Rep., 46-47 (1965).
287. Pound, "The Place of the Family Court in the Judicial System," 5 NPPA J. 161 (1959); Standards, 44.
288. Goldberg and Sheridan, Family Courts—An Urgent Need (Children's Bureau, HEW, 1960); Alexander, "Family Cases Are Different—Why Not Family Courts?" 3 Kan. L. Rev. 26 (1954).
289. Rhode Island P.L. 1961, ch. 73; N.Y. Family Court Act. For history of the New York Court see Paulson, "The New York Family Court Act," 12 Buffalo L. Rev. 420 (1963).
290. Family Court Act, 232, S.L.H. (1965).
291. Juv. Ct. Ann. Rep., 22 (1965).
292. Court of General Sessions, Annual Statistical Report, 2 (1965).
293. Approximately two-thirds of the 14,000 citizens' complaints presented to the U.S. Attorney's Office involve intra-family assaults. Interview with Tim C. Murphy, Chief Assistant U.S. Attorney, Court of General Sessions Division, U.S. Attorney's Office, Sept. 12, 1966. Under

a recent grant from the Office of Law Enforcement Assistance, a Citizen's Information Service in the Court of General Sessions will refer persons seeking to obtain a warrant to appropriate governmental and private community resources if their cases reveal essentially social, rather than legal, problems. U.S. Dept. of Justice, Office of Law Enforcement Assistance, Grant No. 036, (June 1966). This operation might become the core of a field referral service for screening family complaints and providing on-the-spot assistance and guidance for those who need not go to court.

294. Statistics on file at the Mental Health Commission, U.S. District Court, in Washington, D.C.
295. Address by Hon. Bernard Botein, Presiding Justice, Appellate Division, First Dept. at Governor's Conference on Crime, New York, N.Y., Apr. 22, 1966, p. 26.
296. McCabe, "Rhode Island Family Court," 42 B.U.L. Rev. 300-324 (1962).
297. Botein, *supra* note 295, at 22-29; J. Polier, A View from the Bench, 68 (NCCD, 1964).
298. The Report of the Rhode Island Commission to Study Juvenile Delinquency, IV A-13 (Dec. 1965).
299. Ketcham, *supra* note 269.

CHAPTER 9

- For illustrative materials on the subject, see, e.g., The Council of State Governments, *Juvenile Delinquency: A Report on State Action and Responsibilities* (2d ed., 1965); Children's Bureau, U.S. Dept. of Health, Education, and Welfare [hereinafter cited as HEW], *The Control and Treatment of Juvenile Delinquency in the United States* (1965); W. E. Amos, R. L. Manella and M. A. Southwell, *Action Programs for Delinquency Prevention* (Charles C. Thomas, 1965); Office of Education, HEW, *Role of the School in Prevention of Juvenile Delinquency* (Cooperative Research Monograph No. 10, 1963); Children's Bureau, HEW, *Community Programs and Projects for the Prevention of Juvenile Delinquency* (1960). Children's Bureau, HEW, *Bull. No. 350, The Effectiveness of Delinquency Prevention Programs*, 4 (1954).
- In addition to these public agencies, there are UPO and other programs in the District specially aimed at juveniles with arrest or court records.
- For a general discussion of this relationship, see H. C. Quay, *Juvenile Delinquency* (Van Nostrand, 1965); W. C. Kavaraceus and W. E. Ulrich, *Delinquent Behavior—Principles and Practices*, I:9-31 (National Education Association, 1959); and Burke and Simons, "Factors Which Precipitate Dropouts and Delinquency," 29 *Fed. Prob.*, 28 (Mar. 1965).
- Institute for Youth Studies, Howard University, Washington, D.C., *The "Net Impact" of the Cardozo Area Demonstration Program: First Year Report—1964-1965* [hereinafter cited as *Net Impact Study*], 31-32, 48 (1966).
- H. A. Frankel, J. R. Fishman, A. S. Trebach, *Proposal for the Establishment of a Youth Authority in the District of Columbia*, 2 (May 1966).
- An informal estimate of 7 to 15 percent of District of Columbia pupils needing the same kind

- of special attention has been made. Lardner, "Early Start on Problem Pupils Urged," *The Washington Post*, Dec. 3, 1965, p. A18. Cf. *The New York Times*, Nov. 21, 1965, p. L66 (an estimated 5% or 30,000 of New York City's 600,000 elementary school pupils have serious emotional disturbances; 4 out of every 10 in first and second grade could qualify for special classes if resources were sufficient).
7. Public School System of the District of Columbia [hereinafter cited as Public School System]: Initial Submission of Programs to be Funded Under P.L. 89-10, 1 (1965).
 8. Cf. a recent Civil Rights Act nationwide study of 600,000 children and 60,000 teachers which showed a lower school achievement among minority children and indicated that the educational gap between them and their white classmates widened as they progressed through the schools. Office of Education, HEW, *Equality of Educational Opportunity*, 20 (1966).
 9. See discussion of the applications of such techniques to ghetto pupils in Silberman, "Technology is Knocking at the Schoolhouse Door," *Fortune* 120, 125 (Aug. 1966).
 10. *The New York Times*, Sept. 18, 1966, p. 65.
 11. W. E. Amos, "The School and Delinquency Prevention" in *Delinquency Prevention: Theory and Practice*, eds., W. E. Amos and C. Wellford, ch. 7 (Prentice-Hall, 1966). A nationwide study on minority pupils concluded: "Schools are successful only insofar as they reduce the dependence of a child's opportunities upon his social origins." *The New York Times*, Sept. 18, 1966, p. 72. One D.C. school study has statistically related the amount of crime in neighborhoods and the percentage of poor readers in the neighborhood elementary schools. J. T. Dailey, *Evaluation of the Contribution of Special Programs in the Washington, D.C. Schools to the Prediction, Prevention, and Rehabilitation of Delinquency* [hereinafter cited as Dailey Study], (1966).
 12. Interview with Wilbur A. Millard, Assistant to the Assistant Superintendent for Pupil Personnel Services, Public School System, Aug. 19, 1966.
 13. G. C. Wrenn, *The Counselor in a Changing World*, 137 (American Personnel and Guidance Association, 1962).
 14. Interview with Aileen H. Davis, Assistant Superintendent for Pupil Personnel Services, Public School System, Oct. 19, 1966.
 15. *Id.*, Aug. 17, 1966.
 16. Public School System, Dept. of Pupil Personnel Services, Washington, D.C., *Annual Report*, 13 (1965-1966).
 17. *Id.* at 6a.
 18. App. (SRI), 468-69 (1966).
 19. Public School System, *Survey of Anti-Crime Activities* [hereinafter cited as Survey], VII-21 (1966).
 20. Survey, VII-22.
 21. *Id.* at VII-26.
 22. *Id.* at VII-23.
 23. *Id.* at VII-24. Girls at Webster do not receive birth control information at school. They may, however, receive such information if they are under Public Health care or from their private physicians.
 24. Interview with Dr. Mildred P. Cooper, Assistant to the Assistant Superintendent for Budget, Research and Legislation, Public School System, Nov. 23, 1966.
 25. *Daily Study*, 31 (1966).
 26. *Supra* note 24.

27. App. (SRI), 474, 524. See also the Cardoza Net Impact Study of 434 teenagers from the area (55 institutionalized; 379 noninstitutionalized), which showed that 23 percent of the total were school dropouts. The institutionalized dropouts left school on the average at 6th grade; the others left at the 7th grade. Net Impact Study, 29.
28. Information supplied by the Department of General Research, Budget, and Legislation, Public School System.
29. Interview with William S. Carpenter, Assistant Principal, STAY Program, Oct. 18, 1966.
30. Ibid.
31. Survey, VII-28.
32. The Washington Post, Sept. 12, 1966, p. B1. Part of this successful recruitment is apparently attributable to a new Neighborhood Youth Corps program which has offered 1,200 paying jobs to dropouts on condition they return to school in 6 months; 750 are now employed in the program. It also has 1,700 after-school jobs to help keep students in school. The Washington Post, Sept. 16, 1966, p. C2.
33. Dailey Study, 30 (1966).
34. Interview with George A. Campbell, Assistant to the Assistant Superintendent in Charge of Junior and Senior High Schools, Public School System, Nov. 23, 1966.
35. The District schools also operate special summer school programs that affect problem pupils. STAY operated three shifts in the past summer; a boys' summer school for the 7th grade and upward operated for those who could not be assimilated for behavior reasons into the normal summer school program; and a girls' summer school was offered for the first time.
36. Interview with Frankye D. Arm-entrot, Elementary Supervisor, Wythe County School System, Wytheville, Va., Sept. 29, 1966.
37. The Washington Post, Aug. 24, 1966, p. B2. See also The New York Times, Sept. 5, 1966, p. C34.
38. Chicago Public Schools, Program for Handicapped and Socially Maladjusted Children, Study Report No. 9, 79 (Aug. 1964).
39. Information supplied by Research Division, National Education Association, Washington, D.C., July 20, 1966.
40. Interview with Dr. Richard Matteson, Assistant Professor, Institute for Child Study, University of Maryland, in College Park, Md., Oct. 6, 1966.
41. 20 U.S.C. § 236 ff., 821-27, 841-48, 331-32 (1965).
42. Filson, "Schools Striving to Head Off Dropouts," The Washington Post, Sept. 24, 1966, p. B1.
43. Illustrative is an attitude survey administered to 107 delinquent boys and girls at a reception and processing center for juveniles in Minnesota. The group generally showed a positive attitude toward their school staff and social life, but did not feel that the curriculum was meeting their particular needs. There was also a noticeable lack of extra-curricular school activity among this group and a lack of parental involvement in school functions. W. T. Johnson, "A Study of Attitudes of Delinquent Boys and Girls Toward School," 3 International Bibliography on Crime and Delinquency 166, 180 (Sept. 1965).
44. Interview with Wilbur A. Millard, supra note 12, Oct. 7, 1966.
45. Supra note 24.
46. Dailey Study, 30 (1966).
47. See, e.g., Testimony of Claude Brown Before a Subcommittee of the Senate Committee on Government Operations, 89th Cong., 2d

- Sess. (1966), as reported in *The New York Times*, Sept. 4, 1966, p. E5. Brown, author of *Manchild in the Promised Land*, testified that ". . . at the age of six I was left out on the street to be brought up by the criminal elements, prostitutes, the hustlers, the pimps, the stick-up artists, the dope dealers, the fences and this sort of thing."
48. App. (SRI), 474-75.
49. Id. at 447.
50. Information supplied by Administrator of the Children's Center, in Laurel, Md., Sept. 12, 1966.
51. Ibid.
52. Raspberry, "Southeast Looks for Alternative to Rock-Throwing," *The Washington Post*, Sept. 2, 1966, p. B1. The article quotes a Washington, D.C. Anacostia youth: "Yeah, I used to throw rocks myself You see there wasn't anything else to do . . . if you broke a window, somebody would chase you and that was fun." Southeast Washington's "Operation Acceleration" involves the Police Department, the Recreation Department, and the National Capital Housing Authority in a joint cleanup recreation program for the youngsters in the area. See also Children's Bureau, HEW, Bull. No. 14, *Community Programs and Projects for the Prevention of Juvenile Delinquency*, 9 (1960).
53. S. G. Lutzin and R. C. Orem, "Prevention Through Recreation," *Delinquency Prevention: Theory and Practice*, eds. W. E. Amos and C. Wellford, ch. 8 (Prentice-Hall, 1966); Ethel Shanas and Catherine E. Dunning, *Recreation and Delinquency* (Chicago, Recreation Commission, 1942); Thrasher, "The Boys' Club and Juvenile Delinquency," 42 *Am. J. Soc.*, 66-80 (1936); Roscoe Brown, Jr., *A Boys' Club and Delinquency*, Monograph 2 (New York University Center for Community and Field Service, 1965).
54. See supra note 47.
55. See generally, Health and Welfare Council of the Baltimore Area, Inc., "Reaching Hard-to-Reach Youth," 3 (Baltimore, Md., Jan. 1964); Klein, "Juvenile Gangs, Police, and Detached Workers—Controversies About Intervention," 39 *Social Science Rev.*, 183 (1965).
56. Interview with Stanley J. Anderson, Director, Roving Leader Program, D.C. Recreation Dept., May 26, 1966.
57. Ibid.
58. Roving Leader Program, D.C. Recreation Dept., Document Prepared in Answer to Request by the President's Commission on Crime in the District of Columbia [hereinafter cited as Roving Leader Doc.], 6 (1966).
59. Division of Neighborhood Centers, D.C. Recreation Dept., *Statement of Roving Leader Program*, 1-2 (May 1965).
60. Letter from Stanley J. Anderson, Director, Roving Leader Program, May 4, 1966.
61. Information supplied by staff of the Roving Leader Program, May 9, 1966, through May 13, 1966. Roving Leader Program, D.C. Recreation Dept., *Initiation and Administration*, 9 (Aug. 1, 1959).
62. There were 140 referrals made to the U.S. Employment Service by Roving Leaders during fiscal 1965. An additional 129 full-time jobs were obtained for youths by the Roving Leaders through community contacts. Roving Leaders referred 400 youths for summer jobs in a joint UPO work program in 1965. *Statement of Roving Leader Program*, supra note 59, at 3.

63. Klein, *supra* note 55, at 183-90. Roving Leaders will report actual law violations to the police.
64. Roving Leader Doc., 7.
65. Roving Leader Doc., 4-6.
66. YAD Ann. Rep., 27-29 (1965).
67. Roving Leader Doc., 7.
68. *Supra* note 60.
69. Roving Leader Doc., 7.
70. App. (SRI), 481.
71. *Id.* at 487.
72. The Roving Leader Program in Baltimore reimburses for transportation expenses. Health and Welfare Council of the Baltimore Area, Inc., "Reaching Hard-to-Reach Youth," 5a (Jan. 1964).
73. App. (SRI), 467.
74. *Supra* note 55, at 184.
75. *Supra* note 56. Baltimore has 25 youth workers of this type, Chicago 50, Philadelphia 70, and New York City 100. Roving Leader Doc., 10.
76. Street Club Worker Service, Baltimore Bureau of Recreation, Baltimore, Md., Annual Report, 2-3 (Dec. 31, 1965).
77. In Baltimore the comparable program is directly responsible to the Superintendent of Recreation and may eventually become a separate department. Interview with Harry Smith, Senior Supervisor, Street Club Worker Service, Dept. of Recreation and Parks, in Baltimore, Md., May 25, 1966.
78. Samuel LaBeach, A Follow-Up Study of a Former Street Corner Gang, 1-4 (1965). Another study showed that the 5 of 20 "hard core" youths released from Cedar Knoll who had Roving Leader help fared better than the other 15. H. Brabson (Master's Thesis, Catholic University, 1962).
79. Interview with Stanley Anderson, Director, Roving Leader Program, Sept. 21, 1966.
80. D.C. Board of Commissioners Order No. LS 5914B (Oct. 16, 1953).
81. Commissioners' Youth Council, Washington, D.C., Report to the President's Commission on Crime in the District of Columbia [hereinafter cited as CYC Rep.], 3 (1966).
82. D.C. Board of Commissioners Order No. 58-1777 (Oct. 23, 1958).
83. Order No. LS 5914B.
84. CYC Rep., 1.
85. CYC Rep., 4.
86. Commissioners' Youth Council, Washington, D.C., Manual for Area Board Members [hereinafter cited as CYC Manual].
87. Commissioners' Youth Council, Washington, D.C., Annual Report [hereinafter cited as CYC Ann. Rep.], 1 (1957).
88. CYC Ann. Rep., 1 (1960).
89. CYC Ann. Rep., 1 (1965); CYC Ann. Rep., 1 (1961).
90. CYC Ann. Rep., 1 (1965).
91. CYC Rep., 13. Congress approved a budget of \$150,300 for fiscal 1967. The Council also manages three miscellaneous trust funds totaling about \$1,300.
92. CYC Rep., 4.
93. The District Personnel Office is reportedly in the process of re-allocating the Youth Council staff positions. CYC Rep., 14.
94. The CYC endorsed bicycle registration and anti-loitering regulations. Interview with Nina B. Trevvett, Executive Director, CYC, Oct. 6, 1966.
95. CYC Ann. Rep., 2 (1965).
96. CYC Ann. Rep., 8 (1963).
97. CYC Ann. Rep., 3 (1964).
98. Interview with Nina B. Trevvett, Oct. 7, 1966.
99. CYC Ann. Rep., 1 (1957); CYC Ann. Rep., 2 (1959); CYC Ann. Rep., 1 (1960); CYC Ann. Rep., 3 (1961); Nina B. Trevvett, A Three Year Projection Beyond 1963, 2 (June 1961).
100. CYC Ann. Rep., 15 (1965).

101. Interview with Nina B. Trevvett, Sept. 6, 1966.
102. *Ibid.*
103. CYC Ann. Rep., 5 (1964); Commissioners' Youth Council, Washington, D.C., Report of Area Board Activities, 6 (Jan. 1959).
104. CYC Ann. Rep., VII-24 (1965). From March through May 1966, it took 176 cases.
105. Information supplied by Nina B. Trevvett, Executive Director, Aug. 18, 1966.
106. Report to the CYC by the Executive Director, Jan. 4, 1960; C. D. Tait, Jr., and E. F. Hodges, Delinquents, Their Families and the Community (Charles C. Thomas, 1962); E. F. Hodges, C. D. Tait, Jr., and Nina B. Trevvett, Maximum Benefits Project for the Commissioners' Youth Council—Four Years Work With Problem Children in Elementary Schools (undated).
- * 107. Memorandum from Nina B. Trevvett, Executive Director, CYC, to Gerald M. Shea, Director, Dept. of Public Welfare, Aug. 2, 1960.
108. Address by N. B. Trevvett on "Planning Delinquency Prevention," before the Rotary Club of Washington, D.C. [hereinafter cited as Trevvett Address], 3, Oct. 13, 1965.
109. C. D. Tait, Jr., and E. F. Hodges, Delinquents, Their Families and the Community, 143-48 (Charles C. Thomas, 1962).
110. Trevvett Address, 1-3; N. B. Trevvett, "Identifying Delinquency-Prone Children," Crime and Delinquency, 186 (Apr. 1965).
111. S. and E. T. Glueck, Unraveling Juvenile Delinquency, 261 (Harvard University Press, 1960).
112. Trevvett Address, 2.
113. Trevvett Address; CYC Ann. Rep., 12-13 (1963); CYC Ann. Rep., 9 (1965).
114. Trevvett Address; Interview with Nina B. Trevvett, Executive Director, Commissioners' Youth Council, Aug. 17, 1966.
115. Trevvett Interview, *supra* note 114.
116. *Ibid.*
117. Memorandum from Nina B. Trevvett, Aug. 18, 1966.
118. S. 2061, 89th Cong., 1st Sess., (1965).
119. Information supplied by Health and Welfare Council of the National Capital Area [HWC] and individual agencies financed by HWC, March 15, 1966. HWC publishes a directory listing the public and voluntary nonprofit agencies providing direct health, welfare and recreational services to children and families. Health and Welfare Council of the National Capital Area, Where to Turn for Health, Welfare and Recreation Services (HWC Publication No. 10, 1965).
120. Net Impact Study; A. Cloward and L. E. Ohlin, Delinquency and Opportunity (Free Press, 1960).
121. Letter from James G. Banks, Executive Director, UPO to Paul Ylvisaker, Public Affairs Division, The Ford Foundation, 1, Mar. 14, 1966.
122. *Id.* at 3.
123. *Id.* at 14.
124. Interview with Robert Secundy, Director of Administration, UPO, Oct. 11, 1966.
125. Testimony of F. B. Lee, President and Chairman of the Board, UPO, Before the Education and Labor Committee of the House of Representatives, 89th Cong., 2d Sess. (1966).
126. *Ibid.*
127. Housing Development Corporation, Housing Proposal for the National Capital Area (1966).
128. Staff of Senate Subcommittee on the Judiciary, 87th Cong., 1st Sess., Report on Investigating Juvenile Delinquency (1961); Golden Anniversary White House

- Conference on Children and Youth, Recommendations—Composite Report of Forum Findings (National Committee for Children and Youth, 1960).
129. Exec. Order No. 10940, 26 Fed. Reg. 4136 (1961).
 130. 75 Stat. 572-73 (1961), 42 U.S.C. § 2541-2546 (1961), as amended by 78 Stat. 309 (1964), 42 U.S.C. § 2542, 2545 (1964).
 131. 78 Stat. 309 (1964), 42 U.S.C. § 2548 (1964).
 132. Letter from Leonard Stern, Chief of Demonstration Programs, Office of Juvenile Delinquency and Youth Development, HEW, Aug. 18, 1966.
 133. 42 U.S.C. § 2545 (1965).
 134. President's Committee on Juvenile Delinquency and Youth Crime, Grant Number 62-210, July 1, 1962.
 135. President's Committee on Juvenile Delinquency and Youth Crime, Grant Number 63-007, Apr. 12, 1963.
 136. Letter from Jacob Fishman, Director, Institute for Youth Studies, Sept. 7, 1966.
 137. Letter from Dean Coston, Acting Under-Secretary, HEW, May 18, 1966.
 138. Net Impact Study. The percentages cited in this paragraph can be found in the Study at pp. 63, 66, 77, 116.
 139. *Id.* at 223-24.
 140. *Id.* at 238.
 141. Banks letter, *supra* note 121. This evaluation will undoubtedly also take into account the results of an unpublished study conducted by the Bureau of the Census for the Office of Economic Opportunity, consisting of interviews of 434 persons in the five census tracts served by UPO's Neighborhood Development Center No. 1 nine months after it became operational. The survey elicited information as to the residents' awareness of UPO programs, participation in them, and assessment of neighborhood problems. It showed generally that UPO programs were directed at those problems which were of greatest concern to the residents but that the extent of actual participation in the programs was low.
 142. The Howard University evaluation study showed 54,880 contacts in the Cardozo area by the summer of 1965, Neighborhood Center No. 1 accounting for 55.6% of them. The community organization and neighborhood workers accounted for 70% of the contacts, social services for 12.5% and the rest of the programs for 15%; 61.4% of the people contacted had income below the \$3,000 level.
 143. One example of an unfortunate misunderstanding between UPO and the Juvenile Court involved the detached probation project. See chapter 8. UPO and the Metropolitan Police Department have disagreed concerning decentralization and operation of the Youth Aid Division. The Department of Public Welfare and UPO have differed regarding the operation and philosophy of the UPO-financed halfway house for older juveniles.
 144. See chapters 2 and 8.
 145. Net Impact Study, 15, 60.
 146. See chapter 2.
 147. Net Impact Study, 61.
 148. Trevvett Address, 4-6.
 149. App. (SRI), 474.
 150. In the Cardozo area, 38 of a sample of intact families and 64 of a sample of broken families had incomes of less than \$4,000. The median income for the broken families was \$2,500. Fifty percent of all the families contacted had moved at least once in the last 5 years; the figure was 73%

in the case of the broken families. Only 23% of the total Cardozo sample thought their neighborhood a bad one, and 30% thought it a very good one. Thirty-four percent of the families indicated their most severe problem was lack of money. Thirteen percent of this group said their children had been in trouble with the police. Net Impact Study, 85, 90-1, 104.

151. C. E. Sullivan and C. S. Bash, "An Analysis and Survey of Current Programs" in *Delinquency Prevention: Theory and Practice*, eds., W. E. Amos and C. Wellford, ch. 3 (Prentice-Hall, 1966). "It has been said that the winning strategy in the war against delinquency is in large measure, a matter of having appropriate community services needed by disadvantaged children or their

families available in the right place at the right time in the right amount." Children's Bureau, HEW, *Juvenile Delinquency Prevention in the United States*, 12 (1965).

152. The city of Oakland, Calif., developed an Associated Agencies Program in 1957 to provide a coordinated approach to problem youth. Thompson, "Developing a City's Human Resources." 45 *J. International City Managers' Assn.*, 74-78 (Apr. 1963).
153. Judith G. Benjamin, Marcia K. Freedman, and Edith F. Lynton, *Pros and Cons: New Roles for Nonprofessionals in Corrections*, 120 (*National Committee on Employment of Youth*, 1965).
154. See e.g., H. Askell and M. Miller, *Understanding and Preventing Juvenile Delinquency*, 77 (Abingdon Press, 1958).

CHAPTER 10

1. D. Abrahamsen, *The Psychology of Crime*, 15 (Columbia University Press, 1960).
2. T. Sellin, *Culture, Conflict and Crime*, 45 (Social Science Research Council, N.Y., 1938).
3. H. Mannheim, *Comparative Criminology*, 144-45 (Houghton-Mifflin Co., 1965). As S. and E. T. Glueck have said, "prediction tables should not be used mechanically and as a substitute for clinical judgment. . . . They are intended to help [the clinician] . . . to see the individual in the perspective of organized experience with hundreds of other boys. . . ." quoted in *id.* at 145.
4. For explication and analyses of studies of delinquency and crime, see *Id.* at 203-350, 532-605; W. C. Reckless, *The Crime Problem* 248-323 (Appleton-Century-Crofts Inc., 3d edition, 1961); D. R. Taft, *Criminology*, 57-172, 204-45 (The Macmillan Co., 1950).
5. E.g., R. K. Merton, *Social Theory and Social Structure* (The Free Press of Glencoe, 1957). See also M. B. Clinard, *Anomie and Deviant Behavior: A Discussion and Critique* (The Free Press of Glencoe, 1964).
6. Hearings on H.R. 5688 and S. 1526 Before the Senate Committee on the District of Columbia, 89th Cong., 1st Sess. pt. 1, 268-69 (1965).
7. B. Lander, *Towards an Understanding of Juvenile Delinquency* (Columbia University Press, 1954).
8. B. Lander, *Report to the President's Commission on Crime in the District of Columbia* (1966).
9. *Ibid.*
10. A detailed presentation of the findings of this study is presented in chapter 3.

11. App. (SRI), 546.
12. *Id.* at 474.
13. *Id.* at 524.
14. *Id.* at 474.
15. *Id.* at 555, 557.
16. Calculation based on information contained in App. (SRI), 561.
17. App. (Ginzberg), 753.
18. Taft, *supra* note 4, at 139.
19. App. (Ginzberg), 751.
20. *Id.* at 753-54.
21. See, e.g., S. and E. T. Glueck, *Family, Environment and Delinquency* (Houghton-Mifflin Co., 1962); Mannheim, *supra* note 3, at 736, n. 11 (studies collected).
22. App. (Ginzberg), 754.
23. *Id.* at 754-55.
24. See, e.g., Taft, *supra* note 4, at 131-33.
25. App. (Ginzberg), 751.
26. *Id.* at 758-59.
27. *Id.* at 756.
28. *Id.* at 757.
29. *Id.* at 760.
30. Letter from F. Z. Hetzel, Director, U.S. Employment Service for the District of Columbia [hereinafter cited as USES-DC], Sept. 9, 1966.
31. *Ibid.*
32. U.S. Bureau of the Census, U.S. Census of Population: 1960, Detailed Characteristics, District of Columbia, Final Report PC(1)-10D [hereinafter cited as Detailed Census], Table 115 at 10-98 (1962).
33. *Id.* at XVIII.
34. *Id.* at XVIII-XIX.
35. District of Columbia Appropriations, 1966, Hearings Before the District of Columbia Subcommittee of the Senate Committee on Appropriations [hereinafter cited as Senate D.C. Appropriations Subcommittee], 89th Cong., 1st Sess. 494-95 (1965); Detailed Census, XIX. Over 40,000 District residents were employed only part-time (less than 35 hours) in the 1960 Census reference week. Detailed Census, XIX, Table 115 at 10-98.
36. D.C. Appropriations, *supra* note 35. The Bureau of Labor Statistics is planning to refine its data collection methods and will develop figures on the number of persons not looking for work because of discouragement who have heretofore not been counted as unemployed. The Washington Post, Nov. 23, 1966, p. A2.
37. D.C. Appropriations, *supra* note 35.
38. F. Z. Hetzel, Director, USES-DC, Speech Before the D.C. Congress of Parents and Teachers, Conference on Community Action for Youth Protection, Mar. 26, 1966.
39. Economic and Manpower Development Division, UPO, Experimental and Demonstration Manpower Project Funded Jointly by OMAT of the Department of Labor and the Office of Economic Opportunity, Progress Report, 10 (Jan. 1966).
40. National Capital Planning Commission, Problems of Housing People in Washington, D.C. [hereinafter cited as NCPC Report], 22 (1966).
41. S. Rep. No. 864, 89th Cong., 1st Sess. 3 (1965).
42. *Id.* at 5.
43. NCPC Report, 2, 22.
44. Commissioners' Committee on Community Renewal, Community Renewal in the District of Columbia, Three Alternative Courses of Action (Summary Report, June 1966).
45. D.C. Government Anti-Crime Survey (1966) (no page numbers).
46. Statement of F. B. Lee, president, UPO, prepared for the Education and Labor Committee, U.S. House of Representatives, Mar. 14, 1965.
47. Economic and Manpower Development Division, UPO, Com-

- prehensive Program of Employment and Manpower Development for Disadvantaged Persons, 2 (Jan. 14, 1966).
48. *Ibid.*
 49. Manpower Development and Training Act of 1962, 76 Stat. 23, 42 U.S.C. §§ 2571-2620 (1962). For legislative history and purpose, see U.S. Code Cong. and Ad. News, 1502 (1962).
 50. Economic Opportunity Act of 1964, 78 Stat. 508, 42 U.S.C. § 2701 (1964). For legislative history and purpose, see U.S. Code Cong. and Ad. News (1964).
 51. U.S. Dept. of Labor, Washington, D.C., Manpower Task Force, Report on Manpower Administration Programs in the Metropolitan Washington Area [hereinafter cited as Task Force Report], 19 (1966).
 52. Interview with Dickie Carter, Director, OJT Program, UPO, Oct. 21, 1966.
 53. *Ibid.*
 54. Manpower Administration, U.S. Dept. of Labor, Earn Learn Serve—The Neighborhood Youth Corps (Pamphlet).
 55. Task Force Report, 23.
 56. Statement of F. B. Lee, *supra* note 46.
 57. *Ibid.*
 58. D.C. Dept. of Public Welfare, Annual Report, 42 (1965). See D.C. Dept. of Public Welfare, Toward Social and Economic Independence (1965). The Department's new Work and Training Opportunity Center is discussed later in this chapter.
 59. F. Z. Hetzel, *supra* note 38.
 60. Task Force Report, 18.
 61. The Evening Star (Washington, D.C.), Oct. 10, 1966, p. B6.
 62. The Washington Post, Oct. 13, 1966, p. H1.
 63. Task Force Report, 2.
 64. *Id.* at 2, 7-8.
 65. F. Z. Hetzel, *supra* note 38.
 66. National Commission on Technology, Automation and Economic Progress, Technology and the American Economy, 69 (1966).
 67. Institute for Youth Studies, Howard University, First Year Report: The Net Impact of the Cardozo Area Demonstration Program 1964-1965, 77 (1966).
 68. Task Force Report, 19.
 69. *Id.* at 17.
 70. *Ibid.*
 71. *Ibid.* Moreover, USES-DC does not fully know the labor needs of the city's employers. *Ibid.*
 72. Task Force Report, 16. In resigning from the UPO Board of Trustees, one former Board member stated, "There is no question but that UPO has contributed some new approaches to job location but it has not begun to prepare any comprehensive plan for job-training which is the critical need. It has no inventory of job vacancies and no program for training people to fill these vacancies. . . ." Letter from M. Sullivan, Jr. to F. B. Lee, Nov. 18, 1966.
 73. Task Force Report, 17.
 74. *Id.* at 16.
 75. Commissioner's Committee on Community Renewal, Community Renewal in the District of Columbia, Three Alternative courses of Action [hereinafter cited as CRP Report], 41 (1966).
 76. *Ibid.* As President Johnson recently stated, "between now and the end of this century . . . we will have to build in our cities as much as has been built since the first settler arrived on these shores. . . ." Remarks at Syracuse, N.Y., Aug. 19, 1966.
 77. Task Force Report, 8. Thirty percent of the jobs created by housing construction are ordinarily for unskilled laborers and

- apprentices. *The New Republic*, Oct. 22, 1966, at 7.
78. National Commission, *supra* note 66 at 36.
 79. *Ibid.*
 80. U.S. Dept. of Labor, *A Report on Manpower Requirements, Resources, Utilization and Training*, 80-81 (1966).
 81. National Commission, *supra* note 66 at 36.
 82. D.C. Advisory Committee to the U.S. Commission on Civil Rights, *Fair Employment in the Nation's Capital*, 12 (1964).
 83. *Ibid.* 516 of the 917 employers who themselves train apprentices responded to the questionnaire. They reported having 253 apprentices of whom 29.2 percent were Negro. *Ibid.*
 84. Interview with H. R. Borden, Director, Apprenticeship Information Center, USES-DC, Dec. 14, 1965.
 85. Task Force Report, 17.
 86. 29 U.S.C. § 50. 36 D.C. Code ch. 1 (1961).
 87. D.C. Apprenticeship Council, Order No. 19 (Mar. 5, 1965).
 88. Interview with E. N. Thomas, Director, D.C. Apprenticeship Council, Nov. 19, 1965.
 89. Community Advisers on Equal Employment, *Equal Employment in the Nation's Capital—Progress and Prognosis*, 10 (1965).
 90. *Ibid.*
 91. *Id.* at 12. A study of the race of employees of 11 banks in the District revealed that none of 152 executives, 2 of 281 junior officers, 2 of 43 chief clerks, 46 of 593 tellers, and 178 of 2,249 clerical employees were Negro. However, 199 of 216 maintenance personnel were Negro. Apparent discrimination is not limited to race; only 31 of 3,154 employees of 9 banks were Jewish. Similar patterns are reflected in the savings and loan and insurance industries. Commissioners' Council on Human Relations, *Patterns of Discrimination in The Financial Institutions of the District of Columbia: The Banking, Savings and Loan Insurance Industries* (June 1966).
 92. Institute of Labor and Industrial Relations, Wayne State University, *A Study of Patterns of Discrimination in Employment for the Equal Employment Opportunity Commission*, 24 (Sept. 1966).
 93. Police Regulations of the District of Columbia, Art. 47, § 1(a) (1965).
 94. Commissioners' Council on Human Relations, *Annual Report*, 3 (1966).
 95. Commissioners' Council on Human Relations, *Opening Statement in Support of 1967 Budget Request*, 2 (1966).
 96. *The Evening Star* (Washington, D.C.), Oct. 13, 1966, p. B1.
 97. Community Advisers, *supra* note 89, at 9.
 98. *Id.* at 4.
 99. *Id.* at 5.
 100. *Supra* note 66, at 71.
 101. *Ibid.*
 102. *Ibid.*
 103. U.S. Dept. of Labor, *Report of the Secretary of Labor on Manpower Research and Training Under the MDTA*, 167 (1966).
 104. *Id.* at 170.
 105. National Commission, *supra* note 66.
 106. Investigation of the Schools and Poverty in the District of Columbia, *Hearings Before the Task Force on Antipoverty in the District of Columbia of the House Committee on Education and Labor, U.S. House of Representatives*, 89th Cong., 1st and 2d Sess. [hereinafter cited as *Hearings*], 26 (1966). D.C. Dept. of Public Health, *Vital Statistics Summary*, 21 (1964).

107. Hearings, 9.
108. Hearings, 12.
109. Dept. of General Research, Budget, and Legislation, District of Columbia Public Schools [hereinafter cited as Public School System], The District of Columbia Public Schools in Perspective (Apr. 1966).
110. A Task Force Study of the Public School System in the District of Columbia as it Relates to the War on Poverty, Task Force on Antipoverty in the District of Columbia of the House Committee on Education and Labor, 89th Cong., 2d Sess. [hereinafter cited as House School Study], 57 (1966).
111. Hearings, 10.
112. House School Study, 57.
113. See U.S. Office of Education, Equality of Educational Opportunity, 20 (1966) (Summary Report): "For most minority groups, then, and most particularly the Negro, schools provide no opportunity at all for them to overcome this initial deficiency [in achievement]; in fact, they fall farther behind the white majority in the development of several skills which are critical to making a living and participating fully in modern society." A recent study by a University of Michigan research group concluded that many students, particularly poor Negro children, are frequently handicapped by placement in the wrong scholastic track. The Washington Post, Nov. 24, 1966, p. A1.
114. House School Study, 27.
115. See A Progress Report of the Panel on Educational Research and Development to the U.S. Commissioner of Education, the Director of the National Science Foundation, and the Special Assistant to the President for Science and Technology (March 1964); J. B. Conant, Slums and Suburbs (McGraw-Hill, 1961); Pioneer Ideas in Education, Report of the House Committee on Education and Labor, 88th Cong., 1st Sess. (1963).
116. Hearings, 512-13.
117. House School Study, 69.
118. Letter from Carl F. Hansen, Superintendent of Schools, to the Committees on Finance, Personnel, Student Activities, and Health and Special Education Services of the Board of Education, June 11, 1964.
119. G. J. Saliterman, Strategy for Change, A Report on the Model School Division and its Advisory Committee (1966).
120. House School Study, 72.
121. Id. at 70. In recent weeks several innovations have been introduced into the Model School Division, including team teaching and ungraded primary classes. The Washington Post, Dec. 3, 1966, p. B1.
122. District of Columbia Appropriations, 1967, Hearings Before the District of Columbia Subcommittee of the House Appropriations Committee [hereinafter cited as House D.C. Appropriations Subcommittee], 89th Cong., 2d Sess. pt. 1, 732 (1966).
123. U.S. Dept. of Health, Education and Welfare [hereinafter cited as HEW], "Financial Assistance," 30 Fed. Reg. 11812 (1965).
124. Hearings, 867.
125. House School Study, 19. One result is that class sizes are significantly larger in Negro than in white schools. Hearings, 27-29.
126. House School Study, 18-19.
127. Public School System, Age of Public School Buildings, 2 (Nov. 1964).
128. Id. at 1.
129. Public School System, Fifteen Year Enrollment by Race (1965); Hearings, 87-89; Information as

- to amount of school capacity retired 1953-1965 supplied by Public School System, Nov. 9, 1966.
130. See Public School System, Review of Recommendations of the Report of a Survey of the Public Schools of the District of Columbia submitted by George D. Strayer, Director of the Survey, Feb. 28, 1949 (Aug. 1, 1966).
 131. Hearings, 86.
 132. *Ibid.*
 133. *Id.* at 77.
 134. *Ibid.*
 135. *Id.* at 84.
 136. *Id.* at 85.
 137. *Id.* at 27-29; Public School System, Detailed Distribution of Classes According to Size in the Junior High Schools on Oct. 21, 1965 (1966).
 138. Government of the District of Columbia, Budget Estimates of the District of Columbia Fiscal Year 1967, 17-3 (1966). District of Columbia Appropriations, 1966, Hearings Before the Senate D.C. Appropriations Subcommittee, 89th Cong., 1st Sess. 199-201 (1965).
 139. Hearings, 43, 46. Public School System, Number of Teacher Positions, Pupil Memberships, and Pupil-Teacher Ratios for All School Levels on Oct. 21, 1965 (1966).
 140. House School Study, 15.
 141. Conant, *supra* note 115, at 146.
 142. House School Study, 13.
 143. D. G. Ferguson, Pupil Personnel Services, 5 (The Center for Applied Research in Education, Inc., 1963).
 144. Hearings, 32-38.
 145. House School Study, 74-75; Public School System, *supra* note 109.
 146. Vocational Education and the Schools of the District of Columbia, Hearings Before the House Committee on the District of Columbia, 89th Cong., 2d Sess. 69 (1966).
 147. *Id.* at 5-7. Interview with Harold Clark, Assistant Superintendent for Vocational Education, Public School System, Feb. 8, 1966.
 148. *Ibid.* Letter from Dr. Duane R. Lund, Consultant on Vocational Education for the House District Committee to Cong. John L. McMillan, Sept. 1, 1965.
 149. *Id.* at 5.
 150. Pub. L. No. 791, 89th Cong., 2d Sess. (1966). See Odell MacConnell Associates, Educational Specifications for the Vocational-Technical-Occupational Center, Washington, D.C., Final Report (1965).
 151. D.C. Dept. of General Administration, D.C. Budget Estimates Fiscal Year 1968, C-13 (1966).
 152. Report of the Citizens' Committee on Literacy to the Board of Commissioners of the District of Columbia [hereinafter cited as Literacy Report], 22 (1965). The Report of the Community Renewal Program terms functionally illiterate the 68,900 District adults who have failed to complete the seventh grade. CRP Report, 9. The Committee on Education and Labor of the House of Representatives defines functional illiteracy as the failure to complete eighth grade and concludes that there are 98,000 functional illiterates in the District. Poverty In The United States, House Committee on Education and Labor 88th Cong., 2d Sess. 217, 223 (1964).
 153. Literacy Report, 16.
 154. *Id.* at 27.
 155. Poverty in the United States, *supra* note 152, at 223.
 156. Literacy Report, 38.
 157. *Id.* at 2-15.
 158. Memorandum from F. E. Ropshaw, Secretary to the D.C. Board of Commissioners, to the Director of the Department of

- General Administration, July 15, 1966.
159. The only low cost institutions of higher learning in the District are Howard University and D.C. Teacher's College. The former feels its basic mission to be national and international in scope, offering educational opportunities to Negroes in whose interest it was founded. Public Higher Education in the District of Columbia, Report of the President's Committee on Public Higher Education, 6 (June 1964). The latter offers only a B.S. degree in the field of teaching and is such an "antiquated and overused facility" that it has not been approved by the National Council For Accreditation of Teacher Education. Testimony of Commissioner W. J. Tobriner at Hearings Before the Public Health, Education, Welfare, and Safety Subcommittee of the Senate District Committee, 89th Cong., 2d Sess. 124 (1966). Hearings, 109. Legislation passed in the Second Session of the 89th Congress provides for the creation of a Board of Higher Education to plan for and establish a public college in the District.
 160. Progress Report, *supra* note 115, at 31. See Michigan Study, *supra* note 113.
 161. CRP Report, 6.
 162. NCPD Report, Preface.
 163. Report of the Commissioner's Subcommittee On A Housing Program For The Nation's Capital [hereinafter cited as Subcommittee Report], 7 (1966).
 164. NCPD Report, 49.
 165. *Id.* at 45.
 166. CRP Report, 57.
 167. *Id.* at 4.
 168. *Ibid.*
 169. *Id.* at 6.
 170. NCPD Report, 41-44. Structurally substandard units are classified by the U.S. Bureau of Census as "deteriorating" or "dilapidated." Units lacking essential facilities are without a flush toilet and/or bathtub or shower and/or hot and cold running water for the exclusive use of household occupants. *Id.* at 105. NCPD statistics are based on 1960 census population and housing data and 1965 eligibility and need standards. *Id.* at 59.
 171. CRP Report, 6. Based on U.S. Census definition of over-crowding as 1.01 persons or more per room. *Ibid.*
 172. NCPD Report, 45.
 173. The Housing and Urban Development Act of 1965 sets forth the criterion that households should not spend more than 25 percent of their gross annual income for shelter. *Id.* at 82.
 174. *Id.* at 43.
 175. *Id.* at 2-3. Figures do not add due to rounding.
 176. *Id.* at 47.
 177. *Id.* at 50.
 178. *Ibid.*
 179. *Id.* at 34.
 180. *Id.* at 3-4.
 181. *Id.* at 107.
 182. National Capital Housing Authority, Ann. Rep., 16 (1965).
 183. *Ibid.*
 184. *Id.* at 17.
 185. See D.C. Redevelopment Land Agency, Annual Report (1965). D.C. Office of Urban Renewal, Workable Program 1964-1965 (1965).
 186. The Washington Post, Oct. 24, 1966, pp. A1, A5.
 187. *Ibid.*; CRP Report, 18.
 188. 12 U.S.C. 1715(k).
 189. Division of Research and Statistics, U.S. Dept. of Housing and Urban Development, Below Market Rate Rental . . . Project Operations as of June 30, 1966 (1966). See Washington Urban League,

- Developments in Low and Moderate Income Housing—1964—1965, 11 (1965).
190. The Washington Post, Dec. 9, 1965, p. A1.
191. Government of the District of Columbia, Annual Report, 6-4 (1965).
192. See Hearings on S. 3549 Before a Subcommittee of the Senate Committee on the District of Columbia, 89th Cong., 2d Sess. (1966).
193. CRP Report, 4.
194. Id. at 19. The Report of the Community Renewal Program states that as part of a total solution of the problem an additional \$60 million should be spent on code enforcement over the next eight years. Id. at 53.
195. S. 3549, 89th Cong., 2d Sess. (1966).
196. Hearings, supra note 192.
197. CRP Report, 13. In July 1965 the Housing Division set up a housing improvement center in cooperation with the Urban League. Its purpose is the same as that of the bill's housing education program—instruction in the care and maintenance of dwellings. Meanwhile, UPO is developing its own effort in this field.
198. Community Advisers on Equal Employment, Equal Employment in the Nation's Capital, 33 (1966).
199. H.R. 14765, 89th Cong., 2d Sess. (1966).
200. Government of the District of Columbia, A Proposed Anti-Discrimination Housing Ordinance For The District of Columbia, 76 (1963).
201. Police Regulations of the District of Columbia, Art. 45 (1963).
202. The Washington Post, Dec. 3, 1965, p. C1.
203. Commissioner's Council on Human Relations, Proposed Changes in Fair Housing Regulations (undated).
204. NCPD Report, 5.
205. Id. at 48.
206. Id. at 6.
207. CRP Report, 13.
208. Subcommittee Report, 6-7.
209. Id. at 7.
210. Supra note 191, at 6-2.
211. Ibid. D.C. Redevelopment Land Agency, Annual Report, 12 (1965).
212. The Evening Star (Washington), Sept. 18, 1966, p. A12.
213. The Washington Post, Sept. 13, 1966, p. C2.
214. Subcommittee Report, 12. The Washington Post, March 9, 1966, p. A9.
215. Letter from Charles Park, Economist, NCHA, to J. C. Gilman, Deputy Director, Community Renewal Program, July 13, 1965; interview with H. L. Hornbeck, NCHA, Dec. 8, 1966.
216. NCHA, Estimated Additions to Supply of Low-Rent Public Housing, 11-14 (Background Paper prepared by the NCHA for the Community Renewal Program, 1964).
217. Ibid.
218. NCPD Report, 3.
219. Subcommittee Report, 16.
220. Ibid.
221. Ibid.
222. A new nonprofit organization, the Housing Development Corporation, has recently been formed for the dual purpose of developing low-cost housing and assisting other sponsors to do so. Its application for Federal funding is presently pending. Housing Proposal In The National Capital Area Submitted by Housing Development Corporation through the United Planning Organization, 5 (1966).
223. CRP Report, 4.
224. Id. at 32-33.

225. *Id.* at 33; Pub. L. No. 754, 89th Cong., 2d Sess. (1966).
226. Message of The President of the United States to The Congress, Jan. 26, 1966, H.R. Doc. No. 368, 89th Cong., 2d Sess. (1966).
227. CRP Report, 33.
228. D.C. Dept. of Public Welfare [hereinafter cited as DPW], Annual Report, 72 (1965). Figures are monthly average in fiscal 1965. *Ibid.*
229. *Id.* at 63.
230. Division of Program Statistics and Analysis, Bureau of Family Services, Welfare Administration, HEW, Special Types of Public Assistance: Program Facts, 1 (1965).
231. *Ibid.*
232. DPW, Monthly Statistical Report, 2 (June 1953). DPW Ann. Rep., 72 (1965).
233. DPW Ann. Rep., 48 (1965).
234. District of Columbia Appropriations, 1966, Hearings Before the Senate D.C. Appropriations Subcommittee, 89th Cong., 1st Sess. 803 (1965).
235. DPW Ann. Rep., 62 (1965). Government of the District of Columbia, Budget Estimates of the District of Columbia, Fiscal Year 1967, 23-5 (1966). See District of Columbia Appropriations, 1963, Hearings Before the Senate D.C. Appropriations Subcommittee, 87th Cong., 2d Sess., pt. 2 (1962).
236. Welfare Administration, HEW, Statistics on Public Assistance, Table 20, Oct. 1965 (Advance Release).
237. D.C. Appropriations, 1966, *supra* note 234, at 804-08.
238. Statement of Senator Abraham Ribicoff, Aug. 7, 1966 (Press Release).
239. Letter from Donald D. Brewer, Director, DPW, to Senator Abraham Ribicoff, July 25, 1966.
240. *Supra* note 234, at 947-49.
241. The Advisory Council on Public Welfare, "Having the Power, We Have the Duty," Report to the Secretary of Health, Education, and Welfare [hereinafter cited as Advisory Council Report], xiii (1966). Most other knowledgeable District residents agree. Interview with Lillian Secundy, Housing and Welfare Director, Washington Urban League, Jan. 25, 1966; Interview with John Theban, Executive Director, Family and Child Services, Jan. 27, 1966. See *The Wall Street Journal*, Nov. 17, 1966, p. 1.
242. Advisory Council Report, 23. Residency requirements are particularly unfortunate and should be eliminated. *Id.* at 30-31.
243. DPW, Public Assistance Division Handbook, EL 4.5, Special Procedures Related to Continued Absence, 6 (1965).
244. *Id.* at 7-8. Metropolitan Washington Chapter, National Association of Social Workers, and Commission on Human Resources, Washington Center for Metropolitan Studies, *The Public Welfare Crisis in the Nation's Capital* [hereinafter cited as *Crisis*] 41 (1963).
245. DPW, *supra* note 243, at 7-8.
246. Hearings on H.R. 5688 and S. 1526 Before the Senate Committee on the District of Columbia, 89th Cong., 1st Sess. pt. 1, 277 (1965).
247. Advisory Council Report, 23.
248. *Id.* at 29.
249. *Id.* at 35.
250. *The Washington Post*, Oct. 13, 1966, p. A9.
251. D.C. Public Welfare Advisory Council, *A Review of Housing for Low Income Groups in the District of Columbia* (1964).
252. Advisory Council Report, 9.
253. *Id.* at 27.

254. Statement by Senator Abraham Ribicoff on the floor of the U.S. Senate, June 21, 1965 (Press Release).
255. District of Columbia Appropriations, 1966, supra note 234, at 408.
256. DPW Ann. Rep., ii (1965).
257. Ibid.
258. Ribicoff Statement, supra note 238.
259. Brewer letter, supra note 239.
260. L. J. Yarrow, Maternal Deprivation: Toward an Empirical and Conceptual Reevaluation, 58 Psych. Bull. 459, 474 (1961).
261. DPW Ann. Rep., 35 (1965). The Junior Village Committee, D.C. Health and Welfare Council, What Price Dependency?, 1-8 (1959).
262. DPW, Monthly Statistical Report, 18 (Aug. 1966).
263. Interview with A. P. Russo, Deputy Director, DPW, Feb. 1, 1966.
264. Government of the District of Columbia, In Explanation of Junior Village, 3 (Nov. 1965).
265. District of Columbia Appropriations, 1967, Hearings Before the House D.C. Appropriations Subcommittee, 89th Cong., 2d Sess., pt. 2, 385 (1966).
266. Child Welfare League of America, Standards For Services of Child Welfare Institutions, 35 (1966).
267. D.C. Government, supra note 264, at 5.
268. Id. at 6. In January 1966, 207 of the 650 children at the Village had been there for over one year. Letter from Donald D. Brewer, Director, DPW, to Senator Abraham Ribicoff, Jan. 28, 1966.
269. DPW Ann. Rep., 80, 83 (1965).
270. The Washington Post, Nov. 17, 1966, p. B6. See D.C. Appropriations, 1966, supra note 234, at 756-57.
271. Interview with John Theban, Executive Director, Family and Child Services, Jan. 28, 1966.
272. District of Columbia Appropriations, 1966, supra note 234, at 799.
273. District of Columbia Appropriations, 1967, supra note 265, at 265.
274. Brewer letter, supra note 239.
275. Ibid.
276. Ibid.
277. D.C. Government, Advisory Council 58.
278. Supra note 264, at 4.
279. District of Columbia Appropriations, 1966, supra note 234, at 758.
280. Crisis, 19.
281. Advisory Council Report, 103.
282. The Washington Post, Aug. 26, 1966, p. C9.
283. D.C. Dept. of Public Health [hereinafter cited as DPH], Comprehensive Mental Health Services in the District of Columbia (1965).
284. DPH, Annual Report VI, 10-11, (1965).
285. Interview with G. Chamberlain, Biostatistics Section, DPH, Dec. 9, 1966.
286. Ibid.
287. District of Columbia Appropriations, 1967, supra note 265, at 242-43.
288. Quoted in Comprehensive Mental Health, supra note 283, at 92.
289. DPW, Survey of Mental Health Needs of Children Under Care of Child Welfare Division, 38-39 (1964).
290. D.C. Government Anti-Crime Survey, VIII-4 (1966).
291. D.C. Budget Estimates, Fiscal Year 1968, Agency Requests, B-22-4 (1966). In fiscal 1967 Congress provided funds for nine additional positions for juvenile mental health services at the existing Center. This should help relieve the burden on the Child Guidance and Adolescent Clinics. See DPH, Budget Estimate for Fiscal Year 1967, 7

1966. In early 1967, DPW and DPH intend to establish at Junior Village a center for emotionally disturbed children who are DPW wards. Funded by an NIMH grant, the facility will offer inpatient services for 40 children as well as outpatient treatment. Letter from Dr. Elizabeth Smith, Chief, Community Mental Health Program Development, DPH, June 27, 1966.
292. DPH, Vital Statistics Summary, 29 (1964).
293. Office of Policy Planning and Research, U.S. Dept. of Labor, The Negro Family, The Case for National Action, 21 (1965).
294. L. Shearer, "A Shame of Modern Society: They Had to Get Married," Parade Magazine, The Washington Post, Nov. 20, 1966.
295. Ibid.
296. DPH, Birth Control Program, Policies and Procedures Manual, 8 (1965).
297. L. Lader, Abortion (Bobbs-Merrill Co., 1965).
298. The Washington Post, Nov. 21, 1966.
299. D.C. Government Anti-Crime Survey (Jan. 1966).
300. District of Columbia Budget Message of the President of the United States, Fiscal 1967, quoted in Hearings Before the House D.C. Appropriations Subcommittee, 89th Cong., 2d Sess., pt. 2, 8 (1966).
301. The Washington Post, Feb. 10, 1966, p. A24.
302. Ibid.
303. Health and Welfare Council of the National Capital Area, Towards A Social Geography of Health, Welfare and Recreation Facilities and Services in the District of Columbia, 9, 12, (1965); E. B. Olds, The Small Area Patterning of Population and Housing Characteristics in the Washington Metropolitan Area, 49 (1964).
304. Emergency Recreation Council for Capitol East, The Capitol's Backyard I, 24 (1965).
305. Subcommittee Report, 6-7.
306. D.C. Government Budget Estimates of the District of Columbia, Fiscal Year 1967, 30-1 (1966); The Evening Star (Washington), Jan. 25, 1966, p. B1.
307. Interview with J. H. Cole, Superintendent Dept. of Recreation, Feb. 10, 1966.
308. Ibid.
309. Information supplied by D.C. Budget Office, Nov. 7, 1966.
310. Ibid.
311. D.C. Recreation Dept. Annual Report 10 (1965); D.C. Recreation Dept., Aquatics Program (1966).
312. The Evening Star (Washington), July 23, 1966, p. A11.
313. D.C. Government, Annual Report, 8-6 (1965).
314. Id. at 8-5.
315. Ibid.
316. Interview, supra note 307.
317. The Evening Star (Washington), Sept. 2, 1966.
318. D.C. Budget Estimates, Fiscal Year 1968, Agency Requests, B-18-3 (1966).
319. App. (Ginzberg), 775.