U.S. Department of Justice
Office of Justice Programs
Office of Juvenile Justice and Delinquency Prevention

OJJDP

NCJJ

Desktop Guide to Good Juvenile Probation Practice

DESKTOP GUIDE TO GOOD JUVENILE PROBATION PRACTICE

National Center for Juvenile Justice

Prepared by members of the
Juvenile Probation Officer Initiative
Working Group

MARCH 1991

701 Forbes Avenue
Pittsburgh, PA 15219
(412) 227-6950

This document was prepared by the National Center for Juvenile Justice research division of the National Council of Juvenile and Family Court Judges under Grant Number #89-JN-CX-K001 from the Office of Juvenile Justice and Delinquency Prevention U.S. Department of Justice.

The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program Offices and Bureaus: the Bureau of Justice Statistics, National Institute of Justice, Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

This ***Desktop Guide to Good Probation Practice*** is the first completed product of the Juvenile Probation Officer Intiative (JPOI), a component of the Technical Assistance to the Juvenile Court Project at the National Center for Juvenile Justice in Pittsburgh, Pennsylvania. Following upon the ***Desktop Guide*** is a model training curriculum for entry-level juvenile probation officers. Both are intended to contribute concretely to increasing the professionalism of juvenile probation.

The JPOI has been guided, from the beginning, by a working group of dedicated juvenile probation professionals from across the country. While the JPOI working group is not a membership organization, it is comprised of members of three national organizations that represent juvenile probation and others who are committed to working together to improve the status of the juvenile probation profession. They are the National Council of Juvenile and Family Court Judges (NCJFCJ), the National Juvenile Court Services Association (NJCSA), and the American Probation and Parole Association (APPA). Each of these organizations has resolved to support the juvenile probation field and its dedicated professionals as well as the goals and activities of the Juvenile Probation Officer Initiative.

NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES
ORGANIZED MAY 22, 1937

National Juvenile Court Services Association

A P P A

This book is dedicated to line juvenile probation officers.

Foreword

Probation forms the foundation of service provision and supervision for young offenders in the juvenile justice system. From intake to case monitoring, probation officers across this Nation are involved on the front line in working to reshape the lives of youth and families. Each year, juvenile courts place nearly 40 percent of their cases on probation, the largest single disposition of the court.

Beginning with John Augustus' concern for wayward youth in Massachusetts in 1847, the practice of juvenile probation has grown in scope and sophistication. Intensive supervision strategies, case classification procedures, electronic monitoring, restitution, and family-based intervention are now firmly established in the toolkit of juvenile probation. Further, what was once seen as an interim job in the field has become, for many, a lifelong career.

The ***Desktop Guide to Good Juvenile Probation Practice*** is a product of the Juvenile Probation Officer Initiative of the Technical Assistance to the Juvenile Court Project at the National Center for Juvenile Justice. It is an initiative enthusiastically supported by the Office of Juvenile Justice and Delinquency Prevention since 1986. The ***Desktop Guide*** is intended for both new and experienced juvenile probation officers and represents the collective experience of more than 40 probation professionals involved in its development. It is truly a document of, by, and for the field.

An important mandate of the Juvenile Justice and Delinquency Prevention Act is to "improve the quality of juvenile justice in the United States." We believe that the ***Desktop Guide*** will both improve the quality of the system and enhance the professionalism of juvenile probation by providing a comprehensive, state-of-the-art description of juvenile probation practice. The Office of Juvenile Justice and Delinquency Prevention is committed to putting information that will be immediately useful into the hands of the practitioner. The publication and wide distribution of the ***Desktop Guide to Good Juvenile Probation Practice*** is one component of that commitment.

Robert W. Sweet, Jr.
Administrator, OJJDP

Mission

The ***Desktop Guide to Good Probation Practice*** is a document conceived by probation officers, written by probation officers and intended to promote and enhance the practice of juvenile probation as a career. It is a book which says to the field and to society that juvenile probation is a noble endeavor which has evolved from a movement, to a job, to a profession. It is a detailed collection of that body of knowledge which should guide the daily interaction of probation officers with their charges, the juvenile justice system and the community at large.

The mission of the ***Desktop Guide to Good Probation Practice*** is to improve the effectiveness of juvenile probation as a community response to the law violating behavior of youth.

To accomplish this mission, the ***Desktop Guide*** was developed to achieve the following goals:

- To demonstrate that there does exist an accumulation of policy and procedure which the field believes is good practice;
- To present that practice in a manner which will be immediately useful to the beginning probation officer;
- To provide the context within which the professional practice of probation is grounded; and
- To capture and record, at this point in time, the essence of good probation practice upon which professional development in the field will continue to grow.

If the ***Desktop Guide*** succeeds in accomplishing these primary goals, it will also have succeeded in fulfilling another of its missions: to improve the stature and community recognition of juvenile probation and those who serve in this professional capacity.

It is with this important aim that the ***Desktop Guide to Good Probation Practice*** is dedicated. It is the work of those who have come before, passed on to those who will carry the profession forward on behalf of the coming generations of youth and the future of society.

Authors

Theresa McCarthy Accocks
Toledo, OH

Carolyn Andersen
West Valley City, UT

Troy Armstrong
Sacramento, CA

Walter Dickey
Madison, WI

Carol Engel
Minneapolis, MN

Richard Gable
Pittsburgh, PA

Anthony Guarna
Norristown, PA

David Heden
Providence, RI

Norman Helber
Phoenix, AZ

Jerry Hill
Vacaville, CA

Eric Joy
Pittsburgh, PA

Andrew Klein
Quincy, MA

Peter L'Etoile
Fall River, MA

Dennis Maloney
Bend, OR

Betty Osbourne
Birmingham, AL

Mary Ann Peters
Pittsburgh, PA

Dan Pompa
Toledo, OH

William Samford, II
Mt. Meigs, AL

Terry Showalter
Kansas City, KS

Melissa Sickmund
Pittsburgh, PA

Annie Sutherland
Kansas City, KS

Patricia Torbet
Pittsburgh, PA

James Wolslayer
Pittsburgh, PA

Contributors

William Anderson
Austin, TX

Rolando del Carmen
Cincinatti, OH

Salvatore D'Amico
Hartford, CT

Forest Eastman
Waterloo, IA

Argie Gomez
Phoenix, AZ

Samuel Grott
Pittsburgh, PA

Jean Heinzen
Sun Valley, ID

Norman Helber
Phoenix, AZ

John Herb
Shippensburg, PA

Theresa Homisak, Esq.
Pittsburgh, PA

Hunter Hurst
Pittsburgh, PA

Jo Ann Jones
Houston, TX

Bernard Licarione
Huntsville, TX

Nancy Lick
Reno, NV

Ellen Nimick
Pittsburgh, PA

Betty Osbourne
Birmingham, AL

B. Keith Parkhouse
Jonesboro, GA

Sue Shirley
Austin, TX

M. Gale Smith
Brooktondale, NY

Douglas Thomas
Pittsburgh, PA

M. James Toner
Reno, NV

Sandra Wilson
Monticello, KY

Editorial Review Board

Anthony Guarna
Jerry Hill
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Dan Pompa
Terry Showalter

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Introduction

Are there two more important jobs in any society than the preservation of the community and the care of its young? Civilization cannot endure without strong communities, for community is at the heart of civilization. Nor can civilization be advanced without the development of the young, for they are the hope of the future. In the United States, juvenile probation officers are among those few specifically entrusted by the community with responsibility for its troubled youth as well as the public's safety. This is indeed a calling of the highest order.

This ***Desktop Guide to Good Probation Practice*** was written to improve the capacity of juvenile probation officers to fulfill and administer this trust. It is a guide *for practitioners*, developed *by practitioners*. Its focus is on **client** and **community**. Given the many distractions all professionals in this field experience, this must be its focus, for this is the essence of the endeavor.

An undertaking of this kind could easily become so general and diffuse as to be useless. We have tried to strike a proper balance between the specific details needed for understanding and practice and a general approach that will have relevance given the diversity of juvenile probation practice and philosophy across the country.

To these ends, we have given emphasis as follows. We begin with some observations about the qualities of truly outstanding juvenile probation officers. We hope that these will stimulate further reflection on how to reach the highest possible level of performance. All of us need a sense of where we came from...how we got here. So the history of juvenile probation is deserving of attention and we have set it forth briefly. Probation is a system which is part of a larger legal order. So we have tried to convey a sense of how that legal system actually operates, giving emphasis to the juvenile justice system. Law is very much a part of that system. Therefore, the legal framework for the work of juvenile officers receives some attention. Finally, standards are essential for the development and operation of comprehensive juvenile probation services and we review the standards of several national organizations.

The greatest emphasis of the book, however, is on the job related skills of juvenile probation officers and the decisions they must make. At its core, a probation officer's job is to relate to courts, communities, systems, and, above all, young people and families. We have tried to keep this in focus.

We do not pretend that this is an advanced work for the experienced officer. We do think it will be of great help even to those with experience, because of its comprehensiveness and because its insights are the insights of skilled practitioners.

One final note is in order on how to use this document. The ***Desktop Guide*** is intended to be used as a reference/resource document. It is not intended to be read from cover-to-cover at one sitting! Part 1 provides a general overview of the juvenile justice system and probation's part in it, Part 2 imparts the "good practice" philosophies of many juvenile probation professionals. We would urge you to become familiar with the different sections of the ***Desktop Guide*** so that you can refer to them as needed in the course of your training or daily activities.

A Call to Higher Levels of Professionalism

Juvenile probation officers should have a good command of the information provided in this book. We believe that this material provides a basic foundation upon which committed people can develop into outstanding contributors to the administration of justice and to the welfare of communities and young people.

It is also desirable that juvenile probation officers operate on the highest and most effective level possible. While we believe that there is no magic formula for achieving this level, we do wish to stimulate thought about what constitutes excellence in probation services. As a means to this end, this section is an effort to describe those qualities and approaches that we believe will help even experienced juvenile probation officers focus on the essence of the endeavor and to stimulate all to try to reach an even higher quality of service to clients and communities. The emphasis is on the individual juvenile probation officer, for that person is at the heart of this effort. We believe that what is treated here also has profound implications for how probation officers are trained, for their supervisors, for leaders in corrections and for state policy makers. Excellence is not achieved in isolation, but through carefully forged connections to others who work in the juvenile justice system.

The Overall Mission: Diverse Means to Advance It

The mission of juvenile probation can be stated simply: to assist young people to avoid delinquent behavior and to grow into mature adults and to do so without endangering the community. The unique contribution of good juvenile probation officers is in their use and development of diverse and inventive means to advance this mission.

These means are many and complex. Some relate directly to individuals under supervision, while others are more indirect. For example, helping a young person sometimes requires the resolution of family and community problems and the provision of assistance to people who live "on the edge" due to social, economic and personal stress. So assistance to clients sometimes cannot be provided unless it is part of a broader undertaking. Stronger families and communities, desirable for themselves, are also a means to help individuals who are on probation. The experience of the authors of this ***Desktop Guide*** is that the very best juvenile probation officers may range far and wide as they seek ways to help people in need of help.

Strong, Sustained Commitment to People

Officers operating at the highest level have a strong, sustained commitment to people and to individualizing their treatment. Such commitment usually develops when the officers see clients and their difficulties up close, in human terms. The development of commitment takes time, and good juvenile probation officers are prepared to sustain their involvement with clients. Juvenile probation officers learn about their charges, like most of us learn about others in life, over time. Like all of us, juveniles change, and effective juvenile probation officers take this into account in their work. This permits adjustment and change in objectives and supervision as circumstances, people and possibilities change. Good juvenile probation officers have frequent contacts with their probationers. The most important contacts occur outside the office, giving juvenile probation officers an important perspective on the juveniles and their life circumstances. Juvenile probation officers learn about probationers in many settings and from many people, including families, employers, teachers and police. This learning is often indirect, with stops and starts and doubling back.

Real familiarity with a given probationer will help the probation officer genuinely embrace the objectives of supervision. Juveniles are more apt to change if they believe that such change will improve their lives and that the person who suggests it really knows them. Knowing the juveniles allows individualized supervision which takes into account the many differences that exist in people and situations. The nature of supervision is defined not by the offense or by bureaucratic devices, but by the needs of the offender and the community. In a word, the most effective juvenile probation officers see each probationer as an individual. Those same juvenile probation officers communicate to juveniles that they care about them. This can occur in many ways, sometimes by saying so directly, but often indirectly through the fact that the juvenile probation officer shows sustained interest in them as people.

Family Involvement

Effective juvenile probation officers extensively involve the juveniles' families in the programs for those probationers. This takes two basic forms. Family members often provide information about juveniles and are enlisted to assist in their supervision. In these situations, the family is part of a unit that can provide direct support and help. This is in the interest of the juvenile as well as the family, for it builds a stronger family and it enlists the help of people who care about the youth. However, because a juvenile's problems are often related to the family's problems, the family may become a focal point of the assistance that the juvenile probationer officer provides. In this situation, the family may be part of the problem, but can become part of the solution. This is in the interest of the juvenile and the family, and if it is necessary to help the family in order to help the probationer, the best juvenile probation officers find a way to do it.

Involvement with Community Agencies

Another recurring quality of good juvenile probation officers is that they make extensive use of community agencies in the supervision of juvenile probationers. Agencies traditionally involved include the police, mental health agencies and educational institutions, but the assistance they provide may be unconventional. An officer may rely on a school to provide not only classroom education, but counseling, social development, information and structure around which a life can be organized.

Informal Community Involvement

The development of community strength and harmony is a major objective of committed juvenile probation officers. This objective is particularly important in a small community or neighborhood where no one is anonymous and where there is greater interdependence of community members than in larger communities. Community harmony may also depend upon the offenders' acknowledgement of responsibility to the victims. The juvenile probation program can be used to bolster community strength and harmony by helping to solve community problems that are not directly related to juvenile probationers, such as developing a better mental health system or starting a Little League team. Such assistance to the community is an objective of the juvenile probation program, because it builds a stronger community and enlists the support of community members to assist probationers. It is through the concern exhibited by juvenile probation officers that community members develop a commitment to the juvenile probation program. An officer who helps the community develops a network of individuals who provide information and opportunities that help probationers. This is a community juvenile probation program in the very best sense.

Opportunistic Supervision

Planning as well as individualized, flexible objectives play an important role in the successful supervision of juvenile probationers, but effective supervision also has an "opportunistic" quality. By this, we mean that the effective juvenile probation officer looks for the right time to intervene with the juvenile. This requires confidence and judgment on the part of the juvenile probation officer to avoid "jumping in" too soon or waiting too long before intervening. Also the juvenile probation officer uses every apparent problem, every source of stress, every violation, as an opportunity to induce proper behavior in probationers, or as a catalyst for significant change in their lives. Good juvenile probation officers turn problems into opportunities. In other words, every available aid or "opening" is used to further the objectives of supervision.

Implications of Excellence

The implications of good juvenile probation practice are significant and go beyond the scope of this document. We believe that careful attention and thought should be given to those qualities which lead to excellence in juvenile probation, for it is clear that:

- It is possible to identify those individual qualities and approaches that contribute to a high level of effectiveness for individual juvenile probation officers.
- Many juvenile probation officers have these qualities. Every juvenile probation officer knows others in the profession with these characteristics. A description of them serves as an outline of that to which we should all aspire.
- Effectiveness requires commitment, but it also requires an environment that is supportive if it is to be fully realized. This, in turn, means that an organization and a supervisor can enhance the quality of work by treating juvenile probation officers according to their individual characteristics and qualities. A juvenile probation officer operating at the highest level requires a supervisor who treats each officer as a professional. The supervisor should be a

consultant on cases, provide objectivity and serve as a buffer from bureaucracy which may crush officer initiative.

- Juvenile probation officers are best able to provide excellence in probation services when they work in a probation department environment that includes:
  - a clear mission statement,
  - goals and objectives,
  - a departmental code of ethics for probation officers,
  - written standards that meet requirements for state or national accreditation,
  - written policies and procedures,
  - comprehensive training and continuing education for probation officers, and
  - ongoing program and personnel evaluations.
- Policy makers and leaders should devise systems that provide close supervision to those officers in need of it but gives the most capable among them the freedom to be very good. Too often, systems reduce everyone in them to the lowest common denominator. We need systems that encourage and inspire excellence and innovation.
- The qualities of effective juvenile probation officers described here can be developed in others. Simply describing them helps us recognize them. Those qualities that can be identified should be discussed among officers and interested people to further develop, refine and understand them. New juvenile probation officers should spend time with highly effective ones so that they can see what is possible and the level of excellence to which they should aspire.
- Finally, more research and thinking is needed about the ways effective juvenile probation officers solve problems and what high quality people do. The more that is known about what works, the better our communities, our youth and all of us will be.

> And so the future lies before us. We have established a system [of probation] which has been acknowledged and accepted by both the public and the courts throughout our country... We have experimented long enough to learn the faults in our work. We have the knowledge to make it possible for us to select the type of individual who can successfully treat and help the probationer. ...There remain only those extremely practical problems of making the social treatment of delinquency a profession which will appeal as strongly to the individual with proper qualifications as do the older and better understood professions of the law, medicine, and the arts, and of bringing the compensation for such work to the point where the sacrifices demanded of the worker will at least be no greater than those now demanded in the fields of education and art. Have we the courage to do it? Time only will tell. But certain it is, unless we do, probation work is a thing which will pass, as have many other worthy efforts of society where actual practice did not reach a point which was commensurate with what our knowledge and understanding had promised.
>
> **Henry S. Hulbert**
> Judge, Juvenile Court, Detroit, and President, National Probation Association.
> In **The Child, The Clinic and The Court**. New York: New Republic, Inc., 1925.

A. Historical Perspective

Advent of the Juvenile Justice System

The roots of the movement which culminated in the establishment of the juvenile court in this country can be traced as far back as sixteenth-century Europe and French educational and religious reform movements. These reform movements changed the public view of children from one of "miniature adults" to one of persons whose moral and cognitive capacities were not yet fully developed. This philosophical view resulted in the development of boarding schools with rigid regimens that would form the mentality and morality of the child (Aries, 1962).

In this country, the movement can be directly traced to a Quaker-led reform movement in New York City. One of the first visible achievements of this reform movement was the passage in 1796 of legislation that, for many crimes, replaced punishment by whipping and death with confinement in newly built prisons. In 1823, a component of this movement, the Society for the Prevention of Pauperism in the city of New York focused on the plight of the horde of "dirty, foul-mouthed children who thronged the city streets and subsisted on picking pockets and other crimes." This group's report on the subject of erecting a house of refuge for vagrant and deprived young people declared that the contamination of children by locking them up with mature criminals had been one of the worst consequences of the prison reform (Fox, 1970). The New York legislature responded in 1824 by granting the Society's successor the authority to build a house of refuge for the reformation of juvenile delinquents.

The right of the state to intervene in the life of a child differently from the way it intervenes in the life of an adult was based on the British doctrine of *parens patriae* (parent of the country). The doctrine was interpreted as the inherent power of the king (state) to provide protection for persons who were not of full legal capacity. This chancery jurisdiction was generally applied in cases of child neglect and abuse and on behalf of insane and incompetent persons. The essential element of this application was its emphasis on the welfare of the child, permitting the proper balance of social and economic interests. The chancery court might well have limited its concern to the dependent, neglected, and destitute child. However, in extending chancery principles to delinquent children, the court was following these principles to their logical conclusion because the delinquent child was often dependent, neglected, and destitute and all were in need of the court's benevolent intervention.

As in Europe, the early houses of refuge in New York, Pennsylvania, Massachusetts, and Ohio were founded on principles of education and religion. However, by the 1850s, a new type of institution had developed, as exemplified by rural cottage institutions in Massachusetts and Ohio. Another essential part of the juvenile justice system crystalized at about the same time. John Augustus, a Boston shoemaker, bailed a drunkard out of jail in 1841 and, with the judge's permission, took him into his home in an effort to reform him. While Augustus has been acclaimed for his work with adults, he was also--without question--a juvenile probation officer.

> In 1847, I bailed nineteen boys, from seven to fifteen years of age, and in bailing them it was understood, and agreed by the court, that their cases should be continued from term to term for several months, as a season of probation; thus each month at the calling of the docket, I would appear in court, make my report, and thus the cases would pass on for five or six months. At the expiration of this term, twelve of the boys were brought into court at one time, and the scene formed a striking and highly pleasing contrast with their appearance when first arraigned. The judge expressed much pleasure as well as surprise, at their appearance, and remarked, that the object of law had been accomplished and expressed his cordial approval of my plan to save and reform (Moreland, 1941:5).

The seeds of probation had been planted. In 1869, the Massachusetts legislature provided a model for modern caseworkers by requiring a state agent to be present at any trial that might result in a child's being placed in a reformatory. The agent's tasks were to search for "alternative placements" and to otherwise protect the child's interest, as well as to investigate the case before trial and supervise the court's plan for the child after disposition (Shultz, 1973). In 1878, probation became mandatory statewide in Massachusetts, with salaried probation officers being required for each court jurisdiction. By 1900, Vermont, Rhode Island, New Jersey, New York, Minnesota and Illinois had passed similar laws.

A seven year report (1903-1910) of the Juvenile Court of Marion County (Indianapolis), Indiana, submitted by Judge George W. Stubbs, described the aid rendered by volunteer probation officers as "the very best feature of the work of the Court" (Stubbs, 1910:7). The influence that a probation officer could have was illustrated in the following example:

> Take the case of an average bad boy anywhere from ten to sixteen years of age whose home is the abode of squalor and dirt, vice and degradation, ignorance and poverty of the direst kind and drunkenness on the part of one or both parents; who is kicked and cuffed and whipped; who is cursed and abused and often sent out to steal coal; who is ragged and dirty and who feels himself degraded. Such a boy becomes a truant; he is ashamed to associate with better-dressed children, and he soon becomes a loafer, a young hobo. He becomes convinced that an education is unnecessary and that all work is a nuisance. Of course he soon learns to steal, with the result that he finds his way into the Juvenile Court.
>
> If such a boy be placed under the care of a man of affairs, a man of standing and character in the community, it is like a revelation to him. He sees things in life that are very different from what he has been so painfully familiar with, and in nearly all cases he can be developed into a good citizen.
>
> He is shown how good people live and soon becomes impressed with the fact that there is nothing of any value to him but his good name. He soon learns that his good name is his capital and if he loses it he loses his chance in life (Stubbs, 1910:7-8).

While it is common practice in the literature to attribute the invention of the juvenile court to a sudden burst of inspiration in Cook County (Chicago), Illinois in 1899, parallel evolution was taking place in several states. The practice of trying children altogether separately from adults began in Suffolk County, Massachusetts, in 1870. The practice became statewide in 1872. In 1892, New York developed a similar statute, followed quickly by Indiana and Rhode Island (Sussman and Baum, 1968). Nevertheless, it is generally accepted that the Juvenile Court Act passsed by the Illinois legislature in 1899 was the first such enactment to be acknowledged as a model statute by other states and countries (Platt, 1969).

Between 1900 and 1910, an additional thirty-two states passed legislation establishing juvenile probation services. Almost without exception, the legislation establishing juvenile probation services was drafted in concert with legislation establishing juvenile courts, and in most states, the courts were designated the appointing and supervising body for juvenile probation services with county government as the funding authority. By 1930, the juvenile probation system had been legislatively authorized in every state except Wyoming. By comparison there were still fifteen states without legislatively-authorized adult probation at that point in time (Hurst, 1990).

The definition of delinquency was broadened shortly after the passage of Illinois' Juvenile Court Act to "embrace both the list of peculiarly juvenile offenses, such as frequenting places where any gaming devise was operated," and the apparently all-encompassing "status offenses" of incorrigibility and growing up in idleness or crime. In 1907 the list was again broadened to include "running away from home, loitering and using profanity." These acts defined the characteristics of juvenile justice. Discrimination between behavior defined as criminal for everyone, adult or child, and behavior seen as inappropriate only for children was not believed to be necessary. Crime by juveniles was not seen as crime in the sense that it was for adults, but as evidence of *delinquency*. Juvenile errors and omissions were not to be held against an offender in later life. The court's task was not to punish juvenile crime but to guide delinquents toward a responsible and productive adulthood.

It must be noted that, at the time these decisions were made over eighty years ago, attempts to regulate conduct closely were not limited to minors. Many criminal codes penalized a wide range of adult behaviors, such as telling fortunes, gambling, begging, being lewd, disorderly or dissolute, wandering about the streets late at night without any lawful business, sleeping in a barn without the owner's permission, etc. (Session Laws of the State of Washington, 1909). The important distinction between juvenile justice and the treatment accorded adults is that juveniles, denied due process guarantees, were subject to the "protection" of the court in the form of institutionalization or some equally extreme measure, regardless of whether they had actually committed a crime (Platt, 1969).

In a fascinating article entitled "The Family and Delinquency," LaMar Empey reviews the history of childhood and the juvenile court and examines the theories that shaped juvenile justice policy over the next seventy years. In the following quote, he encapsulates this examination and, with amazing speed, transports us to the seventies:

> In the 19th century Americans were convinced that family depravity was at the root of delinquent behavior. That is why they constructed asylums and reformatories in an attempt to

replicate the functions of the family and why they invented the juvenile court to act in lieu of parents.

In the first third of this century biological and Freudian theories more than reinforced these beliefs....Then, from the 1930s through the 1960s, a variety of theorists insisted that delinquency could not be understood without attention to a host of extrafamilial factors. Delinquency must be viewed as an understandable response to these conditions [poverty, discrimination, inequality and the demoralization that follows]. Peer groups and youth subcultures encourage delinquency because it makes sense, either as a means of gaining status or as a means of pursuing success illegitimately.

...Finally, in the 1970s, the role of the family was reemphasized. But even then, it was not seen as an exclusive cause of lawbreaking. Rather...the result of failures in the socialization process which, while beginning in the family, also took place in the school and other youth serving institutions (Empey, 1985: 26-27).

Recent History

Juvenile probation professionals entered the 1950s certain in the knowledge that manageable caseloads, new facilities and full staffing of trained probation officers would completely control juvenile delinquency. The profession came out of the decade, though, smarting from the criticism of a subcommittee of the U.S. Senate Committee on the Judiciary that had spent five years studying juvenile delinquency and laying the foundation for the Juvenile Delinquency and Youth Offenses Control Act of 1961 (Hurst, 1990). The authors of that legislation were sufficiently impressed with the social theories currently in vogue to make provisions to fund virtually every kind of community effort to prevent and control delinquency--except juvenile probation.

The juvenile court also came under attack by outsiders for failing to meet its promises. During the sixties, civil libertarians found powerful allies on the Supreme Court and the canons of procedural due process were turned first on the criminal justice system and, when it had been blasted into constitutional submission, upon the juvenile courts (Hutzler, 1982:28). Beginning with the *Kent* decision in 1966, *Gault* in 1967, and *Winship* in 1969, the Supreme Court denounced the informality of juvenile proceedings and demanded that juvenile courts consider a defendant's rights, due process and constitutional safeguards in the finding of facts. (See Section B for more detail on these and other decisions.)

Simultaneously, Congress passed the Juvenile Delinquency Prevention and Control Act of 1968 in response to President Lyndon Johnson's "war against crime" and the recommendations of the Katzenbach Commission on Law Enforcement and Administration of Justice in 1967. That Act made specific provision for financial assistance to courts and correctional systems to treat and control juvenile delinquency. It also recommended that children who were charged with noncriminal (status) offenses be screened out of the court system. The U.S. Department of Health, Education and Welfare (HEW) spent four years developing the national strategy for this legislation, but never got around to requesting an appropriation that could be used to support services in the states (Hurst, 1990).

Congress responded to the inadequacies of the Juvenile Delinquency Prevention and Control Act of 1968, and its administration in HEW, by passing the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974. The JJDP Act created the Office of Juvenile Justice and Delinquency Prevention, charged with administering the Act and established it within the U.S. Department of Justice. The major provisions of the JJDP Act focused on deinstitutionalization of status offenders and nonoffenders, and separation of incarcerated juveniles from adults. (The 1980 Amendments to the JJDP Act added the jail removal mandate). For states to receive their share of federal funds under the JJDP Act, they were required to comply with these requirements. Other major purposes of the JJDP Act were delinquency prevention, development of community-based alternatives to the juvenile justice system and improvements in the juvenile justice system.

According to Maloney, Romig and Armstrong (1988) in their monograph "Juvenile Probation: The Balanced Approach," the swinging pendulum of social thought that shaped juvenile justice policy in the late 1960s and early 1970s was marked by liberals in the profession reacting to the perceived shortcomings and failures of the court in committing large numbers of juveniles to institutions, for indefinite periods of time, in the name of treatment. The response was a shift in corrections policy in favor of community-based programming and the closing of juvenile training schools in some states. This push led to a substantial de-emphasis of procedures and activities related to concerns for offender accountability and community protection. Proponents of this philosophy wanted to decriminalize, deinstitutionalize and divert youth from the juvenile justice system.

In response to criticism that the movement was soft on crime and a perception that serious crime by juveniles was increasing, the pendulum was beginning to swing to the side of law-and-order and harsher sanctions by the 1980s. State legislatures responded by passing reforms that permitted automatic waiver/transfer to criminal court jurisdiction and mandatory sentencing. In describing these changes, Hutzler (1982) suggests that some of these legislative responses were designed to remove certain offenders from the "protection" of the juvenile system and to deal with them as *criminals in criminal court*. Other legislative approaches, however, altered the basic principles of the juvenile justice system, requiring the juvenile court to adopt criminal justice policies and to treat certain offenders as criminal *within the juvenile justice system*. Some observers noted that treatment and rehabilitation, judicial discretion and individualized justice were dismissed in favor of a *just deserts* philosophy that included a mechanical, mass handling of juvenile offenders, defined primarily in terms of legal categories (Maloney, et al., 1988).

The U.S. Supreme Court, as if on cue, authorized preventive detention in *Schall v. Martin* (1984) and approved the death penalty for 16 year old offenders in the case of *Wilkins v. Missouri* (1989). However, this august body began to show some ambivalence about mechanically imposing sanctions for law violators when it stopped short of authorizing the death penalty for 15 year olds in the case of *Thompson v. Oklahoma* (1988). In the case of Wilkins, the court made it clear that if Missouri had not provided for an "individualized case assessment" prior to waiving Wilkins' case to criminal court, the death penalty would not have been upheld. (See section B for a more detailed discussion of these cases.)

It appears that the philosophical pendulum has begun to swing back to a middle ground as a result of efforts being mounted by experienced and committed juvenile court and probation practitioners. Part II of this ***Desktop Guide*** describes the critical areas of practice for the juvenile probation profession towards the goal of adopting a more "balanced approach" to case processing. Such an approach acknowledges the potential value in any case of applying, to some degree, an entire set of principles -- community protection, accountability, competency development and/or treatment, and individualized assessment and classification. In describing the balanced approach concept, Maloney, et al., (1988) suggest that although the particular circumstances of the delinquent act, the offender's culpability and other social/psychological factors of the youth will all play a determining role in exactly how the system will respond, a policy decision to consider the possible relevance of each principle in each case is a significant step forward to avoid imposing the rather extreme remedies characterizing both ends of the pendulum's swing. No one is in a better position to try and test that policy shift than the juvenile probation profession. As Hurst suggests:

> After all, courts of juvenile and family jurisdiction remain institutions of hope, and juvenile probation is still a primary means by which that optimism is actualized. The court is a forum which assumes that children are capable of growing, developing, and changing, and that this growth and development can be directed toward social conformance by well-trained juvenile probation officers (Hurst, 1990:19).

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B. Legal Rights of Juvenile Offenders

Major Supreme Court Decisions

Transfer to criminal (adult) court; representation by attorney; access to juvenile records

Kent v. United States
383 U.S. 541, 86 S.Ct. 1045, 16 L.Ed. 84 (1966)

Morris Kent had his first contact with the juvenile court in 1959 at age 15 and was on probation to the District of Columbia Juvenile Court in September of 1961. On September 2, 1961, in a D.C. residence, there was a breaking and entering, theft and rape. Latent prints were found at the scene of the crime and a search of records revealed that the prints matched those of Kent. On September 5, 1961 he was taken into custody by the police and interrogated. He was 16 at the time. Kent was questioned for several hours, then taken to the Receiving Home for Children. The next morning the police picked him up again and interrogated him until 5 p.m. His parents did not find out about the custody until September 6th and an attorney was hired at 2 p.m. on that day. The attorney gave notice that the proposed transfer of the case to criminal court would be opposed, hired a psychiatrist, and made a formal request for Kent's juvenile records. The juvenile court made no ruling on the attorney's motions and held a court hearing. Apparently, some of Kent's records were examined and Kent was transferred to adult court. There were no findings recorded with the transfer. Subsequently in adult court, Kent was convicted of all charges.

With the decision in this case, the U. S. Supreme Court reversed a sixty-seven year practice of what has been characterized as the "hands off" period of the juvenile justice system. From 1899, when the first statewide juvenile court system was enacted in Illinois for Cook County, until the Kent decision, the juvenile court system, which was designed to rehabilitate rather than punish, had no guidance from the highest court. The Kent case was the first look taken by the Court at the system as it was functioning, and the Court did not like what it saw. After discussing the objectives of the juvenile court system and comparing the juvenile and adult systems, Justice Fortas writing for the majority, stated:

> There is evidence, in fact, that there may be grounds for concern that the child receives the worst of both worlds; that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children.

The Court, in declaring that the transfer of Kent to the adult court system was invalid, dealt with four major problems with the procedure followed by the juvenile court: lack of a hearing, lack of effective assistance of counsel, access to records, and lack of a statement of reasons for the transfer. Considering that a transfer from juvenile to criminal court is critically important, it was determined that the juvenile court had exclusive jurisdiction to consider this matter, and that it must be guided by the essentials of due process and fair play. A meaningful review of the proposed transfer must include a full investigation, not merely assumptions as the basis for transfer. In line with this, an attorney representing the child was considered vital, the Court stating that the juvenile court judge had no justification for failing to rule on the attorney's motions. Further, attorney access to records of the child was essential, particularly since the Court referred to them in making its transfer decision.

Even with these objections, the decision by the Court was very close; five justices voted that the transfer was invalid, but four voted to sustain the transfer. One possible reason for this was the fact that by the time the Court considered the matter, Kent was 21 years old and out of the jurisdiction of the juvenile court, and his conviction would be vacated, freeing Kent. Nevertheless, legality prevailed over the informality of juvenile justice, as administered in this case.

Adjudication hearing: notice of charges; right to counsel; rights of confrontation at hearing

In re Gault
387 U.S. 1, 87 S.Ct. 1428, 18 L.Ed. 527 (1967)

The following year, the Supreme Court decided a more significant case arising out of Arizona. On June 8, 1964, when Gerald Frances Gault was 15 years old, he was arrested and taken to Children's Detention Home in Gila County, Arizona, on the basis of a verbal complaint from a female neighbor alleging

Gault made an indecent telephone call. Upon his being taken into custody, no notice was given to his parents, who found out later that he was in the detention facility. The next day, the juvenile court held a hearing using a petition filed and signed by the probation officer alleging only that Gault needed the protection of the juvenile court. There was no notice to the parents, and they were not furnished with a copy of the petition. Gault was not given a copy of the petition. There was no lawyer present representing Gault and no testimony from the neighbor, who was not even present; the only testimony was that of the juvenile probation officer who had one telephone conversation with the neighbor. There was no record of the proceedings. Gault was questioned and responded, although recollections of his testimony varied. At the end of the hearing, Gault was returned to the detention facility. He was released to his parents June 11th or 12th, although no reason was given as to why he was kept in detention or why he was released. Another hearing was held June 15th. Still there was no lawyer for Gault, no complainant present, and no record. At the end of this hearing, Gault was found to be delinquent and was committed to the State Training School until age 21, unless earlier released. In Arizona at that time, no appeal was permitted in juvenile cases.

Again, the Court determined that in three specific areas the juvenile court failed to provide the child with the essentials of due process and fair play required in the Kent case. The first of these areas related to notice of charges. Despite the fact that the juvenile court judge stated that Mrs. Gault knew what the charges were and that the parents attended two hearings without objection, the Supreme Court stated that this was not sufficient for "due process." Notice must be given, in writing, sufficiently in advance of the hearing to permit the child and his parents to be prepared. Also, the notice must state what the charges are, with sufficient particularity, so that they know what is being charged and what conduct is alleged to have taken place. The second of these areas related to the right to counsel. To the argument that the parents and the probation officer could be relied upon to protect the child's interests, it was pointed out that neither might have legal knowledge. It was also pointed out that both the probation officer, who is required to be a court officer, and the parents, who might have their own defense, may not be able to represent the child and the child only. In any situation in which a child's liberty might be affected by commitment to an institution, "due process" requires that they be notified of the child's right to be represented by an attorney, either hired by him or appointed by the court. Finally, it was determined that there are certain other rights which are so basic to a fair hearing that they should be extended to juvenile proceedings, such as the right to confront those accusing one of improper conduct, the right to avoid self-incrimination, and the right to cross-examine any witness who appears in a matter against a child.

These and other "due process" rights were familiar to the adult criminal system; however, this was the first time they were transposed to the juvenile system. Again, the U. S. Supreme Court was very close to deciding the other way, with four justices out of nine dissenting. The concern of these four was best expressed by Justice Harlan who wrote:

> [I]t should not be forgotten that juvenile crime and juvenile courts are both now under earnest study throughout the country. I very much fear that this Court, by imposing these rigid procedural requirements, may inadvertently have served to discourage these efforts to find more satisfactory solutions for the problems of juvenile crime, and may hamper enlightened development of the systems of juvenile courts.

Note that the *Gault* case is limited to the adjudication hearing and some pre-adjudication procedures. It specifically states that none of the "due process" or "fundamental fairness" standards are made applicable to the disposition phase. Concerns about the inability to tailor treatment to the individual child are not affected. In the determination of whether or not the facts alleged in the complaint are true, the test is fundamental fairness and is to be applied objectively. Once that determination is made, evaluation and disposition still remains subject to the doctrine of *parens patriae* and is to be applied subjectively, so that each child is dealt with individually.

Standard of proof: beyond a reasonable doubt

In re Winship
397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970)

This case was initially decided one year after *Gault*. A 12 year old allegedly stole $112 from a pocketbook in New York in 1967. At that time, New York required the same standard of proof in juvenile proceedings as in civil cases: proof by a preponderance of the evidence. Preponderance of the evidence means more than fifty percent of the evidence. Obviously, there could be decisions made by preponderance that would be very close. In criminal cases, proof is required to be beyond a reasonable doubt. This means that the evidence, taken as a whole, tends to exclude every other reasonable explanation, except

as charged, with moral certainty. This case presented the question of which standard of proof would be required in juvenile court; or to put it in the terminology of the court, whether proof beyond a reasonable doubt is among the essentials of due process and fair treatment required during the adjudicatory stage when a juvenile is charged with an act which would constitute a crime if committed by an adult. The Supreme Court held that proof beyond a reasonable doubt *was* required.

Again, the Supreme Court applied constitutional due process standards and required the juvenile court to conform. Three Justices dissented, stating that it is not the purpose of the court to make the juvenile system a mini-criminal court.

No right to trial by jury

McKeiver v. Pennsylvania
403 U.S. 528, 91 S.Ct. 1976, 29 L.Ed.2d 647 (1971)

In this case, Joseph McKeiver, 16, was charged in juvenile court with delinquency based on conduct amounting to robbery, larceny and receiving stolen property. Through his attorney, he requested a jury trial in juvenile court, and properly preserved this request for consideration by the high court. His request was denied, and another Pennsylvania case and several North Carolina cases also involving jury requests were consolidated for hearing by the Supreme Court. In ruling that a jury is not constitutionally required in juvenile court, the Court seemed to be seeking some middle ground between the adult and juvenile systems. It was specifically stated in this case that all adult criminal rights are not being imposed on the juvenile system. Because it was believed that judges could determine the facts as well as a jury, the Court refused to impose more substantial changes in juvenile court procedure.

Double jeopardy: juvenile adjudication equated to criminal conviction

Breed v. Jones
421 U.S. 519, 95 S.Ct. 1779, 44 L.Ed.2d 346 (1975)

At age 17, Jones committed robbery with a deadly weapon in Los Angeles, California. He was detained the next day. In due course, the juvenile court held a hearing and adjudicated him delinquent. After adjudication, but before disposition, the juvenile court found him to be unamenable to treatment in the juvenile system. He was, therefore, transferred to adult criminal court, where he was found guilty of robbery and sentenced to the penitentiary. The conviction was challenged on the ground of double jeopardy.

Jeopardy denotes risk, typically associated with criminal prosecution. Double jeopardy has generally been defined as being put at risk of the same peril twice. To be tried in state criminal court for an action, then subjected to state civil court for the same action is not double jeopardy because the risk is not the same. Similarly, to be tried in state criminal court for an act is not generally a bar to being tried in federal court for the same act, as state and federal laws are separate and distinct. The Supreme Court decided that this case violated double jeopardy provisions of the Constitution when it pointed out that jeopardy attached when the juvenile court started hearing evidence on the delinquency petition. After that point, a criminal prosecution based on the same act would be double jeopardy. In addition, the Supreme Court concluded that for the purposes of the fifth amendment prohibition against double jeopardy, "in terms of potential consequences, there is little to distinguish an adjudicatory hearing such as was held in this case from a traditional criminal proceeding" (421 U.S. at 531).

Consider how strongly the U.S. Supreme Court felt about this issue: the opinion was 9-0. There was no dissent. Further, Jones, like Gault, was 21 at the time the Court considered the case. The Court recognized that vacating the judgment set him free, because he was beyond the jurisdiction of the juvenile court.

No double jeopardy: de novo hearing or supplemental findings by judge after trial before a master

Swisher v. Brady
438 U.S. 204, 98 S.Ct. 2699, 57 L.Ed.2d 705 (1978)

This case grew out of delinquency cases heard by masters in Maryland in 1974 and 1975. Children whose cases were tried before masters objected to the state procedure for providing for de novo, or new, hearings before the juvenile court judge, or supplemental findings to those of the master by the juvenile court judge. The objections were based solely on the grounds of double jeopardy. Refer to the discussion of the previous case about this term.

Perhaps because of the usefulness of masters and the increasing caseloads of judges, this procedure was found not to violate due process and fundamental fairness standards discussed earlier. The Supreme Court said that to the extent that the juvenile court judge makes supplemental findings in a manner

permitted by Rule 911 - either *sua sponte*, in response to the State's exceptions or in response to the juvenile's exceptions, and either on the record or in a record supplemented by evidence to which the parties raise no objection - he/she does so without violating the constraints of the Double Jeopardy Clause of the U.S. Constitution.

Presence of probation officer not required for continuation of police interrogation

Fare v. Michael C.
442 U.S. 707, 99 S.Ct. 2560, 61 L.Ed.2d 197 (1979)

Sixteen year old Michael C. was implicated in the murder of Robert Yeager during a robbery. Police in Van Nuys, California picked him up on February 4, 1976 and questioned him. Before any questions, he was told his full Miranda rights. Before the questioning started, Michael asked for, not a lawyer, but his juvenile probation officer. The probation officer was not called, and the police continued to question Michael. During the questioning, Michael incriminated himself, and this incrimination was later used in the adjudication. The question raised by this case is whether asking for a probation officer is the same as asking for a lawyer, so that questioning cannot continue.

In another 5-4 decision, the Supreme Court ruled that the request did not require the police to stop the interrogation. While the juvenile probation officer did hold a position of trust with the child being questioned, he was not in a position to offer effective legal advice like a lawyer. The dissenting opinions take the position that when a child being interrogated by the police asks for an adult who is obligated to protect his interests, he is invoking the protection promised in Miranda v. Arizona.

Preventive pre-trial detention of juveniles; "fundamental fairness" standard of due process clause

Schall v. Martin
467 U.S. 253, 104 S.Ct. 2403, 81 L.Ed.2d 207 (1984)

Gregory Martin was arrested in 1977 and charged with first-degree robbery, second-degree assault and criminal possession of a weapon based on an incident in which he, with two others, allegedly hit a youth on the head with a loaded gun and stole his jacket and sneakers. Because he lied to the police about where and with whom he lived, he was detained overnight.

The family court judge, based on the possession of the loaded weapon, the false address given to the police and the lateness of the hour ordered Martin into preventive pre-trial detention. While he was still in preventive detention pending his fact-finding hearing, Martin instituted a *habeas corpus* class action on behalf of "those persons who are, or during the pendency of this action, will be preventively detained" pursuant to the New York Family Court Act section under which he was detained. The class action sought a declaratory judgment that the statute violated the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the U.S. Constitution. The New York district court certified the class action. On the basis of the evidence presented, the district court rejected the equal protection challenge, but agreed that pre-trial detention under the Family Court Act violated due process. The New York Court of Appeals affirmed.

The statute in question in this case permitted a brief pre-trial detention based on a finding of a "serious risk" that an arrested juvenile may commit a crime before his return date. The U.S. Supreme Court addressed two issues:

1. Does preventive detention under the New York statute serve a legitimate state objective?
2. Are the procedural safeguards contained in New York's Family Court Act adequate to authorize the pre-trial detention of at least some juveniles charged with crimes?

As to the first issue, the Supreme Court decided that society has a legitimate interest in protecting a juvenile from the consequences of his criminal activity. It also noted that, at the time of its decision (1984), every state as well as the District of Columbia permitted preventive detention of juveniles accused of crime.

As to the second issue, the Court stated that "due process requires that a pre-trial detainee not be punished." The Court found several procedural safeguards in the New York statute:

- there was no indication in the statute itself that preventive detention is used or intended as a punishment;
- the detention was strictly limited in time;
- detained juveniles are entitled to an expedited fact-finding hearing; and
- the conditions of confinement appeared to reflect the regulatory purposes relied upon by the State.

In deciding the second issue, the Supreme Court held that New York's Family Court Act provides far more pre-trial detention protection for juveniles than constitutionally required for a probable cause determination for adults. Notice, a hearing, and a statement of facts and reasons are to be given prior to any detention under the statute. A formal probable cause hearing is held within a short while thereafter, if the fact-finding hearing is not scheduled within three days.

Given the regulatory purpose for the detention and the procedural protections that preceded its imposition, the Court concluded that the New York statute permitting preventive pre-trial detention for a juvenile is valid under the Due Process Clause of the Fourteenth Amendment.

A three member dissent argued that the Court should strike down New York's preventive detention statute on two grounds: first, because the preventive detention of juveniles constitutes poor public policy, with the balance of harm outweighing any positive benefits either to society or to the juveniles themselves, and, second, because the statute could have been better drafted to improve the quality of the decision making process.

Death penalty; juveniles under 16; cruel and unusual punishment

Thompson v. Oklahoma
487 U.S. ____, 101 L.Ed.2d 702, 108 S.Ct. 2687 (1988)

William Wayne Thompson, age 15, along with three older persons, actively participated in the brutal murder of his former brother-in-law in the early morning hours of January 23, 1983. After a hearing, the court concluded "that there are virtually no reasonable prospects for rehabilitation of William Wayne Thompson within the juvenile system and that he should be held accountable for his acts as if he were an adult and should be certified to stand trial as an adult." At the penalty phase of the trial, the prosecutor asked the jury to find two aggravating circumstances: that the murder was especially heinous, atrocious, or cruel; and that there was a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society. The jury found the first, but not the second, and fixed Thompson's punishment at death. The U.S. Supreme Court agreed to consider whether the execution of the death sentence would violate the constitutional prohibition against the infliction of "cruel and unusual punishments" because Thompson was only 15 years old at the time of his offense.

The Court decided that contemporary standards of decency confirm their judgment that such a young person is not capable of acting with the degree of culpability that can justify the death penalty. In order to reach its conclusion, the court first reviewed relevant legislative enactments. The Court found complete or near unanimity among all fifty-one jurisdictions in treating a person under 16 as a minor for several important purposes: voting, serving on a jury, driving without parental consent and marrying without parental consent. In those states that have legislated on the subject, no one under age 16 may purchase pornography and in most states that have some form of legalized gambling, minors are not permitted to participate without parental consent. The Court found it most relevant that all states have enacted legislation extending juvenile court jurisdiction to no less than the 16th birthday. Of the 18 states that have expressly established a minimum age in their death-penalty statutes, the Court found that all of them require that the defendant have attained at least the age of 16 at the time of the capital offense.

The second factor the Court examined in determining the acceptability of capital punishment to the American public is the behavior of juries. The Court found that during the past four decades, in which thousands of juries have tried murder cases, the imposition of the death penalty on a 15-year-old offender was abhorrent to the conscience of the community.

In deciding whether it would be "cruel and unusual" to execute William Wayne Thompson, in particular, the Court came to several conclusions. The reasons why juveniles are not trusted with the privileges and responsibilities of an adult also explain why their irresponsible conduct is not as morally reprehensible as that of an adult. The death penalty is said to serve two principal social purposes: retribution and deterrence of capital crimes by prospective offenders. The Court decided neither of these purposes would be fulfilled by executing a 15-year-old. Given the lesser culpability of the juvenile offender, the teenager's capacity for growth and society's fiduciary obligations to its children, retribution is simply inapplicable to the execution of a 15-year-old offender. As for the deterrence rationale, the likelihood that the teenage offender has made the kind of cost-benefit analysis that attaches any weight to the possibility of execution is so remote as to be nonexistent.

The court was asked to "draw a line" that would prohibit the execution of any person who was under the age of 18 at the time of the offense, and refused to do it. It did, however, conclude that the Eighth and Fourteenth Amendments prohibit the execution of a

person who was under 16 years of age at the time of his or her offense.

Four justices joined in this plurality opinion. One justice concurred in the judgment. Three justices dissented. The concurrence concluded that Thompson and others who were below the age of 16 at the time of their offense may not be executed under the authority of a capital punishment statute that specifies no minimum age at which the commission of a capital crime can lead to the offender's execution. The dissent argued that there is no rational basis for discerning that no one so much as a day under 16 can ever be mature and morally responsible to deserve the death penalty.

Death penalty; juveniles 16 or 17; not cruel and unusual punishment

Stanford v. Kentucky
492 U.S. ____, 106 L.Ed.2d 306, 109 S.Ct. 2969 (1989)

This decision was rendered on consideration of two consolidated cases. In the first case, Kevin Stanford and an accomplice repeatedly raped and sodomized a female gas station attendant during and after their commission of a robbery at the gas station. They then drove her to a secluded area, where Stanford shot her point-blank in the face and then in the back of her head. Stanford committed this murder when he was approximately 17 years and 4 months of age. Stanford was waived to criminal court where he was convicted of murder, first-degree sodomy, first-degree robbery and receiving stolen property. He was sentenced to death and 45 years in prison.

In the second case, Heath Wilkins, of Missouri, stabbed to death a 26-year-old mother of two who was working behind the sales counter of a convenience store. The record reflects that Wilkins' plan was to rob the store and murder "whoever was behind the counter" because "a dead person can't talk." Wilkins was approximately 16 years and 6 months of age when he committed this murder. He was waived to criminal court where he was convicted of first-degree murder, armed criminal action and carrying a concealed weapon. A punishment hearing was held, at which both the State and Wilkins himself urged imposition of the death sentence. The trial court determined that the death penalty was appropriate.

The U.S. Supreme Court discerned neither a historical nor a modern societal consensus forbidding the imposition of capital punishment on any person who murders at 16 or 17 years of age. They concluded that such punishment does not offend the Eighth Amendment's prohibition against cruel and unusual punishment. Therefore, it affirmed the judgments of the State Supreme Courts. A concurring opinion concluded that the death sentences should not be set aside because it is sufficiently clear that no national consensus forbids imposing capital punishment on 16- or 17-year-old murderers.

Four justices joined in a dissent, stating they believed that to take the life of a person as punishment for a crime committed when below the age of 18 is cruel and unusual and thus prohibited by the Eighth Amendment. The dissent concluded that the death penalty for those under 18 makes no measurable contribution to the acceptable goals of punishment. It argued that the execution of juvenile offenders contributes neither to the goal of deterrence nor retribution, essentially for the same reasons given in *Thompson v. Oklahoma.*

Probation Caselaw: Setting Conditions and Probation Revocations

Probationary Conditions

One of the most important tasks of the juvenile probation officer is to assist the court in fashioning just and effective dispositions. Properly crafted conditions of probation may safely control the behavior of even the most serious juvenile delinquents before the court. Poorly thought out and fashioned conditions may actually undermine the potential of probation to keep the juvenile out of further trouble. Probationary conditions are the building blocks of a probationary program. Specific conditions are what make the probation fit the individual and what he has done. They detail what the probationer must do to make up for the delinquent acts and to improve behavior, while at the same time guaranteeing the public safety. For these reasons, it is important that all juvenile probation officers understand the basic premises of caselaw defining permissible probation conditions.

There are two kinds of probationary conditions: mandatory and discretionary. They may be specified by statute or left to the imagination and creative impulses of the court and the juvenile probation officers on which it relies.

Mandatory Conditions

Most states' laws provide for relatively few mandatory conditions of juvenile probation. All, however, provide: 1) that probationers may not

commit a new delinquent act, either local, state or federal; 2) that probationers must report, as directed, to their probation officer; and 3) that probationers must obey all court orders. Some states add mandatory probation fees which must be paid by the juvenile. There are also mandatory conditions pursuant to specific acts. For example, drunk drivers, in order to prevent license loss, are often required to enter and complete alcohol education and treatment programs.

Discretionary Conditions

State statutes may provide a "laundry list" of various discretionary conditions from which the court may choose. The New Jersey Juvenile Statutes 2A:4A-4B provides a detailed example. It allows the court to place a child on probation, on the condition that the juvenile, among other things:

- pays a fine;
- makes restitution;
- performs community service;
- participates in a work program;
- participates in programs emphasizing self-reliance, such as intensive outdoor programs teaching survival skills, including but not limited to camping, hiking and other appropriate activities;
- participates in a program of academic or vocational education or counseling which may require attendance after school, evenings and weekends;
- be placed in a suitable residential or nonresidential program for the treatment of alcohol or narcotic abuse;
- be placed in a nonresidential program operated by a public or private agency, providing intensive services to juveniles for specified hours, which may include education, counseling to the juvenile and the juvenile's family if appropriate, vocational counseling, work or other services;
- be placed with any private group home (with which the Department of Correction has entered into a purchase of service contract).

The New Jersey statute also allows the court to impose conditions on the juvenile's parents. While only a dozen states have such statutes, some jurisdictions have reached the same conclusion by court decision, ruling that juvenile court judges may make such parental orders enforceable through their inherent authority to hold nonconforming parties in contempt. The New Jersey statutory language allows the court to order the juvenile's parents or guardians to participate in appropriate programs or services when the court has found either that such person's omission or conduct was a significant contributing factor toward the commission of the delinquent act, or, under its authority to enforce the litigants' rights, that such person's omission or conduct has been a significant contributing factor towards the ineffective implementation of a court order previously entered in relation to the juvenile.

The New Jersey laws also provide for detention of the juvenile for up to 60 days in addition to the community-based probation, and, like an increasing number of other states, allows the judge to revoke the juvenile's driving license as an additional condition of probation.

Other statutes may list additional specific alternatives. However, with one or two exceptions, these other state laws add the same general condition as does New Jersey: The court may "order that the juvenile satisfy any other conditions reasonably related to the rehabilitation of the juvenile." This means that the juvenile probation officers are not restricted in their recommendations to the court, nor is the court limited to imposing only those conditions enumerated in the jurisdiction's statutes.

Standard Conditions

Generally, most departments maintain a set of standard conditions for the specific state, county or court jurisdiction. These are usually a combination of those conditions mandated by law and those discretionary conditions the jurisdiction has decided to uniformly impose. Most departments maintain their own standard Conditions of Probation forms. These forms usually leave blank lines for additional discretionary conditions to be included as ordered by the court. The general principles described here are applied consistently throughout the country and reflect the current state of caselaw.

Setting Conditions

Conditions Must be Do-Able

In addition to being reasonably related to the offense, the offender's rehabilitation or the community's protection, probation conditions must be doable. For example, a borderline retarded juvenile

probationer can not be ordered to maintain satisfactory grades at school.[1]

Conditions Must Not Unreasonably Restrict Constitutional Rights

While conditions may proscribe a juvenile's constitutionally protected rights, they must do so as conservatively and narrowly as possible while still achieving the desired goal of rehabilitation or crime prevention.

Conditions Must Be Consistent with Law and Public Policy

Proposed conditions cannot go against public policy or preempt existing specific statutes or contradict their intent. Generally, for example, appellate courts have not approved of the imposition of fines as a condition of juvenile probation. Fines are punitive and the statutory purpose of juvenile probation is generally stated to be rehabilitative. Therefore, fines are seen as inconsistent with juvenile probation law.[2] However, these same appellate courts have ruled that the juvenile court may not impose fines but may order equally hefty or heftier restitution orders. Restitution, the courts reason, is not punitive, but rehabilitative and, therefore, consistent with juvenile probation policy and law. Notwithstanding this ruling, many courts do recognize that, while not "primarily punitive," juvenile probation has an "inherent stigma," and restrictions upon the freedom of the probationer have a "realistically punitive quality."[3]

In a separate decision, the Maryland appellate court has upheld a 1,000 hour community work service order despite a section of its juvenile statute limiting the ordering of community work service to 20 hours for first offenders and 40 for second. While this decision would seem to go against the principle defined in this section, the appellate court ruled that another section of the same juvenile code allowed the judge to impose reasonable conditions to promote the goals of probation. Pursuant to that section of the law, the court found the order of 1,000 hours of community service to be lawful.[4]

Juvenile probation officers must be mindful of the general premise underlying the disposition of juvenile cases in assessing the consistency of their probationary recommendations with public policy. That premise is that the juvenile court should choose the least restrictive alternative.[5] This same policy should prevail in choosing specific conditions of probation. Note, however, that juvenile courts need not choose the least restrictive alternative if the disposition is the result of a probation revocation.[6]

Conditions Must Be Specific and Understandable

Conditions must be intelligible and understood by the probationer. Typically, in the old days, standard conditions included such prohibitions as "refrain from associating with persons of bad character." Such conditions have generally been ruled to be too vague to be enforceable.

Notice of Conditions to Probationer

Once probationary orders are made by the court, they must generally be committed to writing and given to the probationer.[7] Obviously, if the juvenile is unable to read, simply writing the conditions is not enough. The juvenile probation officer must be careful to explain them thoroughly and clearly to the juvenile and his parents or guardians to insure that the child understands his obligations.

Probation Revocations

If the probationer violates any condition of probation, the probation officer may send him notice to appear in court or arrest him and bring him to court for a hearing. The hearing is generally called a "revocation hearing," but because the probation officer is surrendering the probationer to the court for a violation of probation, the hearing is sometimes referred to as a "surrender hearing" or a "violation hearing."

Case Law for Revocation

A Michigan appellate court has ruled that the juvenile revocation hearing "requires only that a certain procedural format be followed ... the hearing is conducted only to determine whether the probation has

1 In Re Robert M., 163 Cal. App. 3d 812, 209 Cal. Rptr. 657 (1985).

2 State in Interest of M.L. 317 A.2d 65, 64 N.J. 438 (1974).

3 State in Interest of D.G.W., 361 A.2d 513, 70 NJ 488 (1976).

4 In re Shannon, 483 A.2d 363 (Md. App. 1984).

5 State ex rel. R. S. Trent, 289 SE2d 166 (W. Va. 1982); In Interest of W.E.G., 342 NW2d 900 (Iowa App. 1983); State in Interest of Bellow, 461 So. 2d 1127 (La. App. 1984); State v. Myers, 22 NW2d 199 (N.D. 1946); Matter of Welfare L.K.W., 372 NW2d 392 (Minn. App. 1985).

6 Matter of Bakley, 328 SE2d 831 (N.C. App. 1985).

7 Mass. Gen. Law, ch.276 Subs. 85.

been violated; the hearing does not result in a conviction of the underlying crime." That court concluded: "We find that only a dispositional hearing was required before revoking appellant's probation; furthermore, we find that such a procedure is not violative of appellant's due process rights."[8]

Despite the fact that the revocation hearing is not as formal as a new trial, the juvenile is still afforded limited rights of confrontation and protection against the undue use of hearsay evidence against him. For example, a Texas appeals court ruled that a juvenile's probation could be revoked for the juvenile's truancy; however, where the revocation was based on the unsworn testimony of the child's probation officer, where the juvenile was given no opportunity to review any written data, reports or records from which the probation officer testified, and where no opportunity was given the juvenile to rebut the testimony, the juvenile was not given the essentials of due process and fair treatment.[9]

Hearsay evidence, however, may be admissible in revocation hearings; also there is no privilege in the juvenile's communications with the probation officer.[10]

Sentencing Probation Violators

Once a violation of probation has been found, the court must decide what to do. The court has the same discretion it had when the juvenile was originally adjudicated delinquent. It may simply admonish the juvenile and maintain the current probation, it may modify the probation conditions or it may revoke the probation and commit the juvenile in accordance with the law.

Bringing a case forward after a violation has occurred should be considered part of the supervision process. It can be a tool to insure adherence to behavioral norms required of the juvenile. It is not uncommon for probation violations to occur, therefore, it need not be seen as a "defeat" or admission of failure on either the probationer or probation officer's part. Therefore, the probation officer's recommendations should not, and need not be, all or nothing. The probation officer should recommend just what is needed to produce the juvenile's compliance with his probation and no more. An order of community work service or a curfew restriction, for example, may be enough to convince the juvenile that probation is serious. Long term commitments may not be necessary for the first or second violation. Some jurisdictions have developed short, "shock" detention for first or less serious violations. For example, Hennepin County in Minnesota has a program of weekend detention for probation violators called "Quick Stop."

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8 Matter of Scruggs, 350 NW2d 916 (Mich. App. 1984).

9 Matter of J.B.S., 696 SW2d 223 (Tex. App. 1985).

10 Matter of L.J.M., 473 NE2d 637 (Ind. App. 1985).

C. Legal Liability Issues for Juvenile Probation Officers

Overview and History

In earlier times, lawsuits against juvenile probation officers were not of great concern because they were relatively rare. But that has all changed. The dramatic rise in lawsuits against juvenile probation officers has many explanations, not the least being the powers vested in the juvenile probation officer to arrest, detain or otherwise restrict the freedom of juvenile offenders. In this section we will look at the suits themselves as well as responses to them.

Historically, most suits brought against probation officers were tort actions in state court. A tort is a *civil* wrong, compared to a crime which is a *criminal* wrong. Three conditions must exist for a tort to be proven.

First, it must be shown that the defendant *owed a duty* or had a legal obligation to the plaintiff. "Defendant" and "Plaintiff" are the names used in civil litigation to refer to the person who is alleged to have injured another, and the person who is alleged to have been injured. This duty or obligation can exist by virtue of law, custom or even by the relationship of the parties. Thus, common carriers (airline, bus, taxi, etc.) owe a duty to their passengers to transport them safely. Banks owe a duty to their depositors to keep their funds safe and to account for the banking transactions accurately, and juvenile probation officers owe a duty to their probationers as well as to the community to enforce the terms of probation properly.

Second, it must be shown that the defendant *breached the duty* or the legal obligation owed to the plaintiff. This means that if the defendant owed a duty to refrain from a certain act or to take some type of action, the plaintiff must show that the defendant acted improperly or failed or refused to take the action. If the defendant took action but it was the wrong action, this would be called *misfeasance*; if the defendant took the action required but did it in the wrong way, it would be called *malfeasance*. *Nonfeasance* would be the term for a situation in which the defendant, being required to take some action, did nothing. For example, if a probation officer, having a responsibility to maintain the confidentiality of juvenile case matter, published those names, he has breached a duty owed to the probationer.

Finally, in order for a tort to be recognized, it must be shown that the plaintiff suffered some damage as a direct or *proximate consequence* of the breach of duty of the defendant. Proximate causation injects a reasonable limitation upon one's liability to others by stipulating that a defendant is responsible to the plaintiff only for damages *proximately* caused by defendant's action (or inaction). A rock hitting the water sends ripples in ever widening circles limited only by the shore, as the consequences of one's actions spread outward. In some sense, every action can be said to have some effect on subsequent actions even though the reaction may be quite remote. No matter how *direct*, sufficiently remote consequences of an act will not result in liability; the courts make an assessment of what is sufficiently remote, sometimes in terms of forseeability. There also must be no other traceable cause of the resulting damage, an *intervening* cause, which would prevent legal liability from being charged to the first actor. Thus a taxi owner is charged with a duty of care toward a passenger, but may not be responsible for the passenger's injury if the cab was being driven safely and a driver of another automobile violated a safety rule and ran into the cab. Even though there was a direct connection between the passenger taking a cab and the injury, a sufficient intervening cause legally separates the cab owner from liability for the injury.

It can readily be seen that a tort lawsuit is not the simplest court action to maintain. Those who felt they had been wronged by public officers in the course of their employment had no other effective choice, until 1961. During that year, the U. S. Supreme Court decided the case of Monroe v. Pape[1] which expanded the protections of a federal law, Title 42, Section 1983 (passed in 1871), to the violation of the civil rights of criminals. Ever since that time, such suits have become known as Section 1983 cases, now numbering hundreds of times more than state tort actions.

Title 42, Section 1983, United States Code provides:

> Every person who, under color of any statute, ordinance, regulation, custom or usage of any State or Territory, subjects, or causes to be subjected, any citizen of the United States, or any other persons within the jurisdiction thereof

[1] 365 U.S. 167, 81 S.CT. 473, 5 L.Ed.2d 462 (1961).

to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in action at law, suit in equity, or other proper proceeding for redress.

Section 1983 and the U.S. Constitution established the duty or legal obligation and applies to all persons. There is no need to establish proximate causation. Section 1983 suits may be brought in federal as well as state courts. Since another section of Title 42, Section 1988, permits the court to award attorney's fees if any part of the Section 1983 action is successful, attorneys prefer to use Section 1983 as a basis for suits against public officers.

There are two essential elements of Section 1983 actions which every juvenile probation officer should know. First, the conduct complained of must be taken under "color of law." This means that the source of the defendant's conduct must be some rule of federal or state law, or some custom, regulation or practice of a state or federal agency. It cannot be based upon an official's individual initiative. Second, the conduct complained of must result in a violation of a constitutionally or federally protected right. While the defendant's action can be based on state or federal law, custom, etc., the *effect* of that action must be a violation of a lawful right. If a probation officer enforces a condition of probation which prevents a probationer from driving, this does not qualify to support a Section 1983 action, because driving an automobile is not a federally protected right.

So far, this discussion has been directed towards the responsibility of public officials for their own actions or inactions. Before moving on to immunities and defenses, one other concept must be considered: that one also may be liable for another's actions or inactions. In legal terms, this is *vicarious liability*, and any one who supervises or directs others in an agency is subject to this potential liability. Vicarious liability is a doctrine that establishes the proposition that a supervisor may be just as liable to an injured person as the one who injures him, if the injury can be traced to something the supervisor did or failed to do. This applies in instances where the supervisor fails to take appropriate action. One of the most rapidly growing bases for Section 1983 actions is "failure to train." That is, an action against the supervisor for failure to train a subordinate which results in injury to another. In addition to failure to train, causes of action can be based on failure to supervise properly, negligent hiring, negligent retention of a subordinate, and other instances of not taking appropriate action. If the supervisor directed, authorized or ratified the action causing injury, he might be included in a resulting Section 1983 action even though the actual activity was the responsibility of a subordinate.

Immunities and Defenses

By virtue of their position and activities, probation officers may be open to frequent lawsuits, but this is no justification to reduce contact with probationers (potential plaintiffs) and from threatening situations because to do such would risk a suit based on failure to act. This would also prevent officers from doing their essential job, which leads surely to job dissatisfaction, burn out, disciplinary action or even termination. It is very difficult to feel good about what one is doing and to have great satisfaction in one's profession if every function is accomplished in a defensive posture, looking for a potential lawsuit from everyone with whom the officer comes in contact. One of the most important messages in this book is this: The best way to minimize the threat of lawsuits is also the best way to be most satisfied with the juvenile probation profession and to obtain the highest job satisfaction. This requires a further explanation.

When one continuously looks over one's shoulder, one cannot keep a close watch ahead. This is appropriate in the situation regarding potential lawsuits against you as a juvenile probation officer. Such activity leads to a sore neck and a distorted point of view, and performing one's duties defensively with a constant fear of suit leads inevitably to poor performance and low self-esteem. The message that should be obtained from this section is that the threat of lawsuits is least when you function in a proactive manner, using sound principles and attempting the greatest amount of reintegration of clients into society and at the same time providing the greatest protection to the community. As immunities from and defenses to suits are discussed, keep in mind this proposition, which is basically that the closer one comes to reaching the general goal of good probation, the less likely suit will be filed and the less likely suit, if filed, will be successful.

Immunities and defenses are very different concepts even though the intent of each is essentially the same. The doctrine of immunity from suit says that the legal action, if filed, will not succeed. A defense, in an existing lawsuit, may be asserted as legal justification for the actions or failure to act of the defendant, therefore preventing recovery by the plaintiff. Each of these doctrines may be used in one suit; however, each should be discussed separately. Let us look first at immunities.

Mention has been made earlier of sovereign immunity. The Constitution of the United States, upon

which all our laws are based, provides that all powers not given to the federal government are reserved to the states. At the time of adoption of our constitutional form of government, the several states were entities unto themselves and they insured that such authority which was not given up by each state to the federal government would be kept by each state. One of those authorities was the power of the individual state not to be sued in its own court of law. This is called sovereign immunity, and prevents a state from being named as a defendant in a civil suit. Some states have by legislation waived this immunity in part and other states have provided boards through which proper claims against the state can be handled. While this doctrine may protect your state (or state agency), it does not protect the individual or local governmental agencies. Please refer to the earlier discussion of Section 1983 actions.

Immunity which does relate to the individual is called official immunity, or immunity based upon the nature of the work done as a public official. Official immunity comes in three variations and each of the three deserves some study, even though only two might be used by juvenile probation officers.

One type of immunity is called *absolute immunity* and is enjoyed by judges, legislators and prosecutors, although for the purposes of this discussion, it is only the judicial immunity that will be considered. The term *absolute* is somewhat misleading. A judge is absolutely immune from suit for judicial or adjudicatory acts, but not immune at all for administrative acts. In addition, the judge might be ordered to pay fees and costs in some cases. Since juvenile probation officers might enjoy the same kind of immunity when performing judicial functions or when operating under the direction of the judge, they should understand these limitations on judicial immunity. Judges of general jurisdiction are qualified to make judicial determinations in any area and are absolutely immune from damages based upon the issuance of such findings and orders. Judges of limited jurisdiction are qualified to make judicial determinations in only certain areas and are absolutely immune from damages upon the issuance of findings and orders in those areas. Judges of limited jurisdiction are not immune when making judicial determinations outside their jurisdiction, and neither limited nor general jurisdiction judges are immune when functioning in an administrative rather than a judicial role. It should be noted that many of the orders issued by juvenile court judges to probation officers are issued in the judges' administrative capacity rather than the judge acting on case-specific orders; therefore, even if the judge was one of general jurisdiction, neither the order nor the person following or acting under it would be entitled to judicial immunity.

Even when a judge is functioning in a judicial capacity (or in a jurisdictional area, if a limited jurisdiction judge) a judge is not immune from injunctive relief, only from damages. And when injunctive relief is obtained against the judge, he is not immune from the payment of costs of court or fees for the attorney for the prevailing party. In Section 1983 cases, this last statement takes on great significance. Many such cases do not involve substantial financial losses or great damage but involve matters which might be called more insulting or degrading than damaging. Further, the best solution is generally to prevent similar occurrences by injunctive relief and to pay for the costs of trial (attorneys fees and costs). It is not unusual for damages to run under a thousand dollars and attorneys fees to run in excess of one hundred times that amount for the same case. While the doctrine of judicial immunity is still important in the abstract, reality dictates that this may not provide the anticipated protection to the court. Judges who rely on it alone, and juvenile probation officers who rely on it to protect them in some of their functions, may be saddened in an actual case to find that the protection was an illusion.

Another type of immunity is called *quasi-judicial immunity* and is enjoyed by probation officers when performing some judicial functions and some functions under direct judicial order. The prefix *quasi* in this context means taking on the appearance of, or resembling, a judicial act but being performed by an administrative official. Therefore, as was briefly noted above, a juvenile probation officer might enjoy this immunity while performing a judicial act or acting directly under orders from the judge. Even though the immunity might be the *same* as judicial immunity it is no greater than that immunity. If the judge would be immune, the probation officer would also and to the same extent. For administrative acts, however, there is no judicial and no quasi-judicial immunity. If the judge would be subject to injunction, so would the probation officer; and if the judge would have to pay attorney's fees, so would the juvenile probation officer.

The final type of immunity to be discussed here is *qualified immunity* meaning that officers are immune only if they acted in good faith. This is the defense which applies to some public officials, including juvenile probation officers, to shield against potential liability from lawsuits based on the nature of the work such public officials do. Not all official action is based on the same premise, and not all official action relies on the same immunity. In order to focus on the immunity and defenses available, a consideration of different official actions is called for. In this case, such action can be broken down into discretionary and

ministerial acts. Ministerial or delegated acts are those which are generally *directed* to be done - directed by policy or superiors, for example. Discretionary acts are those requiring the actor to exercise judgment, and to choose one decision or another based upon experience, values and emotions. With this in mind, let us consider the case of Harlow v. Fitzgerald, 457 U. S. 800 (1982).

The Harlow case, while not related to the juvenile justice system, will nevertheless have great impact upon it. Ernest Fitzgerald was an employee of the Air Force until dismissed in late 1969 for "blowing the whistle," according to Fitzgerald, on financial misdealing of the military. Fitzgerald alleged that he was the subject of a conspiracy to violate his constitutional rights and that Bryce Harlow (Aide and Counselor to the President) and Alexander Butterfield were conspirators along with the President. The respondents claimed absolute immunity along with the President from discovery proceedings as well as damages. While denying absolute immunity for Harlow and Butterfield, the U. S. Supreme Court granted them qualified immunity and held as follows:

> We therefore hold that government officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. (457 U.S. at 818).

At another place in the decision another important statement is made:

> ...qualified immunity would be defeated if an official *knew or reasonably should have known* that the action he took within his sphere of official responsibility would violate the constitutional rights of the (plaintiff), *or* if he took the action *with the malicious intention* to cause a deprivation of constitutional rights or other injury....(457 U.S. at 816).

The court pointed out in a footnote that the decision applied only to civil damage claims and not to injunctive relief. That is, a civil suit might result in change to certain actions or policies even though the government official might not be held liable in damages to the person injured because of the official nature of the action. This is true whether the act complained of was discretionary or ministerial. Note that official actions taken in good faith will be generally supported by the courts. For the juvenile probation officer there are several important matters here.

Good faith actions probably require little explanation. Juvenile probation officers are professional. They are educated and motivated and enter into the field knowing that a certain level of commitment is expected. Conduct which can be reasonably expected to violate statutory or constitutional rights is not acceptable. In situations in which the probation officer is required to act and such action does not knowingly impact on clearly established rights, qualified immunity should prevent recovery of damages by one whose rights were infringed by the actions.

By implication, two other lessons should be learned. One is that juvenile probation officers cannot be deliberately indifferent to improper actions requested of them simply because they do not have the authority to change them. Liability can be avoided by notifying superiors or those who control the budget of the problem and by not taking further action which is known to be in violation of another's rights. The second lesson is to make a paper trail so that avoidance of liability does not depend upon proof of actions by oral testimony alone. The notice in the first lesson, for instance, should be by letter or letters which may later be used to establish the good faith of the writer. Documentation, while time consuming, is a modern day fact of professional life, which should be made a habit early.

D. Juvenile Law (State Specific)

Every state and the federal courts have their own juvenile code which specifically defines what constitutes a delinquent act, how these acts are processed in the court, the specific rights entitled by each party and so on.

Statutes, enacted by state legislatures or in federal jurisdictions by the U.S. Congress, constitute general rules. How they are interpreted and actually implemented result from both customary practice and court rulings which form each jurisdiction's caselaw.

Therefore, in addition to being familiar with juvenile law, practitioners should acquaint themselves with relevant caselaw regarding these statutes. Relevant, specific caselaw can be found in annotated state or federal law books that present the jurisdiction's general laws or codes.

Insert state juvenile code as well as relevant court rules and case law in this section.

For a national perspective of juvenile code provisions concerning age of jurisdiction and juvenile code purpose clauses, see the Appendix.

Appendix

Main Focus of Juvenile Code Purpose Clauses

1. Interest of the child and the public:
   ID, IL, KS, LA, ME, MD, MS, MO, NE, NV, NM, NH, NC, ND, OH, OR, RI, TN, TX, UT, VT

2. Interest of the child:
   AR, CO, GA, HI, MA, NY, WV

3. Interest of the family, the child and the public:
   KY, MT, NJ, PA, VA

4. Prevention of the child's problems; strengthening of the family:
   SC

5. Protection of the public and interest of the child:
   CA

6. Public safety and individual responsibility:
   MN

7. Public safety and individual accountability:
   WA

8. Public interest and family:
   DE

9. Protect society through rehabilitation; also prevention by speedy information handling of minor:
   FL

Source: Statutes Analysis of the Automated Juvenile Law Archive, January 1989, National Center for Juvenile Justice.

Upper Age of Juvenile Court Jurisdiction

Note: The ages listed below indicate the oldest the child can be and still appear in juvenile court. For example, in Connecticut, a fifteen-year old child would appear in juvenile court and a sixteen year old child would appear in adult court for the same offense.

Age 15	Age 16	Age 17		Age 18
Connecticut[1]	Georgia[5]	Alabama	Montana	Wyoming
New York[2]	Illinois[6]	Alaska	Nebraska*	
North Carolina[3]	Louisiana[7]	Arizona	Nevada	
	Massachusetts[8]	Arkansas	New Hampshire	
	Missouri	California	New Jersey	
	South Carolina[9]	Colorado	New Mexico	
	Texas	Delaware	North Dakota	
		Dist. Columbia	Ohio	
		Florida	Oklahoma	
		Hawaii	Oregon	
		Idaho	Pennsylvania	
		Indiana	Rhode Island	
		Iowa	South Dakota	
		Kansas	Tennessee	
		Kentucky	Utah	
		Maine	Vermont[4*]	
		Maryland	Virginia	
		Michigan	Washington	
		Minnesota	West Virginia	
		Mississippi	Wisconsin	

EXCEPTIONS: If a different upper age of juvenile court jurisdiction is indicated for a certain class of juveniles (e.g. - neglected, abused) within the state, this age is noted below.

1 17 - abused, dependent, neglected, "uncared for"

2 15 - males in need of supervision
17 - females in need of supervision

3 17 - neglected, abused, dependent

4 17 - child in need of care or supervision

5 17 - deprived

6 17 - neglected or abused minor; dependent

7 17 - abused or neglected

8 15 - truant or disobedient at school

9 17 - dependent or neglected

* State's attorney has option to file in either juvenile or criminal court

Source: Statutes Analysis of the Automated Juvenile Law Archive, September 1989, National Center for Juvenile Justice.

Extended Age of Jurisdiction

18	19	20	21		25
Massachusetts	Alaska[3]	Michigan	Alabama	Nevada	California[6]
Missouri[1]	Florida	North Dakota	Colorado	Pennsylvania	
North Carolina	New Hampshire	Oregon	Dist. of Columbia	Rhode Island	
Texas	Oklahoma	West Virginia	Georgia	South Carolina	
Arkansas[2]	Minnesota		Idaho	South Dakota	
			Illinois[4]	Tennessee	
			Indiana	Utah	
			Louisiana	Vermont	
			Maine[5]	Virginia	
			Maryland	Washington	
			Missouri		
			Montana		

[1] For commitment to Department of Mental Health; child can be held longer pursuant to express court order after a hearing.

[2] Juvenile Courts shall have jurisdiction beyond 18 and may sentence delinquent to probation for not more than one year beyond date of sentencing; Juvenile Court has no authority to commit juvenile after 18th birthday.

[3] Department of Health & Social Services may apply for and court may grant an additional one year period of supervision past age 19 if continued supervision is in best interests of person and person consents.

[4] For minor adjudged an Habitual Juvenile Offender.

[5] For commitment to Department of Corrections.

[6] Court may retain jurisdiction for commission of certain offenses until person reaches 25 if committed to Department of Youth Authority or mental health facility (can get early release from mental health facility if person's sanity is restored).

Source: Statutes Analysis of the Automated Juvenile Law Archive, March 1989, National Center for Juvenile Justice.

Youngest Age at Which Juvenile May Be Transferred to Criminal Court by Judicial Waiver

Note #1: Many judicial waiver statutes also specify specific offenses that are waivable. This chart lists the states by the youngest age for which judicial waiver may be sought without regard to offense.

Note #2: In many states, several ages are listed and tied to specific offenses. This chart lists only the youngest of these ages.

No Specific Age	10	12	13	14	15	16	No Waiver
Alaska	Vermont	Montana	Georgia	Alabama	Dist. of Columbia	California	Nebraska
Arizona			Illinois	Colorado	Louisiana	Hawaii	New York
Arkansas			Mississippi	Connecticut	Michigan	Kansas	
Delaware				Idaho	New Mexico	Nevada	
Florida				Iowa	Ohio	Rhode Island	
Indiana				Massachusetts	Oregon	Washington	
Kentucky				Minnesota	Texas	Wisconsin	
Maine				Missouri	Virginia		
Maryland				North Carolina			
New Hampshire				North Dakota			
New Jersey				Pennsylvania			
Oklahoma				Tennessee			
South Carolina				Utah			
South Dakota							
West Virginia							
Wyoming							

Source: Statutes Analysis of the Automated Juvenile Law Archive, September 1989, National Center for Juvenile Justice.

E. Juvenile Justice System Case Processing: Philosophy and Standards

Introduction

The purposes of this section are to familiarize the new juvenile probation officer with case processing stages and key decisions that are made as a juvenile's case proceeds through the system, and to underscore differences in philosophical orientations in making these decisions. Generally, case processing includes the following stages: arrest, intake, adjudication and disposition hearings, court-ordered service/placement, case review, and case closure. Case processing decisions are made on the basis of the delinquent act, characteristics of the juvenile, the circumstances surrounding the case or some combination of all three, depending upon the prevailing philosophy that governs the system's response to juvenile misbehavior.

Case processing is not simply shuffling paper or children through the system. It is the essence of the juvenile justice system and should involve making rational decisions based on the special status of children. However, decisions are also based on the fact that the system can not handle all of the cases brought to its attention, so that case processing is also the mechanism by which cases are diverted from the system. Early in the process, professionals make decisions that affect a juvenile's further penetration into the system (i.e., a juvenile may be diverted out of the system, transferred or waived to adult court, or scheduled for a hearing). During the later stages, if the juvenile is found to have committed a delinquent offense, professionals make decisions affecting the severity, conditions and length of the court-ordered disposition.

Within the context of law, court rules and department policy, professionals are allowed considerable discretion in making case processing decisions. However, the philosophy that guides those laws and policies has not been constant. Since the advent of the juvenile court, case processing responses to juvenile misbehavior have been shaped by the prevailing philosophy of the moment. In essence, the goals of the system have shifted back and forth between the philosophies of *just deserts* or *treatment*, depending on whether it was desirable to "get tough" with kids or individually assess their needs.

The significance of the differences between these philosophies is important in understanding the controversy that exists surrounding case processing options. On the one hand, the *just deserts* option focuses on the act and the history of prior delinquent conduct; on the other, the *treatment* (or *parens patriae*) view focuses on the act, the juvenile and the circumstances. The first option requires a legalistic, highly-structured decision making process; the latter calls for substantial discretion by the professional. By law, both must occur within the context of fundamental fairness or due process.

As a juvenile probation officer, you are affected by these debates, especially when they result in legislation or policies that affect your job. Nevertheless, you still retain considerable discretion. This section will, we hope, provide a frame of reference from which to examine your decision making because, in making decisions, you are in essence stating your position.

Throughout this section, we repeatedly reference the following standards documents and laws, referred to as follows:

NAC - *Standards for the Administration of Juvenile Justice*, Report of the National Advisory Committee for Juvenile Justice and Delinquency Prevention, July, 1980.

IJA/ABA - *Juvenile Justice Standards Series*, Institute of Judicial Administration/ American Bar Association, 1980.

Commission - *Standards for Law Enforcement Agencies*, The Law Enforcement Agency Accreditation Program, The Commission on Accreditation for Law Enforcement Agencies, January, 1989.

ACA Standards - *Manual of Standards for Juvenile Probation and Aftercare Services*, Commission on Accreditation for Corrections, 2nd ed., 1983.

NDAA - *Prosecution Standard 19.2 Juvenile Delinquency*, National District Attorneys Association, 1989.

JJDP Act - *The Juvenile Justice and Delinquency Prevention Act* of 1974, as amended.

HEW - *Intake Screening Guides*, Department of Health, Education, and Welfare, 1975. (Olson and Shepard, authors).

Task Force - *Juvenile Justice and Delinquency Prevention, Report of the Task Force on Juvenile Justice and Delinquency Prevention*, National Advisory Committee on Criminal Justice Standards and Goals, 1976.

CPOC - *Probation Standards*, Chief Probation Officers of California, 1980.

Final Report - *President's Task Force of Victims of Crime*, Department of Justice, 1982.

This chapter outlines the recommendations of various standard-setting groups. These standards were written and published during the 1970s and 1980s by such organizations as the American Bar Association, American Correctional Association, and the National Advisory Committee on Juvenile Justice and Delinquency Prevention in response to United States Supreme Court decisions regarding juvenile court cases.

However, none of these standards have been adopted by legislation or imposed upon any probation department by court order. There are no universally accepted probation standards because there is more than one way to provide probation services that observe the legal rights of minors and meet the needs for rehabilitation and public safety. In addition, because none of these national standards were written by probation organizations, they do not necessarily reflect good probation practice. Nevertheless, standards are essential for the development and operation of comprehensive juvenile probation services. The standards cited here reflect a range of decision making options as well as philosophical orientations. As juvenile probation officers, you should have a frame of reference from which to examine your decision making.

The Chief Probation Officers of California (CPOC) became concerned about the proliferation of probation standards by organizations outside the field of probation. In 1980, CPOC published its own probation standards which included not only a survey of the literature on probation standards but, also, the best thoughts and experience of practitioners in probation. Some of the CPOC's standards are cited here.

Arrest

By law, any person, including a juvenile, may be taken into custody if apprehended during the commission of a crime or, if after an investigation, there is reason to believe that a crime was committed. In addition, law enforcement personnel are empowered by statute to take into "protective custody" juveniles who are alleged to be status offenders, that is, those beyond the reasonable control of their parents, truant, or runaways, also referred to as persons/children/juveniles in need of supervision/service (PINS, CHINS, JINS). Protective custody also extends to children who have allegedly been abused or neglected by their parents. This section will distinguish between the first two categories: delinquents and status offenders.

Frequently a police contact will not result in further penetration into the juvenile justice system. For example, of the juveniles actually arrested because of an alleged delinquent act, approximately one-third are either counseled and released or referred to community services (FBI, 1989). In addition, police officers use pre-arrest discretion in handling much juvenile problem behavior on the street without any formal action being taken. As such, law enforcement officers exercise an enormous amount of discretion and play a vital role in diverting youth from the formal juvenile justice system.

Most state statutes explicitly direct police officers to release to a parent or refer to court those juveniles who are taken into custody. In practice, police officer dispositions can include outright release, warning, referral to community agency for services, referral to a "citizen hearing board" or referral to court intake.

Because of the unique procedural aspects of the juvenile justice system and the special needs and problems of youth, all standards groups recommend that police departments establish a juvenile unit or at least designate an officer to handle juvenile matters. In addition, police departments usually develop written rules and guidelines governing the use of discretion in custody (arrest), detention and referral decisions by police officers. Guidelines help ensure that police handling of juveniles is not based on the officer's values, working conditions or other factors that may lead to arbitrary decisions.

Guidelines generally reflect the attitude and philosophy of the police department's chief and prevailing community standards and should be developed according to current federal and state laws, juvenile codes, and current practices of the local juvenile court. Oftentimes police discretion is limited by type of crime; for example, diverting all cases involving nonserious offenses, but referring to intake

all cases involving a person offense. Juvenile police officers should be encouraged to learn the philosophy and procedures of the local juvenile court and be aware of the purpose of juvenile probation and the role and function of probation staff. The same holds true for probation officers learning local law enforcement procedures. Appropriate police referrals to juvenile court will occur more often in communities where probation officers and police officers communicate shared concerns.

Police Decisions to Refer to Intake/Release/Divert

As to status offenders, the National Advisory Committee for Juvenile Justice and Delinquency Prevention (NAC) recommends the following guidelines in determining whether the referral to court best serves the interests of the juvenile, the family, and the community: whether there is probable cause to believe the juvenile court has jurisdiction *and* whether a complaint has already been filed; the seriousness of the alleged misconduct and the circumstances in which it occurred; the nature and number of prior contacts with police and court; the outcome of those contacts; and the availability of appropriate services outside the juvenile justice system. The standard recommends that juveniles should not be referred to the intake unit solely because they deny the allegations or because the complainant insists (NAC, 2.222).

As to delinquents, the NAC recommends the same guidelines for delinquent referrals in addition to consideration of the juvenile's age and maturity and the distinction that *seriousness* refers to the extent of harm caused to others rather than to such factors as length of time away from home. The Institute for Judicial Administration/American Bar Association (IJA/ABA) standards, which advocate juvenile court jurisdiction over only serious juvenile crime, suggest that police administrators should consider limiting the discretion of officers in diverting juvenile suspects arrested for serious crimes. The commentary includes the findings from a survey by the International Association of Chiefs of Police that recommended the following factors be taken into consideration in any decision to divert juvenile first offenders at the pretrial stage: the crime must not be considered to be a major one such as murder, armed robbery, forcible rape or aggravated assault; there should be no evidence of dangerous offenses against the person; the degree of criminal sophistication should be considered, such as the use of burglary tools, premeditation, and the use of a weapon or strong-arm tactics; and the desire of the victim or complainant to prosecute must be respected (IJA/ABA Police Handling, 3.1).

Law enforcement standards promulgated by the Commission on Accreditation for Law Enforcement Agencies (Commission) mandate that departments of all sizes write a directive that includes the following factors to be considered in diversion decisions: the nature of the alleged offense; the age and circumstance of the alleged offender; the alleged offender's record; and the availability of community-based rehabilitation programs (Commission, 44.2.1). They recommend that a written directive be established for procedures relating to release or adjustment decisions (Commission, 44.2.3).

The Commission also mandates that all police departments establish criteria that restrict referral to intake to those cases involving serious criminal conduct or repeated criminal violations. In general, delinquent acts requiring referral include all delinquent acts that if committed by an adult would be felonies, involve weapons, are serious gang-related delinquent acts, involve aggravated assault and battery, are committed by juveniles on probation or parole or by those with a case pending, and where there was a previous delinquent act within the past 12 months. Other cases that may require referral include those selected for a diversion program but have refused to participate and cases in which it has been determined that parental supervision is not effective (Commission, 44.2.4).

Finally, the National Center for Juvenile Justice established program development guidelines for police diversion programs and listed the following criteria for diversion decisions:

1. The offense can be dealt with through the use of police discretion;
2. The matter is not serious enough to justify prosecution and evidence is not sufficient to support prosecution;
3. The offender does not deny the allegation;
4. The victim voluntarily accepts disposition of the matter through diversion;
5. The offender and his parent or custodian voluntarily accepts diversion;
6. The needs and interests of society, the offender, and the victim can be better served through diversion than through the implementation of the full court process; and
7. Trial and conviction may cause undue harm to the offender and/or the victim (Hurst, 1977).

Procedure Following Release or Diversion

Both the NAC and the IJA/ABA standards recommend that, following a decision not to refer to intake, juveniles should be released without condition or ongoing supervision. This release does not negate a voluntary referral to a community agency. It does infer that police should not provide any type of informal probation or any other direct service under threat of being referred to intake if the juvenile does not cooperate (NAC, 2.241; IJA/ABA Police Handling 2.4).

Police Investigation

Both the NAC and IJA/ABA standards agree that juveniles should receive the same safeguards as adults during police investigations. Essentially three sets of requirements should be guaranteed: Miranda-type warnings; a *per se* rule that no statement made by a juvenile be admissible unless the statement was made in the presence of a parent, a "friendly adult" or the youth's attorney; and the assurance that the juvenile fully understands the matters explained and that any statements are voluntary (NAC, 2.247; IJA/ABA Police Handling, 3.2). The Commission recommends that directives include provisions for conferring with parents, limits on the duration of interrogation and the number of officers engaging in the interrogation, and the requirement that police agency and juvenile justice system procedures be explained (Commission, 44.2.8).

Responsibilities of Police Officers in Requesting Secure Detention of a Youth

The initial detention of an alleged juvenile offender is an intake decision, not a police decision. Here, local police departments should be aware of the court's philosophy and procedures concerning the types of offenders who should be considered for detention. The IJA/ABA standards on interim status recommend that police officers inform the juvenile of his rights, notify responsible adults during the period between arrest and presentation of the juvenile to the detention facility, record the initial status decision if arresting officer does not release the juvenile within two hours, notify intake of relevant factors concerning the juvenile and the arrest, and transport the juvenile to detention center intake within two to four hours of arrest (IJA/ABA Interim Status, 5.3). Standard 5.5 of that volume recommends that the observations and recommendations of the police concerning the appropriate interim status for the juvenile should be solicited by the intake officer but should not be determinative of the juvenile's interim status.

Juvenile Court Intake

Intake is one of the most crucial case processing points in the juvenile justice system. It is at this stage that two decisions are made: whether to process the case formally through the court system and, often, whether to approve secure detention prior to a detention hearing. At intake a minor offender may be diverted from the juvenile justice system, but intake must also be concerned with the protection of the community and the arrangement for accountability of the offender. Intake officers are under constant pressure from police, attorneys, prosecutors, parents, courts, administrators, standard-setting bodies, funding sources and advocacy groups because virtually every intake decision has the potential of making someone angry (Arthur D. Little, Inc., 1979).

Intake varies considerably in practice, statutory authority and organizational structure. The authority for making intake decisions rests with probation (either executive branch or court-related) or the district attorney. Generally, in smaller counties, the probation officer doubles as the intake worker; in larger jurisdictions, a special intake unit provides the service. The individual responsible for making intake decisions has significant discretion, the limits of which should be set by law and policy guidelines.

Deciding Whether to Process the Case Formally

Two tasks are involved in deciding whether to process the case formally: screening the police complaint for legal sufficiency and making an intake disposition. The first determination relies exclusively on legal factors and is conducted by way of a paper review. The second relies on both social and legal factors and is conducted by way of interviews with the juvenile, his parents, the victim, etc.

Review for Legal Sufficiency

Standard-setting groups concur that every complaint that police refer to intake alleging a delinquent act should first be reviewed for legal sufficiency. The intake officer must examine the facts contained in the police complaint to determine whether the allegations are sufficient to bring the matter before the jurisdiction of the juvenile court. In other words, it must be determined whether the conduct alleged in the complaint took place within the court's geographical jurisdiction, whether the conduct falls within the juvenile court's subject matter jurisdiction, and that the youth is not older than the juvenile court's upper age of jurisdiction. The National District Attorneys Association Prosecution Standard 19.2, Juvenile

Delinquency Section B, (NDAA) defines a legally sufficient case as one in which the prosecutor believes that he can reasonably substantiate the charges against the juvenile by admissible evidence at trial. This charging process requires early determination as to whether the facts alleged are supportable by evidence which constitutes prima facie evidence that a delinquent act was committed and that the act was committed by the accused juvenile.[1]

If it is determined that the facts as alleged are not sufficient, the complaint should be dismissed. If the facts are unclear, the complaint should be returned to the police for further investigation or to the prosecutor's office for determination. The Department of Health, Education and Welfare's Intake Screening Guides (HEW) recommend that intake units not accept complaints requiring further investigation to determine if a juvenile comes within the purview of the juvenile court because placing such responsibility on the intake officer puts them in an adversary position and because intake officers are not generally qualified to make such investigations (HEW, 1975:29).

All standard-setting groups recommend that the legal sufficiency decision be made within 24 hours after receipt from the police if the juvenile is in detention. If the allegations are not substantiated, the juvenile should be released and the matter dismissed. The NDAA further recommends that if the juvenile continues to be held in detention based on legally sufficient facts, the prosecutor should determine how the case should be handled within 72 hours after receiving the facts from police. If the juvenile is not detained, NDAA's standard for legal sufficiency determination is 7 days.

Intake Disposition

After the legal sufficiency determination, the next task involves making an intake decision to file formally, dismiss or divert. At this point the intake officer may recommend a petition be filed or the case transferred to the prosecutor's office for referral to adult court, the dismissal of a legally sufficient complaint, or the referral of the juvenile to a community agency. Except in those cases of an extreme or minor nature which are automatically filed or diverted, the intake officer conducts a preliminary inquiry or investigation into the situation.

According to NAC standard 3.146, the primary purpose of the intake interview is to obtain only that information essential for decision making. The standard "seeks to strike a balance between the intake officer's need for information and the juvenile's and family's interest in avoiding unnecessary invasions of privacy" (NAC, 1980:290). As such, the interview should be conducted in a nonthreatening, nonadversarial atmosphere in a private, quiet room. At the outset of the meeting, the standard recommends that an intake worker should:

1. Explain to the juvenile and his parents or guardian that a complaint has been made and explain the allegations of the complaint;
2. Explain the function of the intake process, the dispositional powers of the intake officer and the intake procedures;
3. Explain that their participation in the intake interview is strictly voluntary and that they may refuse to participate;[2]
4. Notify them of the right to remain silent and be represented by counsel. This explanation of rights should be given both orally and in writing and should be signed by both the juvenile and his parents. An interpreter should be available if a language barrier exists (IJA/ABA Probation Function, 2.14); and
5. Obtain informed consent from the juvenile and his parents for the intake worker to obtain information from additional sources other than the victim, complainant, witnesses, police, school, or other public agencies.

Criteria. In their report, *Intake*, Arthur D. Little, Inc. (1979) offers the following as an approach for determining whether or not a petition should be filed:

- The intake officer should determine whether or not the child, family and attorney desire a hearing before the court. If they do, they have a right to a hearing on the charges. This is true

[1] The NDAA recommends that, ideally, this determination should be made by a prosecuting attorney or that, at the very least, the prosecutor should have the authority to review and revise the decision. The NDAA believes that prosecutor involvement would eliminate two major abuses of the intake process: filing even when evidence is insufficient and diverting chronic juvenile offenders. NAC Standard 3.163 and IJA/ABA Probation Function Standard 2.16 recommend that the prosecutor's office retain the authority to make a final determination regarding the legal sufficiency of the complaint and to file the petition.

[2] NAC standard 3.146 states that refusal to participate in the intake interview should not preclude dismissal of the complaint.

regardless of the intake officer's desire to keep the judicial handling rate down through the use of nonjudicial alternatives.

- The intake officer should determine whether any kind of services are required in order to correct the situation. If no services outside the child's own family are required to protect society or to correct the child, then a petition would serve no purpose.
- The intake officer should determine whether the child and family are willing to accept, voluntarily, whatever services or corrective measures are needed. If so, a petition to the court would serve no purpose.
- If services or corrective measures are required and the child and family are unwilling to accept them voluntarily, then a petition to the court is required. This is true in order to protect the rights of the child and family, as well as to ensure the protection of the community through the delivery of services or corrective measures. Intake staff should not have coercive powers beyond the necessary short-term detention authority.

The NAC (standard 3.143), the IJA/ABA (Probation Function standard 2.8) and the NDAA (section B) concur that the following factors should be considered in deciding whether to file a petition or divert the case:

- the seriousness of the alleged offense determined by the nature and extent of harm to victim or the degree of dangerousness or threat imposed;
- the circumstances surrounding the offense and the juvenile's role in that offense;
- the nature and number of the juvenile's prior contacts with the court and the results of those contacts;
- the juvenile's age and maturity; and
- the availability of appropriate treatment or services within or outside the juvenile justice system.

Some additional criteria recommended by one or more standards groups include:

- the juvenile's school attendance and behavior, the juvenile's family situation and relationships, and the juvenile's home environment (IJA/ABA);
- the attitude of the juvenile to the offense and to law enforcement and juvenile court authorities (IJA/ABA);
- whether the juvenile admits guilt or involvement in the offense (NDAA);
- recommendations of the referring agency, victim, and advocates for the juvenile (NDAA); and
- the time of day an offense occurred (HEW).[3]

Nonjudicial Disposition. The IJA/ABA defines "nonjudicial disposition of a complaint" as the taking of some action on a complaint without the initiation of formal judicial proceedings through the filing of a petition or the issuance of a court order (IJA/ABA Probation Function, 2.4).

Informal probation is legislatively authorized by nearly every juvenile code and some standards groups (e.g., CPOC, 526), and the practice is commonly used by probation departments across the country (see Figures 2 and 3 at the end of this chapter). Since the practice is common the IJA/ABA set forth the following guidelines in Probation Function standard 2.4E:

- A contractual agreement promises that the intake officer will not file a petition in exchange for certain commitments by the juvenile and his family with respect to their future conduct;
- The juvenile and his parents enter into the agreement voluntarily and intelligently;
- The juvenile and his parents are notified of their rights to refuse to sign and enter into the agreement and to request a formal adjudication;
- The agreement should be limited in duration;
- The juvenile and his parents should be able to terminate the agreement at any time and to request formal adjudication;
- The terms of the agreement should be clearly stated in writing; and
- Once a nonjudicial disposition has been made, the subsequent filing of a petition based on the events out of which the original complaint arose should be permitted for a period of three months from the date of the agreement. If no petition is filed within that period its subsequent filing should be prohibited.

[3] (A) child under fourteen who commits a delinquent act late at night or during early morning hours should trigger a concern. The time the act takes place is often a clue to the type of supervision afforded by parents (HEW, 1975:22).

The IJA/ABA and the NAC concur that neither a nonjudicial disposition or a dismissal should be precluded for the sole reason that the complainant objects or that the juvenile denies the allegations. The NDAA requires a juvenile's admission of involvement before a case may be diverted (NDAA, 19.2C.2). If the juvenile does not admit guilt, they recommend that the case be filed with the juvenile court or terminated. The commentary pursuant to that requirement lists three reasons: 1) juveniles should not be sanctioned unless there is legally sufficient evidence that they committed the crime. Denial of involvement by the juvenile should weigh heavily in favor of a formal determination of guilt or innocence; 2) practitioners believe that effective treatment or rehabilitation begins with an acknowledgement of wrong-doing; and 3) cases that are diverted with no admission of guilt often cannot be restored if the juvenile fails to meet the conditions agreed upon for diversion. Revival of the case is often not possible because too much time has passed and witnesses are unavailable or evidence is lost (NDAA, 1989:10-11). The standard further recommends that a written diversion contract include the conditions of the informal disposition (i.e., the duties of the juvenile and the supervising authority that can reasonably be accomplished in three to six months), an admission of guilt and waiver of speedy trial. NDAA standard 19.2C.3 further stipulates that if the juvenile breaches his contract, a petition should be filed; if the juvenile complies, the case should be terminated.

Notwithstanding the guidelines, the IJA/ABA, the American Correctional Association (ACA), and the NAC strongly oppose the use of nonjudicial or informal probation or any other provision of services by intake officers or a conditional dismissal. These standards groups recommend that if services are called for, the juvenile should be referred to a community agency and the complaint promptly dismissed unless the referral is refused, ignored or shown to be inappropriate within thirty days (NAC) or ninety days (IJA/ABA). The NAC believes that informal probation, despite good intentions, can result in imposing substantial constraints on the youth's liberty under threat of prosecution without adequate due process safeguards. HEW's Intake Screening Guides also warn against the use of informal supervision citing the following "compelling reasons" why continued service should not be provided by the intake unit: regardless of the nomenclature used, continued service in the juvenile justice system identifies and stigmatizes a youth as delinquent; *unofficial* handling leads to a distortion in the minds of some as to the functioning of the court and probation department; and the use of unofficial processing is subject to abuse (HEW, 1975:23).

Deciding Whether to Detain

As with the petition-filing decision, discretion in making secure, pretrial detention decisions polarizes depending upon the *treatment/parens patriae* or *just deserts* orientation of the court. Intake officers make detention decisions based on state statutes and local policy that specify reasons for which a juvenile may be securely detained. (Even in 1990, there are still some jurisdictions where the detention decision is made by law enforcement officers. In many of these cases, the decision may not be reviewed by an intake officer for 24 hours or longer.) Historically, the statutory language has been vague and court-developed policy guidelines ill-defined. In these situations, the detention decision making process can become subjective and discretionary. Recent events have prompted various standard-setting groups to offer a middle ground for making detention decisions, structuring discretion and reducing the use of detention. Community jail-monitoring groups have made public the deplorable conditions of local lock-ups and jails. News programs have aired accounts of juveniles committing suicide in jails or detention facilities. Research studies have revealed that the rate of detention and the reasons for detention vary greatly among jurisdictions.

In addition, the federal Juvenile Justice and Delinquency Prevention Act of 1974, as amended (JJDP Act), focused on the issues of the removal of juveniles from adult jails and lock-ups and the deinstitutionalization of status offenders. Section 223(a)(12)(A) states that juveniles who commit status offenses (excluding violation of a valid court order) and dependent/neglected juveniles may not be placed in any secure detention or correctional facility.[4] Section 223(a)(13) mandates that neither delinquents or status offenders may be detained or confined in any institution in which they have regular contact with adult offenders. Section 223(a)(14) requires that no juvenile shall be detained or confined in any jail or

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[4] Regulations (28 CFR 31) implementing the JJDP Act allow law enforcement officers to hold runaways and other status offenders in nonsecure custody for that amount of time necessary to complete identification, investigation, processing, and release to parents, or transfer to an appropriate juvenile facility or court. If a runaway or other status offender is not immediately released to parents or placed in a shelter care facility, the youth may be placed in a juvenile detention center for up to 24 hours, excluding weekends and holidays, to allow the court sufficient time to conduct a hearing, and/or to arrange for a shelter care placement. Once the youth is under the custody of the court or court intake, a second 24 hour "grace period" is allowed.

lockup with adults, with the exception that through 1993, delinquent youth requiring initial court appearance may be detained in rural areas for up to 24 hours (excluding weekends and holidays) but only if there is an enforceable state law requiring such appearance within 24 hours. For states to receive their share of federal funds, they must submit a plan for achieving compliance with these requirements and annually demonstrate their actual level of compliance or progress toward compliance.

Since the passage of that legislation, standard-setting groups have sought to reduce the volume and duration of juvenile detention, with the intention that most juveniles subject to the juvenile court's jurisdiction for a delinquency matter be released to the custody of their parents.[5]

A chronological review of standards reveals the evolution of the purpose of detention. In 1961, the National Council on Crime and Delinquency (NCCD) identified the following types of juveniles to be securely detained: those almost certain to run; those almost certain to commit an offense dangerous to themselves or others; and those from another jurisdiction (i.e., parole violators, runaways from institutions, material witnesses). The Legislative Guide for Drafting Family and Juvenile Courts Acts suggested detention in order to protect the child who was lacking anyone able to provide supervision and care (Sheridan, 1974). In 1980, the IJA/ABA Interim Status standard 3.3 stated that detention should not be imposed to punish, treat or rehabilitate; to allow parents to avoid their legal responsibilities; to satisfy demands by a victim, the police or the community; to permit more convenient administrative access to the juvenile; to facilitate further interrogation or investigation; or because there was no more appropriate facility or alternative detention resource. Interim Status standard 3.2 and NAC standard 3.15 required unconditional release unless there is probable cause to believe that the juvenile is within the delinquency jurisdiction of the juvenile court and it is determined that detention is necessary to:

- protect the jurisdiction or the process of the court;
- prevent the juvenile from inflicting serious bodily harm or committing serious property damage;
- protect the juvenile from imminent bodily harm upon his or her request.

In determining whether detention or release is required, most standards groups suggest that an intake officer should consider the nature and severity of the offense, the juvenile's prior court history, the juvenile's record of willful failures to appear and the availability of noncustodial alternatives (i.e., parent or guardian available to provide supervision and assure appearance at trial).

A report by Arthur D. Little, Inc. (1979), however, lists only two conditions for detention: the offense resulted in the victim requiring medical attention; and the juvenile has been delinquent three or more times within the last year, or five times within the past two years.

The IJA/ABA Interim Status standard 6.6 (guidelines for secure detention decisions by intake officers) operates from the assumption of mandatory release unless:

1. The juvenile is charged with a violent crime which if an adult would be punishable by a year or more, and if proven is likely to result in commitment to a secure institution, and one or more of the following:
   a. the crime charged is a class one juvenile offense;
   b. the juvenile is an escapee from an institution or placement to which he or she was sentenced under a previous adjudication of criminal conduct;
   c. the juvenile has a demonstrable recent record of willful failure to appear, on the basis of which the official finds that no measure short of detention can be imposed to reasonably ensure appearance; or
2. The juvenile has been verified to be a fugitive from another jurisdiction.

This standard also covers recommendations in discretionary situations where release is not mandatory such as release vs. detention, unconditional vs. conditional release and secure vs. nonsecure detention.[6]

[5] IJA/ABA Interim Status 3.1 (preferred: unconditional release); 3.4 (supervised release which results in the least necessary interference with the juvenile's liberty); 5.6 (guidelines for status decisions by police).

[6] See also NAC standard 3.152 (Criteria for Detention in Secure Facilities - Delinquency) which addresses these criteria in different language. The NAC standard differs significantly from the IJA/ABA provisions in several ways. The NAC standard does not restrict detention to juveniles accused of committing violent crimes. It does not include the provision that to be detained on a felony charge other than murder, that the felony conviction would likely require

The Debate over Status Offenders and How It Impacts Case Processing Decisions

Scores of articles have been written about the proper system responses to noncriminal misbehavior by young people. Should the system intervene early into the lives of these children in hopes of forestalling *inevitable* future delinquent behavior? Or would such intervention result in further stigmatization and harm? The Juvenile Justice and Delinquency Prevention Act of 1974, as amended (JJDP Act), mandated, among other things, that status offenders be deinstitutionalized and encouraged state and local jurisdictions to develop community-based programs for these youth. The law required that status offenders be removed from secure confinement in either detention facilities or institutions and that status offenders not be placed in community-based settings where more than 50% of the youth are delinquents.

Standards recommended by the Institute for Judicial Administration/American Bar Association (IJA/ABA) opted for the use of the least coercive or restrictive alternative. In fact, fearing threats of stigmatization and harm to those thrust further into the system, the IJA/ABA standards opted for "radical nonintervention" by recommending that jurisdiction over such conduct be virtually eliminated in favor of a "broad spectrum of services" including nonintervention, temporary assistance, short-term mediation and crisis intervention, voluntary referral to community agency, or mandatory temporary referral to mental or public health agencies such as to a detoxification program (IJA/ABA Police Handling, 2.4.).

The National Advisory Committee for Juvenile Justice and Delinquency Prevention (NAC) suggested that it is appropriate for society to intervene in the lives of juveniles when they are in need of services because of a disregard for parental authority, truancy, running away, and a social or dysfunctional behavior as a result of alcohol abuse. This intervention should be voluntary but the juvenile court would still retain jurisdiction over those who willfully refuse to cooperate (NAC, 2.12).

Case processing implications center upon the jurisdictional classification of status-offending behavior and the secure detention of these youth. In some states, the legislature classifies status offenders in the same category as delinquents; in other states, status offenders are a separate classification within the delinquency category; in still other states they are classified with dependent or neglected youth. There is great variation in the volume of status offender cases being handled by the juvenile court system and by probation departments depending upon their jurisdictional classification. State and local probation departments should promulgate rules and regulations on the processing of these youth depending upon applicable state law.

Although nearly every state in the nation has made significant strides in complying with the intent of the JJDP Act's deinstitutionalization mandate with respect to removing status offenders from training schools, the essential dilemma of the legislation (aside from the fact that very few youth evidence pure status-offending behavior exclusively) is what to do about runaways, particularly female runaways. The U.S Attorney General's Advisory Board on Missing Children (1987 and 1988) has recommended that the JJDP Act be amended to permit state and local juvenile justice authorities to take runaway youth into custody, as indicated, for their safety and protection. While the 1980 amendments to the JJDP Act allowed for secure confinement under a valid court order, the Advisory Board believes that the amendments have not yet fully addressed the problem of how to *protect* runaways and other homeless youth (1987:11). In its 1988 report, the Advisory Board commented that "...many runaways and throwaways simply will not...remain in nonsecure placement facilities... [Thus] runaways [remain] a signficant problem for law enforcement agencies and the local communities they serve... [The] fact remains that secure custodial care has often been the only practical, effective means for protecting runaways themselves, and for protecting communities from the problems of juvenile prostitution, drug abuse, theft, and other criminal acts committed by runaway youngsters seeking to support a day-to-day hand-to-mouth existence." That same report also acknowledged the considerable controversy among agencies and individuals involved in addressing the runaway child problem and that a national consensus on the proper role of law enforcement and juvenile justice authorities is lacking. Juvenile probation officers are acutely aware of the dilemmas posed by servicing this population. More choices are needed but, unfortunately, solutions are not easily forthcoming. For additional information on the subject, refer to the post-conference report *America's Missing, Runaway and Exploited Children: A Juvenile Justice Dilemma*, National Council of Juvenile and Family Court Judges, 1988.

Nearly one-half of the states have bail provisions for juveniles. In many of these states, all of the foregoing material would be extraneous since a juvenile can be released upon making bail, criteria or not.

Formal Proceedings

Pre-Adjudication

Once an intake officer has decided to refer the case to court, a formal filing of a petition is conducted. It is probably at this stage that most variation in case processing occurs among states. Depending upon state statute and local court preference, the prosecutor has more or less involvement in the pre-adjudication stage.

It has been contended that while the *Gault* decision applied due process requirements to trials in juvenile delinquency proceedings, it did not decide the constitutional requirements applicable to proceedings before the trial, hence, each jurisdiction should promulgate clear rules governing the pre-trial stage of delinquency proceedings. The IJA/ABA recommends that the petition should assist the parties to prepare adequately for trial and reduce surprise or disadvantage to the respondent, provide a record of the allegations tried for purposes of the double jeopardy protection and enable the court to conduct an orderly and directed fact-finding hearing. The summons should ensure the presence of all essential participants at the initial hearing and at all later stages of the proceedings and advise the parties of the contents of the petition (IJA/ABA Pre-trial Court Proceedings, 1.2).

Juvenile courts usually have standard forms for the petition and the summons. At a minimum, the standards recommend that the petition should include the juvenile's name, address and date of birth; the date, time, manner and place of the alleged acts; a citation for the offense found in the juvenile code; and the types of dispositions to which the juvenile could be subjected.[7]

Upon the filing of a petition, the clerk issues a summons. The summons will direct the parties to appear before the court at a specified time and place for an initial appearance on the petition. NAC standard 3.164 recommends that the summons also specify what will take place at the arraignment proceeding and the juvenile's legal rights. A copy of the petition should be attached to the summons. Standards recommend that the summons be served by mail or in person upon the following persons, or as specified by the law of the jurisdiction: the juvenile, the juvenile's parents or guardian, the juvenile's attorney and any other persons who are necessary or proper parties to the proceedings, such as agencies providing supervision or services to the family or schools in truancy cases. Finally, communities with significant non-English speaking populations should provide translations of the petitions and summons. In addition, an interpreter should be available at every stage of court processing.

The standards recommend that states develop rules and guidelines permitting as full discovery as possible prior to adjudication and other judicial hearings.[8] In order to reduce delay and unnecessary paperwork, disclosures should be informal and automatic, rather than requiring a specific request.

In response to court delays, some juvenile courts have instituted an arraignment process. The purpose of such a hearing is to give the juvenile notice of the charges and of his rights, to ascertain whether the juvenile has counsel, and to appoint such, if necessary, and to obtain the juvenile's admission to or denial of the allegations.

Unless the juvenile's liberty is significantly restrained, a probable cause hearing is not constitutionally required (Gerstein v. Pugh, 420 U.S. 103 (1975)). At such a hearing, the state is required to establish that there is probable cause to believe that the allegations in the petition are true. If probable cause is not established, the petition should be dismissed. The standards provide for a probable cause hearing in the following cases:

- when there has been a motion to transfer the matter to another division of the highest court of general jurisdiction (NAC, 3.116);
- when the juvenile is detained (NAC, 3.155);
- when the juvenile is held in emergency custody (NAC, 3.157).

commitment to a secure institution. Finally, it does not prohibit a juvenile charged with a violent crime or serious property crime from being detained if the juvenile is not already under the court's jurisdiction.

7 The IJA/ABA (standard 1.4), the NAC (standard 3.163), and the NDAA (Prosecution standard 19.2, B.) recommend that delinquency petitions be prepared and filed by the prosecutor. The NAC standard limits prosecutorial review of the intake officer's recommendation to file a petition to a determination of legal sufficiency. This practice assigns to the intake officer and to the prosecutor, respectively, the decision most appropriate to their training and experience (NAC, p. 314).

8 NAC standard 3.167; IJA/ABA Pre-trial Court Proceedings, standard 3.1; and see commentaries to these standards concerning debate over the scope of disclosure.

A probable cause hearing can serve to protect the juvenile charged against unwarranted prosecution and can save the expense of unnecessary trials. The standards state that probable cause hearings may be held in conjunction with the arraignment proceeding if there is sufficient time for the parties to prepare.

Adjudication

The adjudication hearing should be scheduled as quickly as possible after the petition is filed. When the hearing date arrives, all interested parties and necessary witnesses gather at the designated courtroom. Evidence and witnesses are generally presented to the court by the prosecuting attorney; however, in some jurisdictions, the probation officer presents the case to the judge with no prosecutor in attendance if the case is not contested. The juvenile, if unrepresented, or the juvenile's attorney may present evidence and cross-examine witnesses. The hearing may result in the juvenile's admission to the charges. If there is no admission, the court, in weighing the evidence must find guilt *beyond a reasonable doubt* in order to make a finding of delinquency. If a finding is not made, the petition is dismissed and the juvenile is free to go with a cleared record. If an adjudication is made by the judge, disposition (or sentencing) follows.

In some jurisdictions, a pre-disposition investigation or social history is prepared prior to the adjudication in order to expedite matters. In the event that the juvenile is adjudicated, the judge may move directly into the disposition phase. Both the NAC and the IJA/ABA recommend that such investigations not take place until after an adjudication unless the juvenile and his parents consent (NAC, 3.186; IJA/ABA Probation Function, 3.4).

In some situations, the court may agree to a "consent decree" or a waiver of adjudication which specifies the terms of an agreement between the court and the juvenile. NAC standard 3.176 recommends that before accepting a juvenile's admission to the charges, the judge should make sure that the juvenile understands the nature and consequences of an admission; that the admission is not the result of any promise, inducement, bargain, force or threat; that the juvenile has received effective assistance of counsel; and that there is a factual basis for the charges. The judge will only accept the consent decree if he is satisfied that the juvenile understands the agreement and knowingly and willfully consented to the terms and conditions of the supervision. The judge will determine this upon questioning the juvenile in the presence of his attorney before accepting the plea.

At the adjudication hearing the judge may amend the petition if it is in error, dismiss the petition due to lack of evidence or continue the case without a finding to later be dismissed at a specific date if the juvenile complies with the court's order.

Disposition Hearing and Pre-Disposition Reports

An adjudicated delinquent is legally under the jurisdiction and authority of the juvenile court. The decisions made at the next case processing stage - the disposition hearing - are some of the most important impacting the juvenile. In 1967 the President's Commission on Law Enforcement and Administration of Justice, Task Force Report on Juvenile Delinquency and Youth Crime recommended, and all subsequent standard-setting groups have concurred, that the disposition hearing in delinquency cases should be separate and distinct from the adjudication hearing and that the procedures followed should be identical to those followed in the sentencing of adult offenders. This bifurcated process is intended to prevent the judge from hearing any information irrelevant to a determination of the truth of the allegations prior to adjudication.

The debate between *parens patriae* and *just deserts* impacts strongly upon the disposition hearing in the form of wide-ranging judicial discretion to order rehabilitation vs. the *just deserts* model of mandatory sentences. The NAC takes a middle-of-the-road approach by recommending that delinquent offenses be grouped into categories, according to the relative degree of seriousness, that maximum dispositional time periods be set for each category and also that the type of sanctions be categorized according to the extent to which they restrain the juvenile's liberty. The responsibility for determining the length of disposition within the statutory maximum, the degree of restraint that should be imposed and the type of program to which the juvenile should be assigned should be retained by the judge (NAC, 3.181). In order to make informed decisions about the type of service or program to which the juvenile offender will be ordered, the judge relies heavily on the recommendations contained in the pre-disposition or pre-sentence investigation report prepared by the probation officer.

The standards recommend that the pre-sentence investigation be limited to the collection of information essential to making a dispositional decision, and may include review of court, police, school, and social agency records and interviews of the complainant, victim, witnesses, school and social agency personnel as well as the juvenile and his parents. Unlike the IJA/ABA provision that allows interviews with "individu-

als having knowledge of the juvenile," the NAC standard does not encourage investigation which may become overbroad (NAC, 3.186). Persons interviewed should be informed of the purpose of the interview, the possible outcome, that they are entitled to counsel and that any statement by the juvenile may be used against him or her at the disposition hearing. Finally, in the event that a medical or psychiatric evaluation is necessary, the standards suggest that the preference should be for an out-patient evaluation.

Probation departments should develop rules and guidelines governing the preparation and dissemination of pre-disposition reports. The standards recommend that the potential use of the report by other agencies in the correctional process should be recognized as a factor in determining the content and length of the report, but should be subordinated to its primary purpose.

NAC standard 3.187 recommends a three-part report. The three parts include:

1. Information concerning the nature and circumstances of the offense, and the juvenile's role, age and prior contacts.
2. Summary of information concerning:
   - o the home environment and family relationships;
   - o the juvenile's educational and employment status;
   - o the juvenile's interests and activities;
   - o the parents' interests; and
   - o the results of medical or psychiatric evaluations.
3. Evaluation of the above, a summary of the dispositional alternatives available and the probation officer's recommendation.

The standards suggest that every recommendation for probation contain conditions that assist the juvenile in leading a law-abiding life and which are reasonably related to the avoidance of further criminal behavior and not unduly restrictive of the juvenile's liberty or incompatible with his religion. They should not be so vague or ambiguous as to give no real guidance. ACA standard 7188 recommends that special conditions be few in number, realistic and phrased in positive rather than negative terms. Probation standards developed by the Chief Probation Officers of California (CPOC standard 553) suggest that conditions may appropriately include matters such as the following:

- o Cooperating with the program of supervision;
- o Meeting family responsibilities;

Victim's Rights Standards

Many victim's rights standards recommend that the justice system address the needs of the crime victim, affording him or her the same attention as the adult or juvenile offender. The President's Task Force on Victims of Crime (Herrington, 1982) urges judges to be fair to both sides of a criminal prosecution during all legal proceedings so that equal justice is applied. Some of the Task Force's recommendations applicable to the judiciary with respect to victims include:

- o Judges should allow victims and witnesses to be on call for court proceedings.
- o Judges and their court administrators should establish separate waiting rooms for prosecution and defense witnesses.
- o Judges should allow for, and give appropriate weights to, input at sentencing from victims of violent crime.
- o Judges should order restitution to the victim in all cases in which the victim has suffered financial loss, unless they state compelling reasons for a contrary ruling on the record.
- o Judges should allow the victim and a member of the victim's family to attend the trial, even if identified as witnesses, absent a compelling need to the contrary.
- o Judges should recognize the profound impact that sexual molestation of children has on victims and their families and treat it as a crime that should result in punishment, with treatment available when appropriate.
- o Among other things, these standards regard restitution as a victim right and system obligation. If not already done so by the police or prosecutor, the probation officer should contact the crime victim to determine the crime's full impact and any associated costs or injuries sustained by the victim. This information should be presented to the judge prior to disposition.

- Maintaining steady employment or engaging or refraining from engaging in a specific employment or occupation;
- Pursuing prescribed educational or vocational training;
- Undergoing medical or psychiatric treatment;
- Maintaining residence in a prescribed area or in a prescribed facility;
- Refraining from consorting with certain types of people or frequenting certain types of places;
- Making restitution or reparation;
- Paying fines;
- Submitting to search and seizure;
- Submitting to drug tests.

Standards recommend that the report be written, concise, factual and objective. Further, the report should indicate the sources of information, the number of contacts made with each source and the amount of time expended upon the report. Finally, both the NAC and the IJA/ABA recommend that the pre-disposition report and any outside evaluations not be open to public inspection, but the juvenile's attorney and the prosecutor should both have access to a copy of the report prior to the disposition hearing. At the disposition hearing, the probation officer will be called as a witness to testify on the report he or she has prepared, how the information was obtained and the basis of the conclusions. Under the rules of evidence, the information must be relevant and material and may include hearsay except for evidence gathered in violation of a juvenile's constitutional rights.

Supervision

Probation is the most widely used disposition for juveniles coming to the attention of the juvenile court (Snyder, et al., 1990). Over one-third (or 417,000) of the delinquency cases disposed by the nation's juvenile courts in 1986 were placed on probation. A further breakdown reveals that 45% of all petitioned cases and 30% of cases handled informally were placed on probation. These statistics suggest that even though national standards prohibit the use of informal probation, the practice exists in many jurisdictions.

Generally, standards groups refer to probation as "community supervision" and recommend statewide control and coordination of services through an executive agency with direct supervision provided in field offices located as close to the community and the court as possible. In reality, juvenile probation services continue to be predominantly organized under the judiciary. Any trend has been in the direction of transferring these services from the local juvenile court judge to a state court administrative office (Torbet, 1990). (See the appendix for a national summary.)

Task Force standard 23.1 describes probation as follows:

> The implementation of the family court's conditional disposition lies at the heart of community supervision. Supervision implies there will be surveillance and monitoring of the juvenile's behavior, plus some practical help in finding a job, arranging in-home or out-of-home care, assistance in promoting wholesome leisure time activities, and a host of other details. If juveniles are to make a successful community adjustment, they will need assistance and good supervision (p.675).

The IJA/ABA states that community supervision should enhance the juvenile's education, regular employment or other activities necessary for normal growth and development (IJA/ABA Corrections Administration, 6.1). Standards groups agree that community supervision can be provided through the following approaches: enforcement (i.e., conditions of probation are carried out through surveillance and supervision), direct service (i.e., diagnosis, classification, counseling, etc.) and purchase of community services.

Standards promulgated by the Chief Probation Officers of California suggest that probation supervision involves monitoring the juvenile's compliance with the terms and conditions of the court order and verifying to the court the nature and degree of such compliance (CPOC, 565). It also requires attention which appropriately and promptly enforces or prevents failure of compliance and provides such counseling, guidance, education or other assistance as is available and may be appropriate to aid the juvenile in fulfilling the conditions of the probation order.

On the other hand, CPOC standard 563 describes the limitations of probation supervision suggesting that the grant of probation does not open up every aspect of the juvenile's life for study or treatment nor does it impose on the probation officer an obligation or responsibility to handle every problem presented by the juvenile. The same standard also places prime responsibility for compliance with the conditions of probation on the juvenile.

Both the NAC (standard 4.32) and the Task Force (standards 23.3 and 23.4) recommend an assessment of

need and the development of a service plan for each juvenile ordered to community supervision. In formulating the plan, the standards suggest that the probation officer, in conjunction with the juvenile and family, conduct an assessment of need in the following areas: medical problems, proximity of the program to the youth, the capacity of the youth to benefit from the program and the availability of placements. In addition, psychological testing and family and developmental histories could also be considered. The NAC standard also places strong emphasis on the availability of supplemental services to facilitate the youth's participation in a community-based program. One such service that the NAC standard recommends is homemaker services which train persons in the practical daily tasks of maintaining a dwelling place, preparing meals, paying bills and generally caring for oneself independently.

Each standard-setting group recommends that the administrative agency establish maximum caseload or workload ratios. The NAC and the Task Force recommend an average caseload size of 25 clients with a range of 40:1 for minimal supervision to 12:1 for intensive supervision caseloads. The IJA/ABA standard suggests a workload formula based upon the number of expected contacts between the probation officer and the juvenile and the nature of services provided in determining caseload size: high level - 15:1; medium level - 35:1; low level - 50:1 (IJA/ABA Corrections Administration 6.2; NAC standard 4.3; Task Force standard 23.5).

ACA standard 2-7131 recommends that initial contact between the juvenile and the probation officer occur no later than 24 hours after placement on probation. ACA standards 2-7135 and 7138 recommend that the probation officer, juvenile and parents jointly develop a supervision plan that includes objectives and a projected date of termination, and that the plan be reviewed as needed, but at least every three months.

The ACA recommends that no more than three months should elapse between probation officer and supervisor reviews of individual cases. Reclassification should occur promptly when adjustment warrants (ACA, 2-7135).

When a juvenile willfully violates the terms of the disposition order, all standards groups recommend the following course of action. The probation department should be authorized to return to court to recommend modifications of the court order, a copy of the request should be served on the juvenile, the juvenile's attorney, the parent, and the prosecutor, and a hearing should be held no more than five days after the request was filed. For this proceeding, the level of proof may be set at a preponderance of the evidence rather than beyond a reasonable doubt.[9]

Although major probation violations should be reported and final resolution determined by the court, the ACA suggests that many minor violations can be handled satisfactorily by field staff (ACA, 2-7155). Further, probation officers should maintain records of these minor violations and their resolution and know the types of alleged violations of conditions of supervision that should be reported and the procedures for reporting violations. ACA's suggested guideline is that an alleged violation should be reported if it would have resulted in a petition if the juvenile were not already on probation (ACA, 2-7158). Willful and deliberate noncompliance should always be reported, no matter how minor.

If the judge determines that a violation occurred and that there is no excuse for the noncompliance, the standards recommend three alternatives:

1. A warning of the consequences of continued noncompliance and an order to comply or make up time or payments missed;
2. A modification of conditions or imposition of additional conditions if it appears that a warning will be insufficient; or
3. Imposition of a more severe type of sanction.

All standards groups suggest that when the conduct constitutes a delinquent offense, prosecution for the new offense is preferable to modification of the original order.[10]

The various standard-setting groups cited in this chapter are relatively silent on the probation officer's role in recommending that a case be terminated from probation supervision. Only the ACA makes recommendations with respect to case closure. They recommend that early termination of probation be considered based on an assessment of demonstrated successful adjustment in terms of nonarrest and stability in terms of home adjustment, school atten-

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9 See NAC standard 3.1810, Task Force standard 14.22, and IJA/ABA Dispositional Procedures standard 5.4. Compliance is defined in terms of attendance at and participation in a program and not in terms of performance.

10 The Task Force recommends in standard 23.8 that all new allegations of law violations be referred to the intake department for investigation so that the probation officer is relieved of a considerable amount of work. ACA standard 2-7157 suggests that because the probation officer is familiar with the case, his/her views on how to best resolve the matter should assist the intake worker.

dance, employment, social relationships, etc. and when it is clear that the delivery of services to a juvenile is no longer required to protect the community or to enhance the juvenile's overall performance (ACA standard 2-7144).[11]

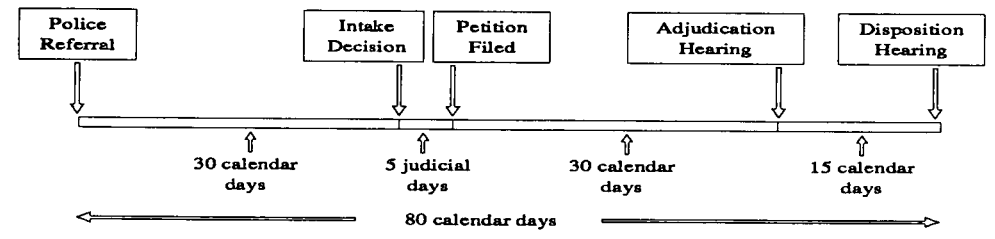
Time Limits

All of the major standard-setting groups set forth maximum time limits for the processing of delinquency cases. The purposes of these time limits are to encourage prompt action by the various system components and to comply with due process standards. Even though these time limits may be unrealistic in practice, they should be viewed as goals to be achieved. Each state's juvenile code sets forth time standards for case processing. Every probation officer should be aware of these standards. Following are the time limits adopted by NAC standard 3.161.

- **Intake decision**: within 24 hours (excluding nonjudicial days) if juvenile is detained; within 30 days of the filing of the complaint if not detained.
- **Detention hearing**: within 24 hours after juvenile is taken to the detention facility.
- **Petition filing**: within 2 judicial days after receipt of intake determination if juvenile is detained; within 5 judicial days after receipt of intake report if juvenile is not detained.
- **Arraignment hearing**: within 5 calendar days after filing the petition.
- **Adjudication hearing**: within 15 calendar days after filing the petition for detained juveniles; within 30 calendar days for nondetained juveniles.
- **Disposition hearing**: within 15 calendar days after adjudication.
- **Any issue taken under advisement by the judge**: within 30 calendar days of submission.

Figure 1 displays some of these time limits along a continuum. In noncustody cases, the total time from referral to court to the disposition is set at a maximum of approximately 12 weeks. *Juvenile Court Statistics 1984* reveals that almost three-quarters of the petitioned cases had been disposed by the end of the 12th week in 1984 (Snyder, et al., 1987).

Figure 1
Delinquency Case Processing
Time Limits



Source: NAC Standard 3.161

11 ACA standard 2-7145 suggests that the probation officer's closing report summarize the performance of the juvenile during the entire period of supervision and include information about unusual occurrences, the use or unavailability of community resources that affected the outcome of the supervision, and the probation officer's assessment of the reasons for the success or failure of the outcome.

Case Processing Statistics

Since 1975, the National Center for Juvenile Justice has been collecting information on the cases disposed by the nation's juvenile courts and housing this information in the National Juvenile Court Data Archive. Under a grant from the Office of Juvenile Justice and Delinquency Prevention, the Center produces the annual *Juvenile Court Statistics* report. The series is the oldest continuous source of information on the activities of the nation's juvenile courts, having first been published in 1929 to describe cases handled in 1927.

Archive data from 1986 were analyzed to describe the various case processing decisions made by juvenile courts in that year (Snyder, et al., 1990). In 1986 an estimated 1,148,000 delinquency cases were disposed by the nation's juvenile courts. Figure 2 depicts the case processing of 100 typical delinquency cases through the juvenile court system during 1986.

Source of Referral:

Juvenile courts receive most of their referrals from the police. Eighty-three out of one hundred cases were referred to court by law enforcement agencies. (The Uniform Crime Report for 1984 estimates that police refer sixty out of one hundred juvenile arrests to juvenile court.)

Detention:

Of 100 typical delinquency cases 21 were detained in a secure detention facility at some point between referral and disposition.

Intake:

Of a typical 100 delinquency cases referred to juvenile court in 1986, intake departments made the decision not to file a petition in 53 cases; 47 cases were petitioned.

Judicial Finding:

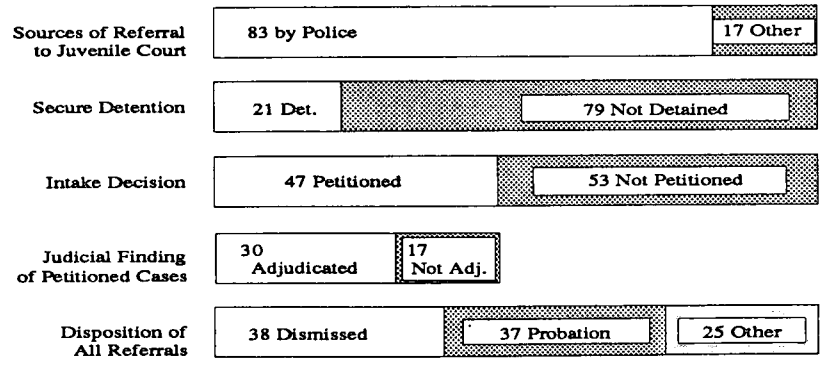
Of the 47 petitioned cases, 30 were adjudicated delinquent by the judge and 17 were not adjudicated.

Disposition:

Of a typical 100 cases referred to juvenile court for a delinquent offense, 38 were dismissed, 37 received a disposition of probation and the remaining 25 received a disposition of placement, referral, waiver, or other type of disposition.

A more detailed look at the data concerning the intake decision and subsequent disposition reveals some interesting findings (see Figure 3). While intake departments screened slightly over 50% of their delinquency referrals for informal (nonpetition) handling, 16 of those 53 cases received an intake disposition of probation. This finding suggests that many juvenile courts subscribe to the *parens patriae* philosophy and are service oriented. When a petition was filed but the case was not adjudicated, 4 of 17 cases received a disposition of probation. Of the thirty cases that were adjudicated, 17 received a disposition of probation. In all, of 100 typical delinquency cases referred to juvenile court, 37 were placed on probation. Taken together, in 1986, an estimated 417,000 delinquency cases were placed on some type of

Figure 2
Case Processing Characteristics
of 100 Typical Delinquency Cases, 1986



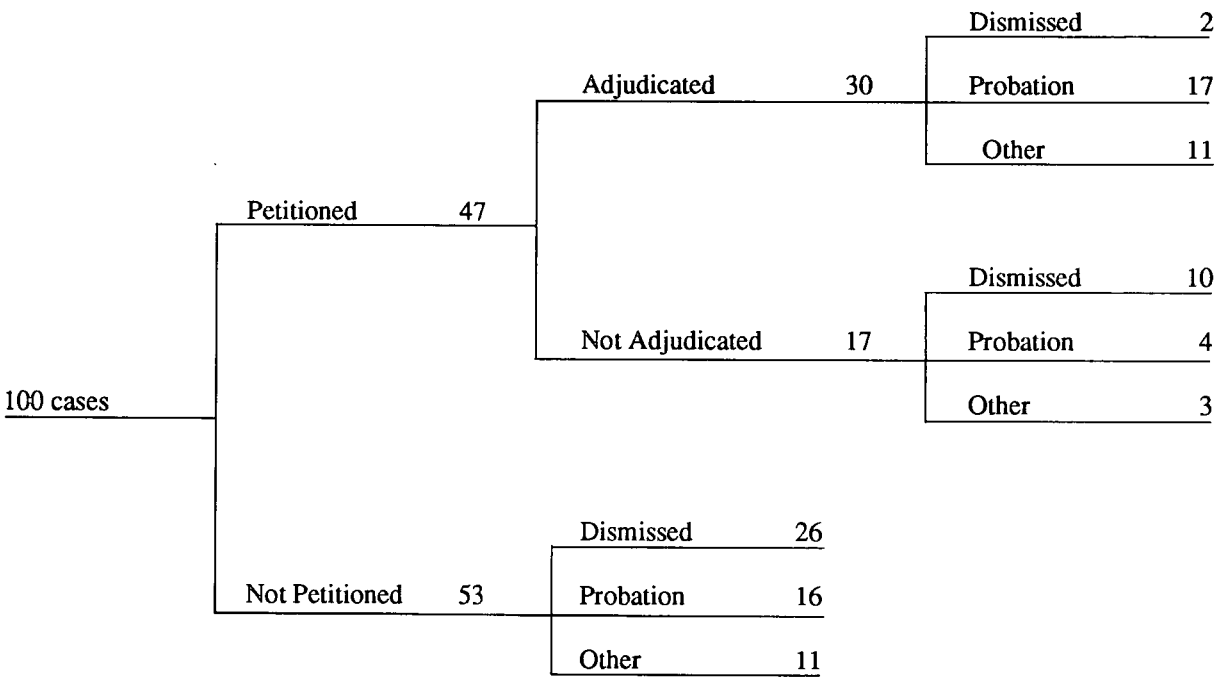
Source: National Juvenile Court Data Archive, NCJJ

probation. Whether this finding suggests that probation is the disposition of choice by judges or that probation is the most commonly available disposition can not be gleaned from the data. (See the appendix for more statistics on juvenile court processing of delinquency and status offender cases.)

Figure 3

Juvenile Court Processing

of 100 Typical Delinquency Cases, 1986



Source: National Juvenile Court Data Archive, National Center for Juvenile Justice

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Appendix

National Summary of the Organization and Administration of Juvenile Services

Organization/Administration	Number of States	
PROBATION:		
Local/Judicial	15	+ DC
State/Judicial	7	
State/Executive	10	
Local/Executive	3	
Combination	15	
AFTERCARE:		
State/Executive	42	+ DC
By Probation Officers	8	
STATE DELINQUENT INSTITUTION:		
Corrections Department	14	
Social Services Department	20	+ DC
Family & Childrens Services	3	
Youth Services Department	13	

Source: *Organization and Administration of Juvenile Services: Probation, Aftercare, and State Delinquent Institutions,* January 1990, National Center for Juvenile Justice.

Juvenile Probation

Local/Judicial 15 states + DC	Local/Executive 3 states	State/Judicial 7 states	State/Executive 10 states	Combination 15 states
AL	CA	CT	AK (S)*	GA
AZ	WI	HI	DE (F)	ID
AR	OR	IA	FL (S)	KY
CO		NE	ME (C)	LA
DC		NC	MD (Y)	MA
IL		SD	NH (S)	MN
IN		UT	NM (Y)	MS
KS			RI (F)	NY
MI			SC (Y)	ND
MO			VT (S)	OK
MT				TN
NV				VA
NJ				WA
OH				WV
PA				WY
TX				

*Key

State Organization:

C = Corrections Department
S = Social Services Department
F = Family & Childrens Services
Y = Youth Services Department
J = Judicial Department

Source: *Organization and Administration of Juvenile Services: Probation, Aftercare, and State Delinquent Institutions,* January 1990, National Center for Juvenile Justice.

Figure 1
Offense Characteristics of
Delinquency Cases, 1987

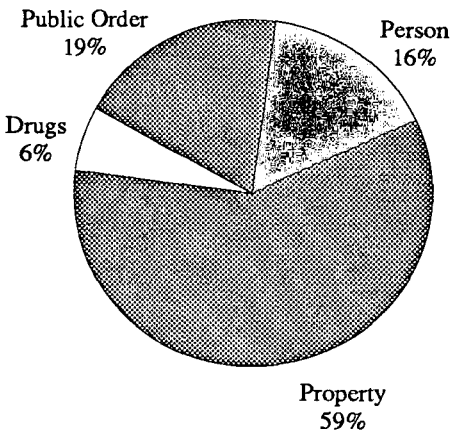
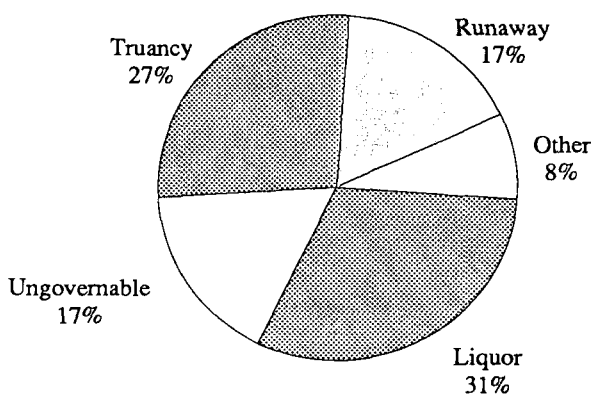


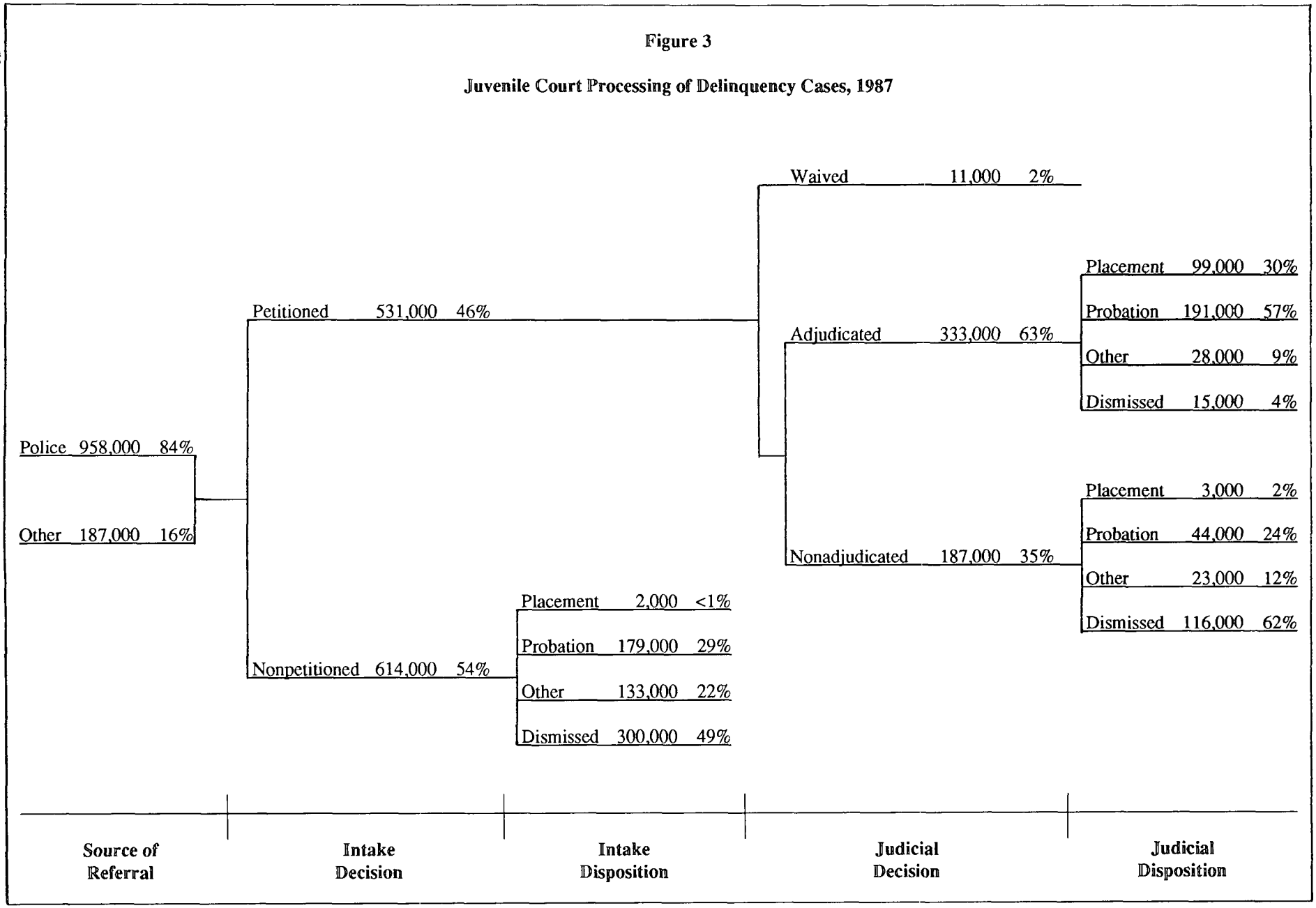
Figure 2
Offense Characteristics of
Petitioned Status Offense Cases, 1987



Source: *Juvenile Court Statistics, 1987.* National Center for Juvenile Justice, 1990.

Figure 3

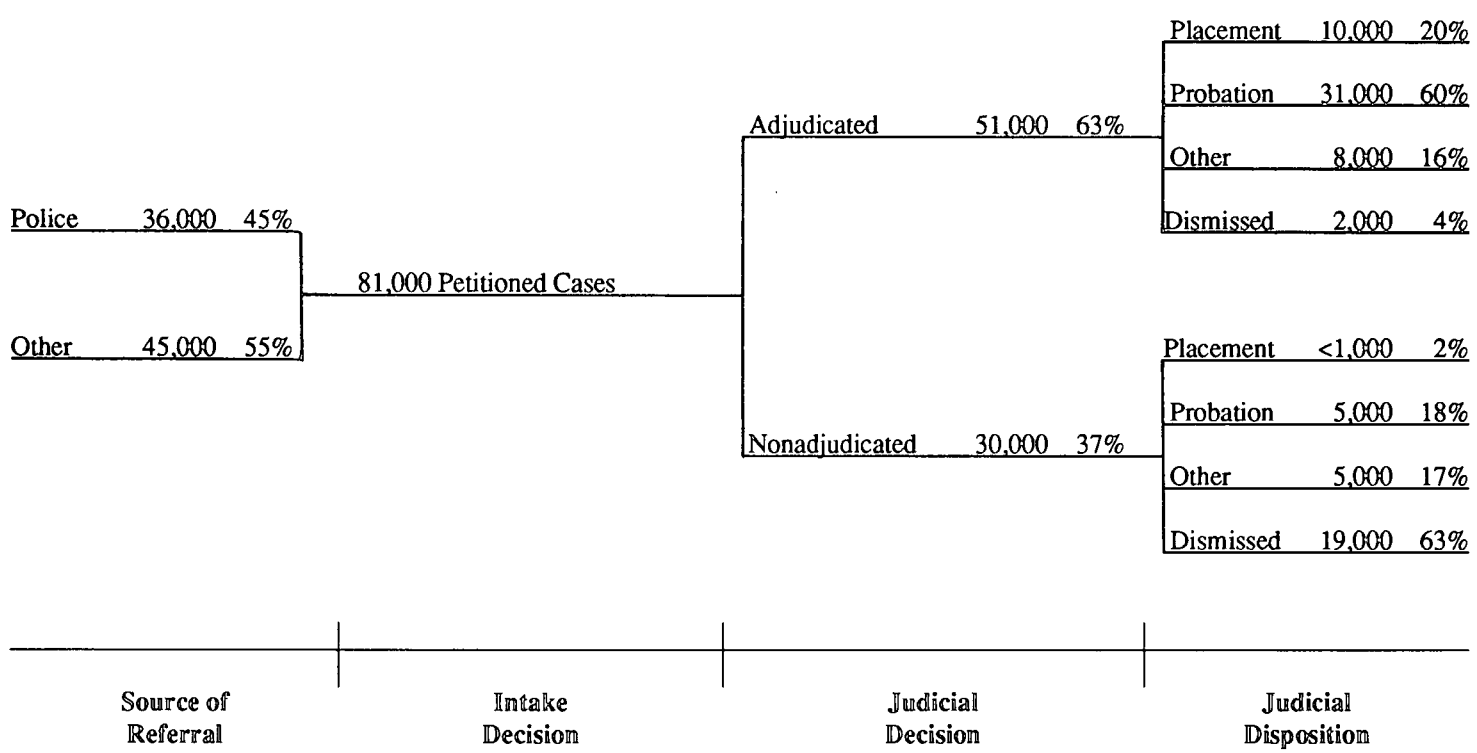
Juvenile Court Processing of Delinquency Cases, 1987



Source: *Juvenile Court Statistics, 1987.* National Center for Juvenile Justice, 1990.

Figure 4

Juvenile Court Processing of Petitioned Status Offense Cases, 1987



Source: *Juvenile Court Statistics, 1987.* National Center for Juvenile Justice, 1990.

Figure 5

Offense Characteristics of Delinquency Cases Placed On Formal Probation, 1987

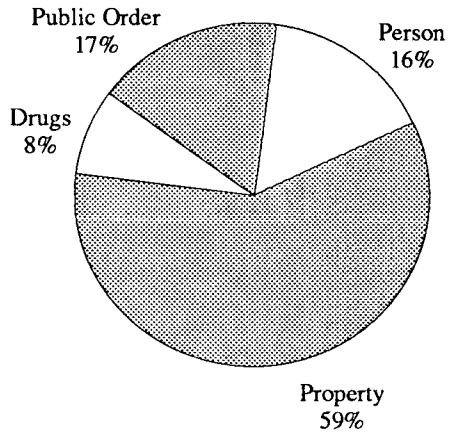
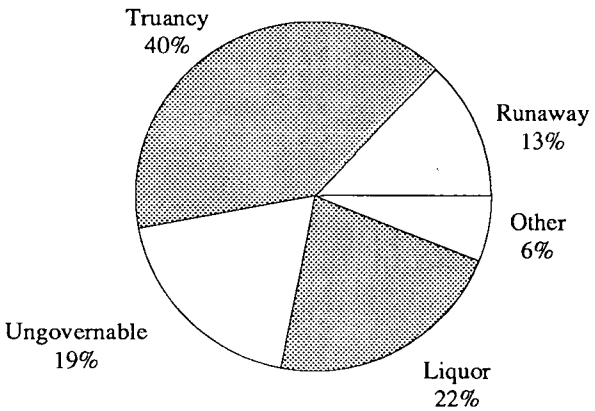


Figure 6

Offense Characteristics of Petitioned Status Offense Cases Placed on Formal Probation, 1987



Source: *Juvenile Court Statistics, 1987.* National Center for Juvenile Justice, 1990.

Figure 7

Sex Characteristics of
Delinquency Cases by Offense, 1987

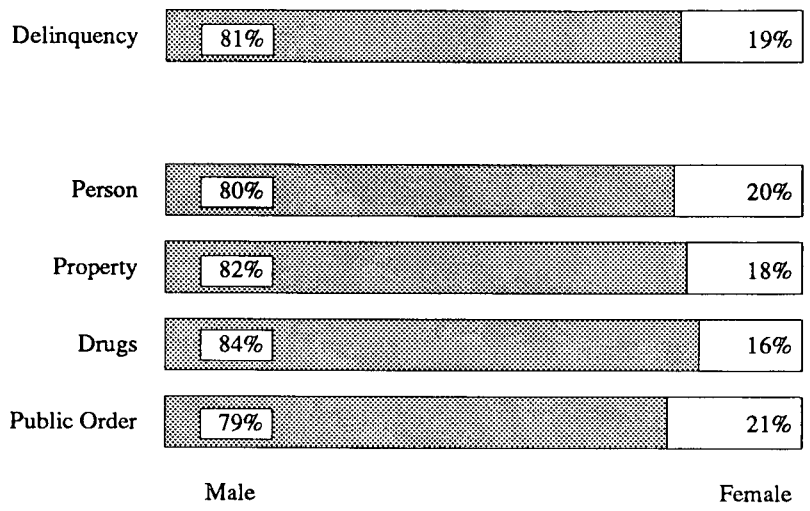
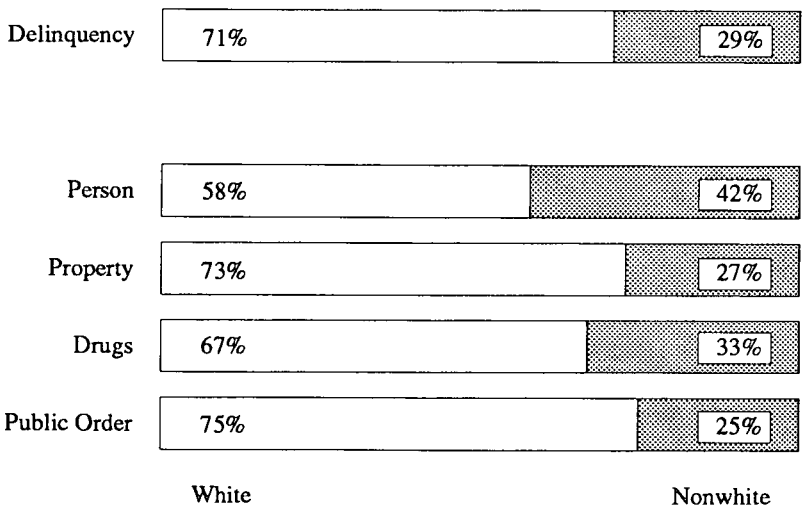


Figure 8

Race Characteristics of
Delinquency Cases by Offense, 1987



Source: *Juvenile Court Statistics, 1987.* National Center for Juvenile Justice, 1990.

Figure 9

Sex Characteristics of Petitioned Status Offense Cases by Offense, 1987

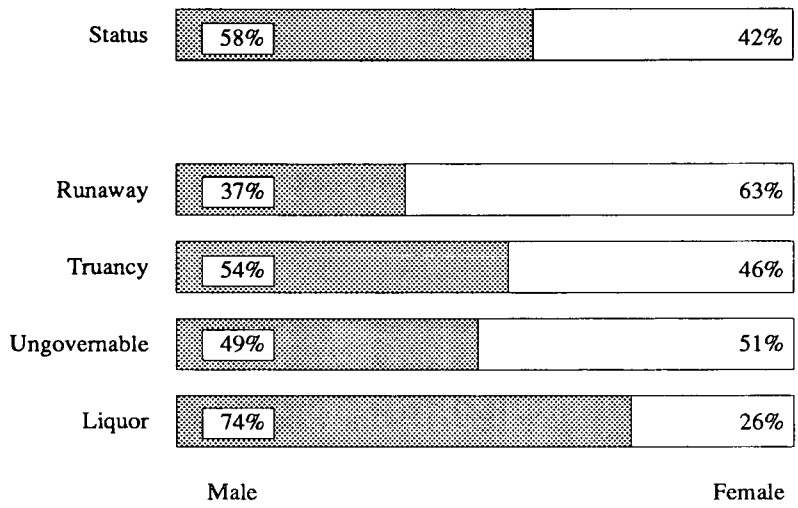
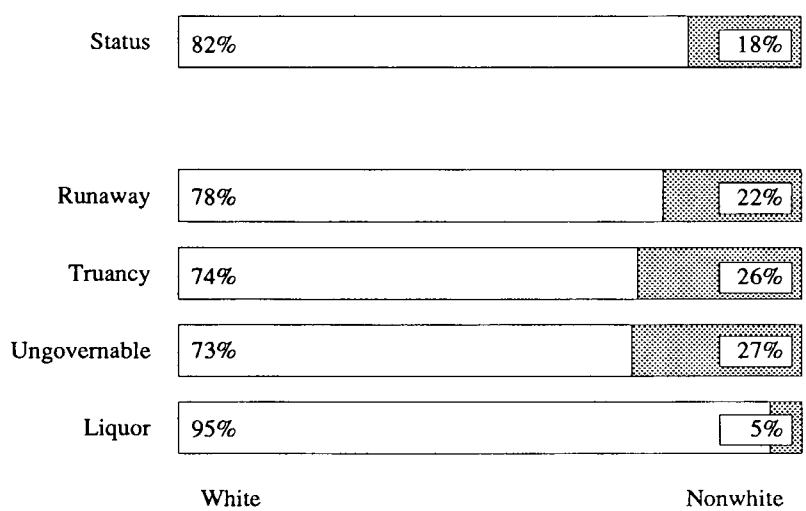


Figure 10

Race Characteristics of Petitioned Status Offense Cases by Offense, 1987



Source: *Juvenile Court Statistics, 1987.* National Center for Juvenile Justice, 1990.

Table 1

Reasons for Referral of Delinquency Cases, 1987

Reason for Referral	Number of Cases	Percent
Index Violent	**64,000**	**5.6**
Criminal Homicide	1,500	0.1
Forcible Rape	4,000	0.3
Robbery	21,500	1.9
Aggravated Assault	37,400	3.3
Index Property	**498,000**	**43.5**
Burglary	131,700	11.5
Larceny-Theft	311,600	27.2
Motor Vehicle Theft	48,600	4.2
Arson	6,100	0.5
Nonindex Delinquency	**583,000**	**50.9**
Simple Assault	99,700	8.7
Stolen Property Offenses	27,900	2.4
Trespassing	50,200	4.4
Vandalism	84,300	7.4
Weapons Offenses	20,000	1.7
Other Sex Offenses	18,200	1.6
Drug Law Violations	73,700	6.4
Obstruction of Justice	80,900	7.1
Liquor Law Violations	16,300	1.4
Disorderly Conduct	47,800	4.2
Other Delinquent Acts	63,700	5.6
Total Delinquency	**1,145,000**	**100.0**

Note: Detail may not add to total because of rounding.

Source: *Juvenile Court Statistics, 1987.* National Center for Juvenile Justice, 1990.

A. Assessment for Decision Making - An On-Going Process

Introduction

Constant assessment and reevaluation of each juvenile on a probation officer's caseload is - will become - second nature to any effective officer. An initial assessment gets the youth into the system, but should not fix his place in it for all time or even for the duration of probation. Conditions that surround the juvenile change: his family and other support systems, available community resources and, perhaps, the youth also. Occasionally, despite best efforts at the time of intake, the youth and the environment are not properly evaluated due to some missing or even hidden information. Any inappropriate assessment must be adjusted as new information is acquired or as conditions change so as to aim for the greatest achievable benefit to the juvenile and to the community. Do not overlook the likelihood that prompt, appropriate adjustment of probation to the youth's needs will do much to foster confidence in the probation department, in the system as a whole and in the relationship between officer and offender.

Probation is about evaluating a juvenile's assets and liabilities, diagnosing his problems and classifying his risk to the community so that appropriate decisions may be made in supervising the juvenile. This is necessary for proper case management.

Case management begins the moment the juvenile enters the juvenile justice system. There are many points, depending upon the particular jurisdiction, where the juvenile can be diverted from the process, including pre-arraignment, pre-adjudication and post-adjudication. For this reason, the probation officer must know what is involved at each stage of the legal proceedings, the consequences of diverting the case at each stage as well as the correct process or procedures for implementing that decision. Of course, the probation officer must be completely familiar with the juvenile, his current conduct, environment and history, so as to make the proper decisions and recommendations.

This chapter describes the three most important skills that a juvenile probation officer should possess in relation to the case processing and case management decisions that must be made in each individual case that comes to the attention of the intake department. Your ongoing need to assess and reassess every case requires you to be an efficient and diplomatic interviewer, information gatherer and reporter. The sections on interviewing and information gathering/report writing offer an approach toward self education in these key skill areas. Some of the guidelines here may help you be more complete, objective and personally effective. They are not rules, but aids, which may be used variably as your experience tells you is proper.

The last two sections on intake and pre-disposition decision making focus on these two crucial investigations and the information that probation officers need in order to make informed decisions. Specific interviewing and information gathering/report writing skills pertinent to these investigations are addressed.

Interviewing Skills - The Key

A recent national survey of juvenile probation professionals indicated that they regard basic interviewing techniques to be the most important skill for juvenile probation officers to possess upon hiring or to acquire early in their careers (Peters, 1988). Regardless of one's specific assignment, every juvenile probation officer needs expertise in eliciting from clients and collateral sources information that is pertinent to the facts of the delinquency charge or an assessment of a given youth's needs for supervision and rehabilitation. This ability may seem particularly important to the intake officer and investigator in the course of determining appropriate intake dispositions and in writing pre-disposition investigation reports that involve formulating recommendations for supervision and treatment; however, the juvenile probation officer must be able to talk with anyone involved in a case and use interviewing skills to efficiently achieve the goals of each exchange while keeping intact working relationships with each person interviewed, including the juvenile.

The process of the "interview" involves two people developing "views" of each other. We tend to present a view of ourselves to others that will make us personally attractive to them since our self-esteem is based, in large part, on what others think of us. Skillful interviewing goes beyond having a natural ability to relate to people and get them to talk about themselves. An easy rapport with people is certainly a positive asset, but good interviewing is a collection of specific skills that can be learned. For example, it is vital to learn some mechanism for maintaining control

with a manipulative interviewee. Every encounter is a form of interview. Good interviewing involves paying attention to the verbal and non-verbal aspects of communication that a casual observer may fail to notice.

As with any skill development, interviewing techniques may be taught by someone with expertise in that area rather than learned over the course of time by trial and error or assimilation. While not all organizations that administer juvenile probation services and employ probation officers have the capacity to specifically train new officers in each of the important skills they will need, administrators should either hire the services of a trainer or enable the officers to attend such training wherever it is available. Some regional or national training conferences offer skill training in interviewing techniques. One such resource is the National Council of Juvenile and Family Court Judges' annual "Probation Officer in Juvenile Court" conference on skills and issues pertinent to the profession.

Before focusing on the process itself, consider yourself and the view of yourself you are communicating to the interviewee. It is possible that you are already a good and empathetic listener; but it is equally possible that, if you are an experienced officer, you have become routinized and distant in your presentation. Even the most troubled youth or adult will recognize commitment, respect and honesty in your demeanor, if it is there.

Although the aim of any interview is to gather information, some goals are necessary. Thus, some planning and preparation go into a successful interview. If your department requires contact forms to be completed for each interview, or if various assessment forms are routinely used to track interactive behavior, have them ready. If you are interviewing the juvenile's guardian, have consent forms ready for any records concerning the minor that you will want to review in making your assessment. In interviewing witnesses or police, decide what information you need from each person to complete your task before beginning the interview. It is always important, however, to keep an open mind as the encounter progresses so that you do not predetermine the outcome of the interview and so that you follow-up on information that develops during the course of the interview and truly investigate and gather information.

Where the interview is directed to a particular problem encountered in the course of managing a case and monitoring a juvenile, a particular plan must be prepared in order to avoid being sidetracked, deliberately or unintentionally by an interviewee. Consider the different goals of client, victim and family interviews at intake as compared with interviews during the course of crisis intervention or mediation.

Opening

Introduce yourself and your role and attempt to create an informal atmosphere. If you can avoid conducting the interview from behind a desk, do so. State the purpose of the interview and how the information will be used. Begin by asking the interviewee some basic questions such as full name, where they live and background, to put them at ease with "easy" questions. Don't rush them into the information that is the real goal of the interview until they have become somewhat comfortable and you have established a threshold rapport. If possible, work toward achieving a positive involvement in the goals of the interview by the interviewee. Try to make him or her feel helpful.

Asking Questions

Avoid phrasing questions in such a way that the interviewee can figure out an answer that "satisfies" you. Most interviewees will continue to be nervous to some extent throughout the interview and will be especially uneasy when talking about the information that led you to call them in. Accordingly, they may take the easy approach of "sounding out" what you want so that they can be on their way, and so that they do not have to be uncomfortable any longer than necessary. Try to be concerned but neutral in your approach. When talking about difficult or sensitive matters, be especially careful to make sure you understand what the interviewee is telling you. Because of the sensitivity of certain topics and the behavior of some interviewees, it is easy for interviewers to hurry past awkward details and to make assumptions. Make sure you understand the facts, while accepting the interviewee's attitudes and feelings without judging, and then move on.

At these times and <u>always</u> in the course of an interview, don't interrupt or cut off answers or finish a sentence for a halting interviewee. Don't be concerned with a temporary silence. The interviewee may be collecting his or her thoughts.

Never ask leading questions, except for "your name is ..., isn't it?" An exaggeration, perhaps, but seasoned investigators, as well as beginners, anxious to get to the heart of an interview in a case with which they are already somewhat familiar would be surprised to listen to themselves conduct the interview: they are doing all the talking, with the interviewee's responses limited to "yes,...no,...sometimes...." Any information the interviewer records as a result of such one-

sided exchange is more likely to be from the interviewer's point of view, rather than the interviewee's.

Always make your frame of reference specific: "this week" not "in general." Also, ascertain that the interviewee is addressing a specific event or time frame, rather than general conditions.

Adjust your vocabulary and style of speech to your interviewee. However, only use style(s) you are comfortable with - street slang sounds fake if it is forced. The police probably know the system jargon; the first time offender and victim may not. Consider the educational level and cultural background of the interviewee in selecting language that he or she understands. Listen to the answers. Are they off the point; are they overly brief? These are two signs that your questions may not be understood by the interviewee. Rephrase and try again, but avoid talking down to the interviewee at all costs. Go back to a point in the interview where you seemed to be understanding one another and go forward to the goal, again.

Whenever possible, ask open-ended questions that invite the interviewee to narrate. The narration will be the interviewee's point of view. Listen to the narration, considering what may be left out as well as the extras that are included, such as attitudes, demeanor and body language. Letting an interviewee narrate gives him or her a chance to "tell the story" and often helps establish rapport between interviewer and interviewee. After listening to the narration, go back over it, asking specific questions to fill out the picture painted by the interviewee. Be careful not to probe too aggressively: it is unlikely that an interviewee will want to be totally candid with you on a first interview as to sensitive matters. At times, when such a rush of unburdening occurs, the interviewee later feels vulnerable and defensive and further contacts may be difficult or unproductive. If you sense the interviewee is lying, pursue other investigative sources that will confirm your impression, or refute it.

Closure

When the interview has taken place to gather facts from a witness about an event or particular matter, you should make a brief summary of what has been covered in the course of the interview. This may prompt further information from the interviewee concerning something previously overlooked. If there will be any follow up with this interviewee, such as a second meeting or submission of written materials, confirm this.

When the interview has been with the juvenile or the family or other concerned individuals, or when the interview was arranged to work out a particular issue, a summary is also in order; however, it may be most effective if the interviewee does the summation. This provides another opportunity for the interviewer to assess the interviewee's understanding and interest in cooperation as well as to discover gaps or matters overlooked. The interviewer might prompt this participation by asking "what do you think we have accomplished in this interview" or "how does the situation look to you, now?"

When the work of the interview is over, you should offer a gesture of closure and thank them for their time. Some interviewers stand and move toward the door. Some ask whether the interviewee has anything more to say. Learn your own technique for ending an interview when you have accomplished all that is reasonable.

Interview Behavior Problems

When the interviewee is nervous, frightened, distracted or confused, the interviewer should make additional efforts to put the person at ease, perhaps by sustained inquiry into background issues that are simple and not emotion-laden. Perhaps it will help to reassure the interviewee about the process and the system's routines and to elicit the interviewee's concerns, if any, in this area. Keep questions simple and be particularly careful not to jump around from topic to topic. Maintain your calm and patience.

When the interviewee is emotional or displays strong opinions or attitudes, adopt an "active listening" strategy. "Active listening" involves listening to the speaker and distinguishing substance from emotional content and mirroring back to the speaker the emotional content of their message. An interviewee delivering a "charged" message needs to know that the emotional aspect of the message has been heard and that his expression and feeling is acceptable. The listener's acknowledgement of the emotional content builds trust and enables the interviewer to then, eventually, inquire into the substance of the communication. Empathy is established when the interviewer correctly assesses the feeling and intensity level and paraphrases it to the interviewee, checking the interviewee's response. A second "active listening" may be required, if the interviewer is "corrected." As the interviewee becomes less emotional, the interviewer switches to paraphrasing the substantive portion of the communication, checking with the interviewee for accuracy. Where the barrier is more one of attitudes or values, try to identify the positive value underlying the expression; this will usually involve turning the interviewee's negative expression around in your restatement.

For manipulative, evasive or garrulous interviewees, keep questions simple and specific and establish eye contact. Be clear and confident and require answers to your questions, restating them where necessary. Be aware of your body language and that of the interviewee. Also note that as with speech, there are cultural differences in body language. Be careful not to misinterpret body language of persons from different cultures.

Interviews with the Juvenile Offender

In addition to the foregoing, some other considerations pertain to contacts with the juvenile. Some of these additional considerations may also be appropriate for family or victim contacts.

Develop a positive attitude; a contact with you colors the juvenile's entire attitude toward the system. Keep the juvenile aware of all the possible contingencies in the system, so as to avoid an undermining shock. Don't be late for contacts, as it suggests you and the system are untrustworthy and the juvenile is unimportant. Don't "play games" to try to catch the juvenile in a lie; be up front and check out any informational discrepancies elsewhere. Empathize, but don't identify with the youth; be aware of your own vulnerabilities and don't become part of the problem. At all times maintain your professional role. If your objectivity is lost, you should ask your supervisor to evaluate the situation and transfer the case if necessary. Don't try to make the juvenile too comfortable; he has a problem and should accept and experience it.

Information Gathering and Report Preparation

Juvenile probation officers prepare a variety of written reports for presentation to the court. Although they may be presented verbally in court, there must be a written report which serves as the basis of testimony. Names of reports may vary from state to state, however, the most common types of reports are those which are pre-dispositional, those which are completed to update the court on a juvenile's progress on probation or with court conditions and those which deal with a recommended change in status. All reports include a presentation of pertinent data, an assessment and a recommendation for court action.

Although the elements of a pre-adjudication, a predisposition or a post-disposition report may all be similar, each offers some unique elements associated with the juvenile's place in the court process at the time the report is prepared. The types of information needed for preparation of reports include the following general areas. The purpose of the report will indicate the type and amount of information needed:

- sentencing offense/misconduct
- juvenile's version of offense/misconduct
- prior record and placement history
- family/personal background
- education/employment
- physical health
- leisure activities
- chemical dependency
- home environment
- community behavior
- victim impact
- mental health

Information is gathered by interviewing the juvenile, family or legal guardian, victims, school officials and others who have pertinent information. It is also obtained by reviewing relevant reports and documents from other sources, including court, school, agency and sometimes health records.

Throughout the interviews, the juvenile probation officer collects necessary information, gathering insights about the juvenile and the meaning, reliability and relevance of the information collected. The juvenile probation officer is always assessing the juvenile's problem areas, strengths, capacity and motivation for help, and measuring the appropriateness of supervision or probation. Perceptions regarding the case are tested out and revised. This data collection and interpretation will serve as the basis for the report's summary assessment and recommendation.

Keep accurate records of all interviews. Perhaps your department has a standard form; otherwise, you can develop one yourself that will both streamline your interview preparation and insure that you have covered all basic material. The following are some suggestions for material to be recorded:

- detailed physical description of interviewee; clothing style and appropriateness
- emotional state/behavioral assessment of interviewee
- your goals for the interview
- description of interview process
- summary, analysis and future goals

On subsequent contacts, be sure to record all changes in the interviewee's physical appearance and behavior.

Do not overlook the value of a detailed case chronology that summarizes all contacts. This may be especially valuable in a case requiring long-term supervision or one with many complicating factors or surfacing problems. Depending on how your department, or you, organize case files, the chronology can be the one tool that shows you the developing process of supervision and achievement in a case.

The juvenile probation officer must be mindful of the fact that the parties who are interviewed may not be totally candid and may intentionally or unintentionally omit information. Secondary reports may be used to augment information received directly from the juvenile. At times, the juvenile probation officer will find a wide variety of additional sources of information and, at other times, will need to use some creativity to locate appropriate sources. Time, distance, convenience and usefulness of the information are factors in considering which sources to utilize.

The probation officer may find it necessary to review police reports, the petition, previous court or probation records, school reports, medical, mental health and counseling reports, and reports from social agencies with whom the juvenile has had contact. Information regarding procedures for obtaining the records, where they can be reviewed and what can be duplicated, if anything, are readily available within agencies. In all instances, the probation officer needs to get as complete information as possible regarding the source, beginning and ending dates of involvement, names of those who dealt with the juvenile, etc. Once a secondary source has been identified, a written release of confidential information must be signed by the juvenile's legal guardian and provided with the request for records.

Official records can contain valuable data but they also have some limitations and could be misleading. Keep in mind the following points:

1. The purpose for which the original information was collected may not correspond to the purpose of the present reports, and the information may be incomplete or in a form that is not useful.
2. Don't over-value the information in agency files. Information committed to print tends to assume credibility and an authority of its own. Not only does the power of the printed word tend to legitimize the information, but studies have shown that juvenile probation officers seem reluctant to question their own agency's information.
3. Don't rely too heavily on your <u>own</u> previous assessment of known juveniles. It often becomes easy to overlook signs of change in familiar cases.
4. Records do not only have the effect of lending respectability to the information, but they also tend to "freeze the person in time." A previous assessment may be outdated and no longer indicative of the person's present situation. Unquestioning repetition of a previous inaccurate report also serves to perpetuate what may have been a faulty diagnosis in the first place. The temptation to repeat previous facts, without an attempt at new corroboration, should be avoided.
5. Evaluate what the interests and the biases of a source might be before accepting the data at face value. How objective is the source in regard to the situation? How useful, then, is the information? (Asplet, 1986).

Often, there are numerous reports available on a juvenile. A sound, thorough and well-founded report can develop a meaningful and valid source. Care should be taken to accomplish this for the use of others who may come in contact with the juvenile, in order to best serve that juvenile's interests.

Intake Decision Making

We now turn our attention from specific skill areas to the particular investigations that probation officers make during two key case processing stages: intake and pre-disposition. This section addresses decision making at intake; the next section discusses pre-disposition decision making.

It is at intake that two decisions are made: whether to process the case formally through the court system and, often, whether to approve detention prior to a detention hearing. Two complimentary objectives of intake are the diversion of minor offenders from the juvenile justice system and the protection of the community.

Part 1, section E, of this *Desktop Guide* covered some recommendations of the various standard-setting groups and demonstrated that prevailing philosophy governs the system's response to juvenile misbehavior. This philosophy is reflected in law, court rules and department policy and affects how cases are processed. It is probably at intake that most philosophical and practice variation exists among the states. Practices range from sophisticated intake screening assessments to processing paper and logging complaints. The authority for making intake decisions may rest either with the probation department or the district attorney's office.

This section focuses on the information that intake officers need in order to make informed decisions. The nature of this information reflects national standards and opinions of probation professionals. Note how differences in case processing at the intake stage affect activities between intake and adjudication. For example, officers have different tasks depending upon whether the intake process involves complaint-taking or petition-screening. Intake's role is further circumscribed by the extent to which the prosecutor is involved in the process.

Review for Legal Sufficiency

Two tasks are involved in deciding whether or not to process the case formally: screening the police complaint for legal sufficiency and then making an intake disposition. This bifurcated process insures that factors related to the intake disposition are not even considered unless legal sufficiency has been established. The sufficiency determination relies exclusively on legal factors and may involve only reviewing the complaint and police report, but these sources can be supplemented by interviews with victims, witnesses, police officers, the juvenile and his parents. On the other hand, the intake disposition decision relies on both social and legal factors and routinely includes review of records and interviews with the juvenile, his parents, the victim and investigating police officers.

Intake begins with a referral typically from police, but sometimes from other sources. Every complaint alleging a delinquent act must first be reviewed for legal sufficiency.[1] Intake officers should confer with their local police departments to insure that the appropriate information is furnished in the arrest report. At a minimum, it should contain the complete arrest report and an investigation report, the victim's report of the crime, a witness list and statements and an evidence list. The intake officer examines the facts contained in the police complaint to determine whether the allegations are sufficient to bring the matter before the jurisdiction of the juvenile court, that is, whenever both of the following are present:

1. the conduct alleged in the complaint took place within the court's geographical jurisdiction; and
2. the conduct falls within the juvenile court's subject matter jurisdiction, as described by statute.[2]

If both of these conditions are present, jurisdiction of the court can be invoked. The next consideration is whether the charges set forth in the complaint can be substantiated against the juvenile by admissible evidence in court. This charging process requires early determination as to whether the facts constitute *prima facie* evidence[3] that a delinquent act was committed and that the accused juvenile committed it.

If the intake officer determines that the facts as alleged are not sufficient, the complaint should be dismissed; if the facts are unclear, the complaint should be returned to the source for further investigation or to the prosecutor's office for determination.[4] Intake units should not accept complaints requiring further investigation to determine if a juvenile comes within the jurisdiction of the juvenile court because case development is the primary responsibility of law enforcement. However, sometimes the intake officer must talk to the parties to verify the charges. Although the general thrust of what happened should be easily obtainable from police records or the juvenile, it is critical that the intake worker obtain detailed information regarding the events and the people surrounding the offense.

In some jurisdictions, the intake function is a paper process which is completed upon the screening of the complaint for legal sufficiency and the filing of a petition. In this instance a petition is filed based upon legal, not social, factors. The judge or hearing officer,

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1 For the purposes of this section, a complaint is defined as a sworn statement alleging that an offense was committed; a petition is also a sworn statement of the allegations and is used to initiate court proceedings and establish the court's jurisdiction.

2 "Subject matter jurisdiction" as used here means the kinds of behavior considered under law to be delinquent or non-criminal misbehavior and includes the age of the actor as a consideration.

3 "Such evidence as will suffice until contradicted and overcome by other evidence." Blacks Law Dictionary, Rev'd 4th ed.

4 In some states, the prosecutor (district attorney or county attorney) determines legal sufficiency of the police complaint. Upon a finding of sufficiency, the prosecutor usually refers the matter to the intake department to make a preliminary inquiry based upon both social and legal factors in order to determine whether the interests of the public or the child require further action. Prosecutors can directly file a petition if statutory provisions exist that exclude certain offenses or offenders from diversion consideration. However, in most states, the intake officer determines legal sufficiency and performs a preliminary inquiry and the prosecutor approves the filing of a petition based upon the recommendations of the intake officer.

and not the intake/probation department or the prosecutor, decides whether to dismiss, divert or refer a legally sufficient case. Very often, the juvenile offender's initial contact with the system after arrest is with the pubic defender a few minutes before some type of preliminary hearing.

Intake Investigation and Disposition Criteria

If intake is more than a paper process, after the legal sufficiency determination, the probation department must make an intake disposition to file the case formally, dismiss, divert, adjust or settle the matter by consent. Sometimes the intake officer can make this decision based exclusively upon a review of the legally sufficient complaint. For instance, state juvenile codes may exclude certain offenses from consideration for diversion to a community agency due to their serious nature or degree of harm to the victim. In addition, juvenile courts may have policies against diverting certain classes of offenders such as recidivists, violators of court orders or conditions of probation, or those of a certain age and prior court history. On the other hand, some juvenile courts set policy that requires all first offenders not referred for a person or serious offense to be diverted.

After the intake officer screens the case for "required" diversions or filings, and except in complaints of a minor nature in which a warning letter may suffice, the intake officer should conduct a preliminary inquiry or investigation into the situation. (This preliminary investigation is not to be confused with the social history, pre-sentence, or pre-disposition investigation which occurs later in the process.) The intake officer may conduct interviews with the complainant and any witnesses and check for prior records with the court, police, and social services. If the juvenile is active with the court, the youth's probation officer should be consulted unless court policy requires the probation officer to investigate new charges on an active case. Parents or a legal guardian should receive a letter informing them of the receipt of the complaint by the intake unit, the nature of the complaint and the date and time for an intake conference. The letter should also contain a statement as to the juvenile's right to have legal counsel present at the conference. If the juvenile is detained, the intake worker should hold the conference at the facility prior to the detention hearing.

The primary purpose of the intake conference and interviews should be to obtain only that information essential for disposition decision making. The intake officer should strike a balance between the officer's need for information and the juvenile's and family's interest in avoiding unnecessary invasions of privacy. As such, interviews should be conducted in a nonthreatening, nonadversarial atmosphere in a private, quiet room. At the outset of the intake conference, the intake worker should:

- Explain to the juvenile and his parents or guardian that a complaint has been made and explain the allegations of the complaint.
- Explain that the purpose of the intake process is to determine whether the matter should be handled formally or informally and to describe the dispositional powers of the intake officer and the intake procedures.
- Explain that their participation in the intake interview is optional and that they may refuse to participate but explain the consequences for refusal.
- Notify them of the right to remain silent and be represented by counsel. This explanation of rights should be given both orally and in writing and should be signed by both the juvenile and his parents. An interpreter should be available if a language barrier exists.
- Obtain informed consent from the juvenile and his parents for the intake worker to obtain information from additional sources other than the victim, complainant, witnesses, police, school, or other public agencies.

The intake officer should be mindful that this may be the juvenile's first experience with the juvenile justice system. The intake officer should function as an objective resource in the community and should take the responsibility of setting a tone of fairness in the proceeding. As such, care should be taken to answer the family's questions.

The intake officer should exercise caution when being questioned by the juvenile or his parents about particular situations about which the intake officer does not have first hand knowledge. The most commonly asked questions concern arrest procedures, detention decisions and disposition of companion cases, or interpretations of law, none of which the intake officer may have had an active or authoritative role in and which should not be the subject of any discussion. It is appropriate, however, to share information contained in police complaints or statements of the complainant or victim. This information may enlighten the parents as to the behavior of their child, allowing them to better advise the juvenile during the interview.

The intake officer should avoid dispensing legal advice. To do so, in most jurisdictions, constitutes the unauthorized practice of law, a violation of statute.

The officer should remind the juvenile and his parents of their right to an attorney. Oftentimes obtaining an income statement is the responsibility of the intake officer and, if appropriate, a referral is made to a public or a court-appointed counsel. The juvenile probation officer should, however, never act as a broker for private legal services.

The following factors or criteria should be considered in deciding whether to file a petition:

- the seriousness of the alleged offense, determined by the nature and extent of harm to victim or the degree of dangerousness or threat imposed;

Victim's Services

Some juvenile courts have established specialized units for providing services to victims; more often, it is the individual probation officer who administers assistance to victims. Those individuals responsible should investigate the extent of any medical/financial/emotional damages that the victim experienced and supply that information to the judge, along with a specific recommendation for restitution or community service. Other services to victims may include referring them to counseling, victim compensation programs and the like, but it often requires no more than allowing the victim to "ventilate" his resentment toward the offender. Often, probation officers personally transport elderly or infirm victims from their homes to and from the juvenile court hearings, sitting with them while they await their hearings, explaining the court process and helping to allay their fears over the prospect of confronting their assailant or perpetrator. Some probation departments bring together carefully selected offenders and their victims to mediate solutions that are acceptable to both parties and to facilitate understanding on the part of the offenders as to the impact of their crimes upon the lives of others.

Examples of additional types of services that courts/probation departments might offer are contained in standards developed by the Pennsylvania Juvenile Court Judges' Commission. The standards recommend that the court:

- Prepare a victim/witness assistance brochure to be distributed prior to the juvenile court hearing which provides an orientations to the system, as well as information about the location of the courthouse and probation office, parking, transportation and child care services and the telephone numbers of other relevant service agencies.
- Develop a scheduling policy which minimizes victim/witness waiting time and eliminates unnecessary appearances.
- Provide separate waiting facilities for victims and witnesses.
- Endeavor to provide witness fees to victims and witnesses and to provide reimbursement for mileage to and from the hearing location and their residence.
- Develop procedures that provide for contact between the probation officer and victim to extend an opportunity for input regarding case disposition.
- Develop victim impact statements as part of the pre-disposition report and include information concerning the effect of the crime (physical, psychological and financial).
- Designate a contact person within the juvenile probation department capable of providing case status information to victims and witnesses.
- Provide notice of the final disposition of a case to the victim and the police department.
- Upon the request of a victim of a feloniously assaultive crime, notify the district attorney or victim directly of the juvenile's release from placement, transfer to a nonsecure program or a home visit.
- Develop a restitution program that includes:
  a. submission of the victim's restitution claim
  b. advice regarding the feasibility of entering a restitution order
  c. a payment plan when restitution is ordered
  d. notification of the amount of restitution, payment plan and any required adjustments.

- the circumstances surrounding the offense and the juvenile's role in that offense;
- the nature and number of the juvenile's prior contacts with the court and the results of those contacts;
- the juvenile's age and maturity;
- the availability of appropriate treatment or services within or outside the juvenile justice system;
- the attitude of the juvenile to the offense and to law enforcement and juvenile court authorities;
- whether the juvenile admits guilt or involvement in the offense;
- recommendations of the referring agency, victim and advocates for the juvenile;
- the time of day an offense occurred. "... (A) child under fourteen who commits a delinquent act late at night or during early morning hours should trigger a concern. The time the act takes place is often a clue to the type of supervision afforded by parents" (Olson and Shepard, 1975: 22).

The intake officer should make the following determinations in deciding whether or not to file a petition:

- If the juvenile, his parents and attorney desire a hearing before the court, they have a right to hearing on the charges.
- If services or corrective measures are required and the juvenile and his parents are unwilling to accept them voluntarily, then a petition to court is required.
- If the juvenile and his parents are willing to accept voluntarily whatever services or corrective measures are needed and the juvenile is not a threat to the community, a petition would serve no purpose.
- If no services outside the juvenile's own family are required to protect the community or to correct the juvenile and, if no other interest of justice would be served, a petition may not be necessary.

Nonjudicial Disposition of Complaint

Nonjudicial dispositions (i.e., referral to community agency, informal probation, community service, restitution without a finding of delinquency) require the following conditions:

- The juvenile admits to the charges;
- A contractual agreement promises that the intake officer will not file a petition in exchange for certain commitments by the juvenile and his family with respect to agreed upon conditions;
- The juvenile and his parents enter into the agreement voluntarily and intelligently;
- The juvenile and his parents are notified of their rights to refuse to sign and enter into an agreement and to request a formal adjudication;
- The agreement should be limited in duration;
- The juvenile and his parents should be able to terminate the agreement at any time and to request formal adjudication;
- The terms of the agreement should be clearly stated in writing, i.e., vague instructions such as "cooperate with the police" or "show respect" can not be adequately measured;
- Once a nonjudicial disposition has been made, the subsequent filing of a petition based on the events out of which the original complaint arose should be permitted for a period of six months from the date of the agreement. If no petition is filed within that period its subsequent filing should be prohibited.

If the intake worker decides to process the case informally, the worker should send a notice of the right to review the decision to the victim, the complainant and the police officer, informing them that they can object to the intake recommendation by contacting their county or district attorney within a timely manner and requesting a special review. After waiting the required time, the intake worker can then schedule a conference to discuss the diversion or informal agreement with the juvenile and his parents.

In making a nonjudicial disposition, intake officers must be acutely aware of the various service and treatment options available in the community. Referrals should always be in writing with a response requested from the referral agency to make sure that the juvenile and/or his family contacted the service and were accepted. For nonjudicial dispositions, the intake officer should attempt to meet the needs of the juvenile, his family, and the community in ways that are least disruptive and impose the least restraint. In setting conditions, the intake officer should keep in mind that those which do not address a need or problem identified by the family have a small likelihood of compliance. Further, referrals to counseling

programs should be avoided in situations where neither the juvenile or his parents indicate a willingness to attend, since inappropriate referrals can overload the program's ability to provide services to those who will use them. Nonjudicial dispositions should address reparation to the victim, if appropriate, and provide for restitution or community service. Every department should have written policy to aid in planning and monitoring the diversion agreement as well as taking action against noncompliance.

Detention Decisions

If the juvenile is brought to the detention facility, the intake officer's first task is to assure that the alleged facts are legally sufficient. If the complaint is legally sufficient, the intake officer should hold a face-to-face interview with the child, apply detention criteria, and make a decision.[5] If the juvenile continues to be held in custody based on sufficient facts, a detention hearing should be held within 24 - 72 hours after admission to the facility. In a written finding, the intake officer should specify the charges, the reasons for detention, the reasons why release was not an option, the alternatives to detention that were explored, and the recommendations of the intake officer concerning interim status. When using detention, it is important to remember that the juvenile has not been adjudicated and that at all times he retains his constitutional rights and his presumption of innocence.

In making detention decisions, intake officers should consider:

A. That detention not be imposed:
   1. to punish, treat, or rehabilitate;
   2. to allow parents to avoid their legal responsibilities;
   3. to satisfy demands by a victim, the police, or the community;
   4. to permit more convenient administrative access to the juvenile;
   5. to facilitate further interrogation or investigation;
   6. due to a lack of a more appropriate facility or status alternative.

B. That unconditional release be exercised unless detention is necessary to:
   1. protect the jurisdiction or the process of the court;
   2. prevent the juvenile from inflicting serious bodily harm or committing serious property damage;
   3. protect the juvenile from imminent bodily harm upon his or her request.

Intake officers make detention decisions based on state statutes and local court and department policies that specify reasons for which a juvenile may be securely detained. Historically, the statutory language has been vague and court-developed policy guidelines ill-defined. In the absence of specific criteria, the detention decision making process can become highly subjective and discretionary. However, as more and more jurisdictions seek to make the detention decision more objective, the field will become more knowledgeable about which criteria are effective indicators of the need for detention.

Juvenile justice practitioners are experimenting with formalized detention screening models to eliminate the subjective quality of decisions. Two models have attempted to develop objective criteria. Both are abstracted below.

Mulvey and Saunders (1982) developed a detention decision making model in which they listed three guiding principles regarding the construction or selection of criteria:

1. Eliminate criteria that are not in agreement with the short-term, limited scope of detention functioning. It is the authors' view that detention is not well suited to remedial or rehabilitative activities.
2. Eliminate criteria that require prediction of future behavior by intake officers. The focus should, instead, be upon the juvenile's past history and recent occurrence of dangerous behavior.
3. Emphasize criteria which refer to specific, ascertainable events or behaviors, as opposed to trends, tendencies, psychological states or personality characteristics. In other words, the more factual the criterion is, the less need there will be for judgements that introduce error.

Mulvey and Saunders found sixteen criteria among standards' documents that are in accordance with the preceding list of principles. The criteria were grouped into five categories that reflect the major purpose of detention:

1. Potential dangerousness to persons or property
   - Present offense is _____(minimum level of seriousness; e.g., a felony).

[5] Before the interview, make sure that the police have conducted a search of the child.

STANDARDS FOR THE SECURE DETENTION OF DELINQUENTS IN PENNSYLVANIA: COLEMAN, et al. --vs-- STANZIANI, et al.

One legal decision that addresses state and local policies and procedures regarding the secure detention of juveniles, Coleman, et al. -vs- Stanziani, et al., CA No. 81-2215, has had a major impact in the state of Pennsylvania. *Coleman* was a civil rights case challenging the constitutionality of the Pennsylvania pre-trial detention statutes. Ultimately, four essential issues were raised in the complaint:

1. Does preventive detention ordered by probation officers or by juvenile court judges violate due process because:
   a. the statute does not specify a standard by which "danger to person or property of child or others" must be proven;
   b. the probable cause hearing is inadequate;
   c. no stenographic record is made of the hearing;
   d. facts and reasons are not stated on the record;
   e. appellate review is not available; or
   f. detention is imposed arbitrarily and capriciously?
2. Does preventive detention in violation of Department of Public Welfare detention regulations violate substantive and procedural due process?
3. Is preventive detention unconstitutional because the juvenile is not detained in the least restrictive alternative?
4. Is preventive detention unconstitutional because it is punishment in light of the conditions in detention centers?

The suit was resolved through a negotiated settlement resulting in a consent decree approved by the federal court. Some of the terms of the consent decree that directly affect decisions to detain are listed below:

1. Use of Detention: A child may be placed and held in detention only when security is necessary; non-secure alternatives to detention must be considered first. Absence of a responsible parent cannot be the sole ground for detaining a child and pre-adjudication detention may not be used as a means of punishment.
2. Contemporaneous Written Statement of the Facts and Reasons: The consent decree provides that, except in certain circumstances, when a juvenile court judge, master or probation officer orders a detention he or she must make a contemporaneous written statement of the facts and reasons for the detention order. This written statement must specify:
   a. there is a **reasonable basis** to believe that the child has commited the alleged delinquent act (if the order is that of a probation officer) or that there is **probable cause** to believe the child has committed the delinquent act (if the order is that of a judge or master);
   b. that detention is permitted under the Juvenile Court Judges Commission's Standards;
   c. the alternatives to secure detention which were considered and rejected; and
   d. the reasons why secure detention is required and the alternatives were not appropriate.
3. Detention Hearings and Review: Any child placed in secure detention - except those placed immediately after a court hearing - must be given a court hearing on the appropriateness of detention within 72 hours. Likewise the consent decree requires that secure detention of all *adjudicated* delinquents be reviewed at least every ten (10) days.

In addition, the terms of the consent decree require the promulgation and adherence to standards. As a result, the Pennsylvania Juvenile Court Judges Commission (JCJC) established *Standards Governing the Use of Secure Detention Under the Juvenile Act* which guide juvenile court judges, masters, and probation officers when making determinations regarding the use of secure detention. The Pennsylvania JCJC must monitor compliance with the consent decree as well as provide training and technical assistance. The consent decree is in effect for ten years from the date of the federal court's approval (April 18, 1986).

- o Present offense is first or second degree murder.
- o Present offense required that victim receive medical attention.
- o Present offense involved overt threat of physical harm to others.
- o Record of at least _____ (number) adjudicated delinquencies in the past ____ (number) years.
- o Record of at least _____ (number) violent adjudicated delinquencies in the past _____ (number) years or months.
- o Record of at least _____ (number) assaults or incidents of destruction of property in court placements in the past _____ (number) years or months.

2. Risk of flight
   - o Escapee from a court placement.
   - o Record of at least _____ (number) failures to appear in court in the past _____ (number) years or months.
   - o Record of at least _____ (number) incidents of running away from a court placement in the past _____ (number) years or months.
   - o No adult willing to assume responsibility for minor's appearance in court.
3. Previous jurisdiction
   - o Presently a fugitive from another jurisdiction.
4. Protection of subsequent court processing
   - o Presently in an interim status under the jurisdiction of the court in a criminal case.
   - o Presently on probation or parole under a prior adjudication.
5. Protection of the child
   - o No adult willing to assume responsibility for care of minor.
   - o Individuals in potential release setting have past record of at least ____ (number) incidents of violence toward the child in the past ____ (number) years or months.

In response to having one of the highest juvenile detention rates in the country, the Florida Department of Health and Rehabilitative Services was charged with developing and implementing a detention screening instrument. The criteria are mostly objective but there is still room for subjective answers to questions calling for "reasonable belief." The "Assessment of Need for Detention" criteria include:

1. The present offense is a felony, AND:
   a. There is a reasonable belief that the youth will commit another offense prior to hearings;
   b. There is a reasonable belief that the youth will not be available for the proceedings of the court;
   c. The youth has been previously adjudicated for a crime of violence;
   d. The youth is awaiting a hearing on another case;
   e. The youth is presently on community control for a felony offense, or is committed to the department, and the supervising counselor or his or her supervisor is recommending detention.
2. There is a reasonable belief that the youth meets the intake detention criteria, but does not meet the judicial detention criteria.

If the answer to Number 1 and at least one of the subcriteria (a-e) is Yes, or if Number 2 is Yes, some form of pre-adjudication detention may be considered. To determine whether the youth would then qualify for secure detention, there should be a Yes answer to any of the following criteria:

1. The child is charged with murder, sexual battery, kidnapping, robbery using a firearm, arson of a dwelling, or any other violent felony offense.
2. There is a valid court order to take the child into custody and detain.
3. The youth is an escapee or absconder from any commitment program, community control, furlough, secure detention center or home detention or from the custody of a law enforcement officer or agency.
4. The youth is wanted by another jurisdiction for an offense which, if committed by an adult, would be a crime.
5. There is evidence from the youth's behavior or statements that the child may physically harm or has threatened to physically harm witnesses, victims or others.
6. There is reasonable belief that the youth meets the judicial criteria for secure detention.

Detention decision criteria need to be periodically reviewed to ensure they are producing desired outcomes. If, for example, released youth fail to appear at hearings, commit offenses while awaiting their hearings or if detention facility crowding becomes a problem, existing detention criteria may need to be revised. The following example illustrates how a problem can be the unintended result of a change in detention policy.

The growing number of youth, especially minority youth, confined in juvenile detention facilities has caused considerable concern in the juvenile justice field. Recent Children in Custody data show that between 1985 and 1987 the number of youth held in short-term public juvenile detention facilities increased by 15% (Snyder, 1990). However, this increase was not evenly distributed across racial and ethnic groups. While the number of non-Hispanic white youth held in these facilities rose only 1%, the number of black and Hispanic youth held rose more than 30%. Two factors have contributed to this disparity. First, juvenile courts are detaining more drug cases. Between 1985 and 1986, the number of drug cases handled by juvenile courts increased only 1%, but the number of drug cases involving detention rose 21%. Second, the number of nonwhite youth referred to juvenile court for drug offenses has increased substantially. Between 1985 and 1986, the number of white youth referred for drug offenses actually declined 6%, while the number of nonwhite drug referrals increased 42%. Together these two factors resulted in a 71% rise in the number of nonwhite youth detained for drug offenses. This is an example of a change in policy (increased use of detention for drug cases as part of a general "war on drugs") having an unanticipated negative impact (disproportionate growth in minority detentions). Objective detention criteria will not guarantee that such unintended results won't occur. However, by using objective criteria and studying their impact, ineffective or problem-causing criteria can be eliminated and charges of discrimination can be avoided.

Pre-Disposition Decision Making

The Investigation and Recommendation

Regardless of what you call it (social history, presentence, pre-disposition or preliminary investigation), when it occurs (before or after adjudication), or who does it (intake or probation officer or an interdisciplinary team), the next step in the process is to make an investigation for the purpose of collecting information necessary and relevant to the court's fashioning of an appropriate disposition.[6] The probation officer has a unique vantage point in that the officer represents the interests of the child, the community, the victim and any special interest group or treatment concern as the direct agent of the judge and provides the court with a broad picture of the juvenile which is both objective and personal. The probation officer, therefore, gathers facts and assesses these interests, makes an objective appraisal of the dispositional alternatives and resources available and prepares a recommendation which serves the court in making a disposition.

The investigating officer must gather and review information from a variety of sources in order to make a diagnosis and recommendation. While risk and need scales may be employed during the pre-disposition investigation to assist the officer in recommending a disposition, most probation departments use these scales as case management tools in determining levels of supervision after the juvenile has been placed on probation. Nevertheless, a determination of the juvenile's risk to the community and his needs or problem areas should be the focus of any pre-disposition investigation. Some additional points that should be addressed include:

- What factors are involved in the delinquent behavior?
- Are those factors still operating?
- How committed is the juvenile to intervention?
- What is the personal stability of the juvenile?
- What level of responsibility has been shown by the juvenile?
- What are risks to the juvenile or community?

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[6] A pre-disposition investigation is different from an intake investigation in that the intake investigation assists the intake officer in making a decision regarding the handling of a complaint. The pre-disposition investigation assists the probation officer in making a decision regarding a recommendation for disposition with respect to a juvenile whom the court has adjudicated delinquent. In order to save time and mete out a swift penalty, some juvenile courts allow the probation department to conduct the pre-disposition investigation prior to the adjudication hearing. However, under no circumstances should the court consider the pre-disposition report in advance of the adjudication.

- What strengths does the juvenile possess to help in dealing with these?
- How does the juvenile perceive the world around him or his relationship to it?

Minnesota probation officers collect information on the following aspects: unlawful conduct, previous misconduct, and social history. These areas are detailed to give an indication of the scope that investigations may entail.

Unlawful conduct: Brief statement of present offense - both police and juvenile's version, not merely a duplicate of the police report. This should include pertinent information including any loss, extent of injuries, victim's requests, juvenile's statement, etc. The following should be addressed:

- Events preceding the offense
- Planning involved in the offense, if any
- Purpose of the offense, motivation
- Condition of the juvenile at time of offense (drunk, on drugs, emotionally aroused)
- Chronological description of the juvenile's behavior during and after the offense
- Companions involved, if any, and their participation in the offense. Were they arrested? Disposition?
- Attitude and behavior of victims and any injuries inflicted
- Description of property stolen or destroyed, if any
- Use of weapon or threats by anyone involved, if any
- Method of arrest, reactions of the juvenile to arrest (flight, resistance, relief)
- Attitude and concern of the juvenile toward the victim
- Attitude of the juvenile toward the court
- Continued access and risk to victim
- Mitigating or aggravating circumstances

Previous misconduct: Previous offense, disposition, compliance with conditions of dispositions, if known, should be summarized.

Social history: Description of the juvenile, his education, employment, family, health, etc., including the following:

Personal characteristics:
- Personality
- Physical characteristics
- Special skills
- Ability to relate to peers, adults
- Attitude toward self and family
- Likes and dislikes
- Plans for the future, if any
- Own view of problem areas and strengths
- Peer relationships

Education:
- Present status at school
- Pertinent school history
- Attendance
- Results of achievement and/or intelligence tests
- Learning problems
- Behavior problems
- Favorite subject areas
- Academic performance - periods usually good/bad
- Response to supervision/discipline
- Parents' attitude toward school

Employment:
- Jobs held, if any
- Actual tasks and responsibilities
- Work patterns/habits
- Attitudes toward job, work in general

Family:
- Summary of all members
- Relationships within family structure
- Problems of siblings
- Source(s) of income
- Family capabilities (economic/affectional)
- Abuse, if any - types of discipline
- Position juvenile holds in family
- Family as a unit - strengths/problems/attitudes
- Other agencies involved, if any

Environment:
- Description of home/neighborhood
- Influences of neighborhood
- Social pressure of neighborhood

Leisure activities:
- Interests
- Are activities with others or by themselves
- Are activities planned or impulsive
- Membership in clubs, organizations
- Problem areas involved
- Special talents actualized

Health:
- Serious illnesses or accidents
- Current medication
- Allergies
- Psychological evaluations/treatment information

- Disabilities
- General health problems

Chemical dependency:

- Results of CD evaluation, if any
- Summary of juvenile's pattern and history of substance abuse
- Treatment experiences and dates
- Attitudes toward recovery
- Aftercare, if any

Based upon a review of the information collected during the investigation, the officer must decide whether the juvenile should remain in the community and if so, whether under supervision in the home or in a local placement and under what conditions or sanctions. If a commitment or long-term placement is recommended, where and for what duration? If restitution is contemplated, what is the extent of the victim's loss and the juvenile's ability to pay?

Although resources and agency policies need to be considered, the recommendation should always be a professional one that allows the best decision based on the merits of the case and the need for service, not only on what the officer thinks will be accepted by the judge, prosecutor or defense attorney. The recommendation should be reviewed by the supervisor, so that it reflects departmental philosophy rather than the personal opinion of the officer. Recommendations may include reprimand with unsupervised probation, probation with supervision, intensive probation, foster care with or without probation, private school or residential treatment, training school, mental hospital, group home, community-based day treatment, community-based secure facility, restitution or community service. Recommendations should be consistent with an assessment of the offender's risk to the community, reparation to the victim and the offender's needs.

The best recommendation may, unfortunately, not be the most practical one. The juvenile probation officer should always recommend what is the best dispositional alternative. If it is not practical, then reasons or gaps in service need to be noted and a secondary recommendation should be made. In some instances, the pooling of ideas and resources at the time of disposition has enabled a recommendation, first thought impractical, to be selected as the court's disposition. In other instances, documentation of gaps in service has served to facilitate the development of

Conditions of Probation

With respect to setting probation conditions, juvenile probation officers must carefully read and understand their own jurisdiction's statutory code. The Chief Probation Officers of California's juvenile probation standard 553 suggests that every recommendation for probation contain conditions prescribed by the following parameters:

A. That every juvenile lead a law-abiding life. No other conditions should be required by statute, but the probation officer should recommend additional conditions to fit the circumstances of each case. Development of standard conditions as a guide to making recommendations for probation is appropriate, so long as such conditions are not routinely imposed.

B. That they assist the juvenile in leading a law-abiding life. They should be reasonably related to the avoidance of further cirminal behavior and not unduly restrictive of the juvenile's liberty or incompatible with his religion. They should not be so vague or ambiguous as to give no real guidance.

C. That they may appropriately include matters such as the following:

1. Coorperating with the program of supervision.
2. Meeting family responsibilities.
3. Maintaining steady employment or engaging or refraining from engaging in a specific employment or occupation.
4. Pursuing prescribed educational or vocational training.
5. Undergoing medical or psychiatric treatment.
6. Maintaining residence in a prescribed area or in a prescribed facility.
7. Refraining from consorting with certain types of people or frequenting certain types of places.
8. Making restitution or reparation.
9. Fines.
10. Submitting to search and seizure.
11. Submitting to drug tests.

needed resources for juveniles. The juvenile probation officer should accept the role of advocate for needed services in the community.

The Written Report

Once the investigation is completed and a recommendation made, the officer must prepare a report which serves the judge in making a disposition. The minimum requirements of a pre-disposition report may vary from jurisdiction to jurisdiction, so each officer should know the requirements and address all of them in any report. Formats for reports may also vary, and whenever possible, the format used in your locality should be followed. Both of these cautionary statements may seem overly mechanical in emphasis but bear in mind that the courts are busy, and an aid to getting your recommendations across may, in fact, rest in the judge's ability to locate information in your report due to his or her familiarity with the format. This is not to completely rule out flexibility, but be aware of the pitfalls of deviating from a readily recognizable presentation. A concise disciplined report that is read and used by the judge is more effective than a lengthy or "highly original" one that is laid aside by the judge.

So, although you will always cover certain areas and present your investigation in a format specific to your locality, there are certain general guidelines applicable to all such reports, whatever your jurisdiction.

1. Be sure of facts. Clearly indicate in the report what information is established, and how, as well as what is hearsay, and from whom. If possible, qualify the sources.
2. Report relevant facts, not details which add nothing to the assessment of the juvenile's circumstances. Do not exclude relevant data from the report because it does not tend to support the recommendation.
3. Be specific; do not use generalized adjectives ("frequently tardy") but detailed, discrete or measurable descriptions ("tardy 13 times in October").
4. Maintain objectivity. Do not state opinions as facts. Label them as opinions and attribute them to their proper sources. Confine your own opinions to the evaluation section of the report.
5. Keep report language clear, simple and grammatically correct. Avoid legalese and technical jargon. Put slang, as well as all direct quotes, in quotation marks. If you quote, don't paraphrase, but be precise, and attribute the quote to its source. Be natural in your style: refer to the juvenile by name and yourself as "I," rather than as "the offender" and the "officer."
6. Be brief. Get to the point. Avoid repetition.

The following are some formats for pre-disposition reports. In California, one format which has been used includes:

Current Offense Information
- o Sustained allegations
- o Additional pleas/proven allegations (enhancements)

Social Study
- o Family background
- o School record
- o Offense history
- o Medical/psychological history
- o Employment history
- o Substance abuse
- o Community behavior
- o Victim impact statement

Evaluation and Recommendation
- o Evaluation of all the facts presented in the first two sections of the report.
- o Recommendations regarding time of confinement and/or conditions of probation

And another format from Missouri:

Previous Police and/or Court History

Reason for Hearing

Collateral Contacts

Family History
- o Parents' attitude
- o Other family information

Personal History
- o Early development
- o Health
- o School
- o Employment
- o Leisure-Time Activities
- o Religion

General Personality

Child's Attitude

Psychological or Psychiatric Evaluation

Summary and Evaluation

Alternative Plans

Restitution

Plan

It is good practice to send the report to the judge well in advance of the hearing so that the judge can review it completely and seek clarification or additional information from you prior to disposition. The officer must be able to accept change, modification or rejection of the initial recommendation by the court or supervisor.

Although prepared for court, there are also secondary uses of these reports. They serve as a basis for probation and agency planning and periodic review of case progress. When the case plan calls for brokerage of service, the report assists the juvenile probation officer in the referral process and assists treatment personnel in their programming with the juvenile. If the disposition results in institutionalization, the report aids in classification and programming as well as serves as a tool for the parole officer upon release. Finally, the report serves as a source of information for research.

The practice of sharing the full report with the juvenile and family is divided. Doing so limits the tendency to include unsupported judgements or opinions and puts the client/officer relationship on a footing of trust and basic sharing. Arguments against it are that the report may contain information about other people that would be unfair to share with the juvenile or parents or information about conflicts between the juvenile and the parents that need to be shared more carefully or gradually during the course of treatment or supervision. Nevertheless, the decision should generally be in favor of sharing the report, but department policy should stipulate circumstances which would preclude or put restrictions on report sharing.

Courtroom Presentations; The Probation Officer as Expert Witness °

Juvenile probation officers must understand each type of hearing or proceeding in which they participate and their role within each. They must be prepared for verbal presentation of written reports and for questioning by the judge, attorneys and family members. A careful review of the case is necessary prior to each hearing. The court may request the current status of any factor involved in decision making.

The juvenile probation officer may also be required to prepare the juvenile, family and witnesses for any proceeding, informing each of his or her role, as well as where to sit and what to expect. The probation officer, when presenting the case to the court should:

1. State the type of hearing (detention, initial, violation, review, disposition) and purpose of the hearing, stating the juvenile's name and court file number or reference.
2. Introduce those present in the courtroom (juvenile, parents, defense counsel, prosecutor and others involved in the case as well as the probation officer).
3. Briefly describe the petition, alleged violation or general behavior or adjustment which brings the case to court. In the case of a violation or a new petition, the judge should read the petition, with the probation officer making a brief statement as to the nature of the violation. The information should be presented in chronological order.

At the appropriate time, the officer may be asked to testify concerning his or her investigation, analysis and recommendations.

1. Do not read the report but convey all relevant information it contains.
2. Be accurate and comprehensive but concise. Briefly summarize major problems, strengths and needs of the juvenile and the family stating how the problems might be resolved and the needs satisfied.
3. Describe the treatment plan and make your recommendation to the court appropriate to the type of hearing. Assessments and recommendations should be logical and be the natural result of the factual information presented.

The individual case as well as the type of hearing will dictate whether the verbal presentation can be brief or if greater explanation is needed. The juvenile probation officer should take a positive, assertive role to help the court to understand the juvenile and what is thought to be the best disposition at the time of the hearing.

Depending on the type of hearing, there may be forms and releases which must be completed (probation orders, release of confidential information to the treatment resource that the juvenile will be entering, etc.). The report may also need to be revised, particularly if the juvenile was on probation for another offense or if the court's disposition does not concur with the recommendation. The case file and result of the hearing need to be processed in a timely manner according to the procedures and policies of the agency. After the court hearing, the probation officer should

° Note: Some of the information on expert testimony was based on an article by Watson (1978) on psychiatric testimony but was particularized to juvenile probation officer testimony.

spend some time with the juvenile and family to check their understanding of the process, what occurred and the result.

From time to time, the juvenile probation officer may be called upon to testify as an expert witness, based upon his or her extensive knowledge and experience with youth in general, particularly delinquent and pre-delinquent youth. The term "expert witness" refers to a particular type of witness who has relative skill or knowledge in a particular area that is both beyond the understanding of the average person and will aid the court in arriving at a decision. An expert witness can offer an opinion or draw a conclusion; a regular or "lay" witness cannot. An expert witness can be appointed by the court or called by either party. The court determines the expertise of a particular witness and whether that witness will be permitted to testify as an "expert" in any proceeding. The juvenile probation officer must accept the designation as an expert by a court and should know how to adequately prepare and deliver such testimony when called upon to do so.

Certain basic principles apply to the process of providing expert testimony regardless of the witness' area of expertise. Whereas the prosecution or defense counsel might call upon a psychiatrist, for example, to interview a defendant with whom he or she has heretofore been unacquainted in order to prepare a report which will become the basis of later testimony, it is more likely that the juvenile probation officer has some on-going personal knowledge of the defendant, usually as a client or former client. Additionally, theory surrounding juvenile delinquency is, at present, less exact than the "sciences." This differentiates the kind of preparation and expert testimony required of the juvenile probation officer from that of an "outside expert." Juvenile delinquents are not easily diagnosed or categorized, but obtain this legal label by merit of having been found "guilty" of some specific delinquent charge in a juvenile court. In view of that, the probation officer should be prepared to testify not only on first-hand knowledge of the juvenile and on the officer's experience but also on the theoretical knowledge of juvenile delinquency. By its nature, the probation officer's testimony will be less clinical and less legalistic than that of medical or legal experts. This does not diminish its worth, but it does present a greater challenge to the juvenile probation officer and requires preparation, particularly with respect to citing applicable research studies and statistical information. It is exactly this type of preparation and presentation that is necessary to establish the credibility of the "expert" status of the juvenile probation officer as a witness, as opposed to a "fly by the seat of the pants" approach or testimony couched in terms of impressions or instincts of the witness with few or no supporting facts.

As the juvenile probation officer prepares to deliver expert testimony, the officer must also prepare to face cross-examination by the opposing attorney. The prospect of aggressive cross examination can intimidate even the most experienced, self-assured witness; nevertheless, the juvenile probation officer must face it with a calm professional attitude and demeanor. This can be achieved with a combination of confidence in one's knowledge and abilities as a skilled professional, substantive preparation and experience. In order to avoid becoming confused or intimidated by an attorney's questioning, the witness should listen carefully to the question--don't anticipate what you think counsel is getting at. Answer counsel's questions directly and succinctly without elaborating; if it is possible to answer the question with a simple "yes" or "no," do so. If a question is confusing or unclear, ask that it be repeated or rephrased. The witness should resist any impulse to become angry or agitated with counsel, or, failing that, must avoid revealing any anger, despite counsel's attempts to get such a reaction. Any expert may experience being unable to answer a question. Whether the question posed is a legitimate one that the witness should reasonably be expected to answer and cannot, or whether the question itself is inappropriate, the only acceptable answer is "I don't know." Never try to "fudge" an answer in an effort to save face or to "save the day." You will probably discover that you have walked into a trap, and will lose all of the credibility you have worked so hard to build.

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B. Supervision: The Essence of Juvenile Probation

Introduction

Supervision is a term which encompasses the core of the probation function. While practice and philosophy may vary from one jurisdiction to another, supervision is the process by which these variations are accomplished.

In the juvenile justice system, probation and supervision developed and remain a process built upon the central idea that to change a young person's behavior requires both a structure to limit the range of potential wrongdoing, and an understanding and response to life experiences that enable prosocial behavior. The common thread that runs through all approaches to supervision is utility; that is, that juvenile justice intervention *must* be designed to guide and correct the naturally changing behavior patterns of youth. Unlike adult probation, juvenile supervision views a young offender as a developing person, as one who has not yet achieved a firm commitment to a particular set of values, goals, behavior patterns or lifestyle. As such, juvenile justice supervision is in the hopeful position of influencing that development and thereby reducing criminal behavior.

Miriam Van Waters, in a paper commemorating the twenty-fifth anniversary of the first juvenile court wrote:

> The juvenile court was the first branch of law to call science and social work to its aid. That human conduct is *caused*; that ordering and forbidding cannot change it; that in order to modify behavior one must understand it and deal gently and comprehendingly with the human beings who experience it; this is the insightful approach to the offender characteristic of the juvenile court. (Van Waters, 1925)

While there has been considerable debate and experimentation with this principle, all efforts have been directed at the *means* for accomplishing behavior change rather than questioning the basic purpose of juvenile justice intervention.

A Balanced Approach

Depending upon the juvenile code and the probation department's mission, the goal of probation could be public safety, victim reparation, promoting the interests of the child or rehabilitation.[1] This *Desktop Guide* recommends that probation departments consider the converging interests of the juvenile offender, the victim, and the community at large in developing individualized case plans for probation supervision. This approach to policy and practice resolves the habitual conflicts between rehabilitation vs. punishment, treatment vs. control, the community vs. the offender, and public safety vs. youth development. Probation must endeavor to not only protect the public and hold the juvenile offender accountable, it must also attempt to meet his needs. According to Maloney, Romig and Armstrong (1988) who launched this "balanced approach" concept, the values of community protection, offender accountability and treatment are firmly grounded in the founding precepts that shaped the emerging juvenile court movement. The difference is that unlike past efforts which followed a swinging pendulum of philosophical thought that shaped the system's response to juvenile offending, the balanced approach concept considers the possible relevance of each of these core values in shaping programmatic responses to be applied on an individualized basis.

These authors reach an important conclusion in deciding that the purpose of juvenile probation must clearly describe the system's responsibilities to the juvenile offender, the family, the victim and the community and that the function of probation should be to fulfill those responsibilities. Their purpose statement suggests that the goals of juvenile probation should be to protect the community from delinquency, to impose accountability for offenses committed and to equip juvenile offenders with the required competencies to live productively and responsibly in the community. The principles that define the balanced approach - Community Protection, Accountability and Competency Development - are arranged at the three angles of a triangle, with all sides being equal. The authors caution that balance does not mean that equal resources must be expended for all three areas in each

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[1] The juvenile codes of 39 states have purpose clauses. In 28 states, the purpose is the interest of the child, the family and the public. In 8 states, the exclusive focus is on the interest of the child. Only two states focus exclusively on public safety and offender accountability. One state protects society through rehabilitation.

youth's case plan. It does mean that each youth is assessed in all three areas every time and that the purpose of the case plan is to chart a realistic, individualized, multi-dimensional course of action that advances all three areas.

Probation services should also be aligned along a continuum of least restrictive and intensive to more restrictive and intensive supervision. The responses should be graduated, employing differential strategies for intervention. This variety is necessary because not all juveniles exhibit the same problems or threats to the community and, in a system of limited resources, it is both unnecessary and wasteful to treat all juveniles the same. Effective case management requires the probation officer to apply those levels of supervision and commitment of resources most likely to be effective in a given juvenile's case.

For this reason, many jurisdictions have developed formalized case classification schemes to sort out that group of offenders most likely to be re-referred to juvenile court and to assess the critical need areas in the juvenile's life. Risk and need assessments along with intervention strategies are all tools that probation officers can use to chart a course of action that will attempt to meet the goals of probation. Those goals must include public safety, accountability and competency development/treatment.

This chapter describes the skills involved in a system of probation supervision that reflects a balanced approach concept: assessment and classification, case planning, performance of services and monitoring behavior, enforcement, case closure and record keeping. Each of these components are necessary to effective case management. It describes the essence of probation and will hopefully rally the profession to higher standards of performance which in turn will lead to greater community acceptance, participation and support.

Case Assessment and Classification

Individualized assessment is the cornerstone of good probation practice. An assessment must be made of the juvenile's needs and risks and of available resources. Any causes or factors that influenced the youth toward delinquent activity must be assessed as well as what factors can be used in a positive movement toward law abiding behavior. The critical areas in the juvenile's life - the family, the school and the community and the social, interpersonal and job skills necessary for those interactions - must be assessed. A probation officer using the balanced approach concept would ask a series of questions involving the elements of community protection (risk), accountability and competency development (need) to determine both immediate and long-term case processing goals.

With respect to accountability, the probation officer should determine such things as:

1. Is the victim identifiable?
2. Can the victim determine loss?
3. Is the loss amount within reasonable limits to be repaid?
4. Are the parents capable of ensuring the accountability of the offender? (Maloney, et al., 1989:26)

Accountability is an important consideration in the assessment process. It not only encourages the juvenile to gain responsibility, it also makes the community feel good about the system.

Case classification is a management tool that probation officers use to assess a client's needs and risks and to then assign resources accordingly. The rationale for assessing both risks and needs stems from the notion that it is both desirable and legitimate for probation to pursue both the control of clients as well as their change. Case classification has its origin in the fundamental precept of individual assessment of each youth entering the court, based on the idea that each youth is different and must be examined in order to assure that the appropriate interventions are made.

It is accepted that not all juvenile offenders require the same level of supervision nor exhibit the same problems. Experienced probation officers often use an intuitive system of classifying offenders into differential treatment and supervision modes (Baird, et al., 1984). However, formal classification procedures are available to bring structure, equity, and consistency to correctional decision making.

Early attempts at juvenile classification were based on treatment/medical models. In the 1960s treatment was directed toward psychotherapeutic intervention strategies and classification schemes moved more toward categorizing offenders on the basis of psychological traits.

One major psychological paradigm that began to gain a substantial professional following at that time was Interpersonal Maturity Theory (Sullivan, Grant and Grant, 1957). Known widely in juvenile corrections as the I-Level System, this formulation was most highly refined and applied by the California Youth Authority for treatment decision making with juvenile parolees. It is not a theory of delinquency *per se*, but rather a general theory of personality development which asserts that psychological development in all human beings can best be described in seven successive levels of interpersonal maturity. In I-Theory, the

levels range from the least mature, resembling the social interactions of an infant, to an ideal of maturity that is rarely reached (Warren, 1971). Five I-Level subgroups have been identified. On the basis of being assigned to a particular subgroup, a delinquent youth could be matched with the most appropriate treatment approach and the most appropriate probation officer. I-Level classifications can be made by use of a multiple choice questionnaire (the Jessness Inventory).

Another major approach for classifying delinquents for appropriately-targeted treatment during the 1960s was the Differential Behavioral Classification System developed by Quay and his colleagues (Quay and Parsons, 1972). On the basis of rating behavior derived from questionnaire items and life-history variables, four subgroups were delineated: (1) Unsocialized-Psychopathic, (2) Neurotic-Disturbed, (3) Socialized-Subcultural, and (4) Inadequate-Immature. Based on this clinically derived typology, offenders could be assigned to the most appropriate treatment strategy.

Over time, the practice of employing classification primarily for treatment has shifted considerably. On the one hand, this approach has been extended to guide decision making in the area of improved resource allocation, especially as the resources available to probation have become scarcer. Waste of scarce resources can be avoided by reducing services to offenders not in need of such resources, thus making them available to more needy clients or to offset budget reductions. On the other hand, as the public demand for greater offender accountability and higher levels of community protection has increased during the 1980s, there has been a substantial rise in the use of risk-based classification to assign offenders to the proper level of supervision. These risk-based systems rest upon predictive methodologies and attempt to determine the extent to which different groupings of probationers are at risk of violating the conditions of their probation orders, either in terms of new offenses or technical violations.

Currently, the use of formal classification schemes for decision making in probation is growing. It is being extended across the range of case management-related areas, including risk assessment, need identification and treatment response, as well as resource allocation. The most ambitious effort to introduce classification procedures covering this range of application into the field of probation in this country in the past 20 years has been the National Institute of Corrections (NIC) Classification Project. Although initially designed as an assessment approach for managing adult offenders, the NIC model has been adapted for use in numerous juvenile court jurisdictions. Most risk/need classification schemes being used today in the juvenile system represent a variation of this model or at least an approach incorporating key elements from the NIC model.

NIC research suggests that formal, quantitative assessment methods demonstrate a reasonable degree of accuracy in estimating risk levels for aggregated juvenile offender populations.[2] It is important to note that the task facing researchers in devising valid risk scales for juveniles is complicated by the fact that juveniles are, in maturational terms and in contrast to adult offenders, volatile and impulsive, experiencing more rapidly changing personal circumstances and needs and have not developed long standing patterns of behavior and habits on which to predict future acts. In spite of these complications, considerable success has been achieved. The better scales generally contain some combination of factors related to prior criminal history, social stability, substance abuse and school and/or work performance. An assessment of the following variables appears to be universally predictive of future delinquent behavior:

- age at first adjudication;
- prior delinquent behavior (combined measure of number and severity of priors);
- number of prior commitments to juvenile facilities;
- drug/chemical abuse;
- alcohol abuse;
- family relationships;
- school problems; and
- peer relationships; (Baird, et al., 1984)

Before proceeding, it is important to highlight a caution with respect to risk scales. Even though the above variables have been validated in some jurisdictions, it is essential that any probation department wishing to implement a risk classification system empirically validate the variables by using retrospective data from that jurisdiction. In addition, this list must not be fixed in time. Risk data that are collected on new cases should be monitored every 6 to 12

[2] It is important to note that all risk instruments are based on group data. Offenders are merely placed in groups about which probability statements can be made. Some members of each group will reoffend, others will not. Risk assessments can establish different probability rates for different groups but cannot identify precisely which offenders in each group will succeed or fail. Baird and Bakke (1988:17).

months so that recidivism or re-referral rates may be recalculated and variables continuously validated. In addition, this monitoring will maximize the efficacy of the cut-off points for different supervision levels.

The NIC model suggests that a reassessment of risk should occur relatively frequently, such as six month intervals. Whereas the initial risk assessment emphasizes criminal history, the reassessment shifts the emphasis to the client's overall adjustment on probation. The scale should include an assessment of the client's response to conditions of probation, use of community resources, and interpersonal relationships.

Unlike risk evaluations, need assessments are not predictive. They usually emerge from staff efforts to articulate and standardize assessment procedures through a process of identification, definition, and prioritization of the problems frequently encountered in clients. Further, need assessments, in most cases, are rather straightforward systems for rating the severity of common problem areas. Since these assessments tend to address common problem areas for juvenile offenders, they are generally applicable in different jurisdictions, although some minor modifications may be necessary to reflect differences in the targeted populations.

Based upon a survey of existing need assessment instruments being used with juvenile offenders, Baird et al. (1984) discovered that the following items are most commonly incorporated in the scales:

- o vocational skills
- o alcohol abuse
- o drug/chemical abuse
- o emotional stability
- o learning disabilities
- o school attendance
- o academic achievement
- o employment/work performance
- o family problems
- o parental control
- o parent problems
- o peer relationships
- o recreation/leisure time
- o health
- o residential stability
- o life skills
- o communication skills
- o residential living skills
- o relationships with opposite sex
- o sexual adjustment
- o financial management
- o mental ability
- o family finances

These "need" scale items are usually weighted through a ranking process. The basis for assigning weights varies from jurisdiction to jurisdiction. The most common approach is to base weights on work-load factors (i.e., the amount of time required to deal with a particular need). Another approach is to base weights on each problem's relationship to success or failure on supervision. Based upon the cumulative rank ordering of the heaviest weighted items from need scales being used in juvenile probation agencies in California, Montana, Illinois and Wisconsin, the relative priority assigned to the most important need items was:

- o substance abuse
- o emotional stability
- o family problems
- o school problems
- o intellectual impairment

Scale development is just one phase of implementing a case classification system. The probation department must also determine how the instruments will be used in assigning youth to the appropriate classification level. The National Council of Juvenile and Family Court Judges has, for a number of years, conducted an intensive training program in case management taught by Todd Clear and Brian Bemus. Very briefly, they delineate several decisions that the department must make when planning such a system.

1. Decide on the number of levels of supervision that risk and needs assessments can produce and establish cut-off points for each level. Several rules of thumb include:
   - o There should be three levels of supervision.
   - o The range of scores should be sufficiently broad.
   - o Standards for each level of supervision need to differ substantially.
   - o The scales should not be used for administrative or paper status cases. If there is a "no contact" category, it should not be included as a supervision level.

- Avoid the common agency pitfall of overestimating the number of high risk clients.

2. Determine minimum standards for each supervision level before establishing scales/ cut-off points by soliciting probation officers' professional opinions as to the quantity of all types of contacts.

The National Council on Crime and Delinquency (NCCD) recently developed a technique that probation officers can use to manage cases entitled Strategies for Juvenile Supervision (SJS) (Lerner, et al., 1988; Lerner, Arling, and Baird, 1986). It consists of three components: an assessment interview, a supervision guide and a case planning guide. The assessment interview consists of a set of 64 questions concerning the history of delinquency, school adjustment, interpersonal relationships, family history, juvenile's behavior during the interview and the probation officer's impressions and evaluation of the key problem areas in the juvenile's life. At the completion of the interview the juvenile's responses to each item are scored and a calculation places the juvenile in one of four different supervision strategies or casework modalities.

This section has described some of the tools that probation departments can use in conducting individual assessments. Regardless of what tools the department uses, it is very important to establish the respective roles of risk and needs scales and accountability determinations and the relationship between them in deciding what weight each will have in planning supervision. The balanced approach concept argues that it is legitimate to pursue the goals of community protection, competency development/treatment and offender accountability simultaneously. Assessment tools should never dictate the interaction between the probation officer and the juvenile, but neglecting any of the goals has the potential for overlooking major pieces of the supervision process.

Case Planning

After the assessment is completed, the probation officer analyzes the information in terms of the goals of probation: a safer community, reparation to the victim and a better equipped and more responsible juvenile. The case plan must arrange services so that the desired outcome is that the community, the family and the youth are all served. A case plan is then developed with long range goals and specific short-term objectives.

NCCD's case planning strategy assists the probation officer in selecting the most appropriate problems for immediate attention and involves the following components:

1. Analysis:
   - Identification of problem
   - Identification of strengths and resources
2. Problem Prioritization based upon:
   - Strength - is the problem an important force in the juvenile's delinquency/problems?
   - Alterability - Can the problem be modified or circumvented?
   - Speed - Can the changes be achieved rapidly?
   - Interdependence - Will solving the problem help resolve other problems?

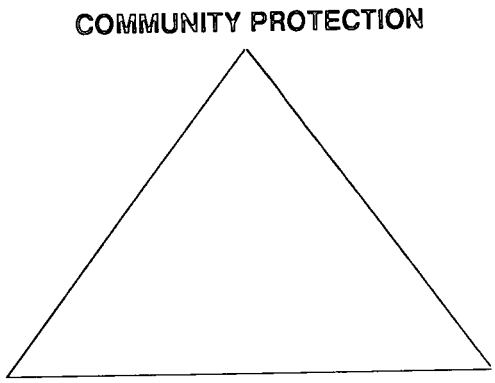
The balanced approach concept recommends that the case plan be reduced to terms of a contract between the probation department and the juvenile offender and the family. The contract should clearly spell out the responsibilities to be performed by the youth and family, the specific benefits to be gained or consequences to be faced if the case plan is fulfilled or violated and the probation officer's role in ensuring compliance.

The contract should be developed by gaining input from the juvenile and the family in terms of their ability to fulfill the stated responsibilities and the reasonable consequences to be faced for violating the contract. This prevents any party from being surprised at the nature of the consequences should the contract be violated. The probation officer should also specify that the fulfillment of the contract will be performance-based. If the terms of the contract are met, the juvenile and/or the family should be granted some form of completion benefit. For this reason, the goals should be written in behavioral terms so that they are measurable, describe an outcome and are written as positive goals. In addition, the contract should specify action steps that the juvenile is to take as well as the start and completion dates. See Figure 1 for an example of the case contract used by the Juvenile Division of the Deschutes County Department of Community Corrections, Bend, Oregon.

In the case planning process, probation officers must realize that not every problem presented by the juvenile can be addressed during the term of probation. The officer and the juvenile should agree to address three or four problems so that the juvenile can adjust in those critical areas. Additionally, the disposition of probation should be viewed as a relationship between the officer and the juvenile where both are treated with due respect and where the officer serves as a mature role model and a resource to the juvenile and family in meeting the goals of the case plan. If the juvenile fails to "buy into" that relationship, probation is not likely to succeed.

Case Plan/Contract

Figure 1



	GOALS	ACTION STEPS	START	COMPLETE
COMMUNITY PROTECTION	Learn to make better choices	Attend problem-solving group once a week	10-2	1-20
COMPETENCY DEVELOPMENT	Become well prepared for independent living	-Design a "full-time job" budget to include rent, food, personal supplies, leisure activities	9-4	9-19
		-Participate in emancipation class	9-5	10-5
ACCOUNTABILITY	Repay community for loss	-Complete 40 hours of community service	9-4	12-7
	Repay victims for loss	-Write victim apology letter and turn it in to counselor	10-5	10-31

MINOR'S SIGNATURE DATE

PARENT/GUARDIAN SIGNATURE DATE

JUVENILE COUNSELOR DATE

JUVENILE COURT REFEREE DATE

In some jurisdictions, case plans must be approved by the judge. The probation officer identifies for all parties what parts of the plan are required by the court and will form the basis for a revocation.

Performance of Probation Services and Monitoring of Behavior

Once the case plan is developed, the probation officer should perform the mandatory standard of service required for the particular level of supervision. Probation officers must reorient their thinking so that they no longer view themselves exclusively as cops. Probation officers should be providers, brokers, organizers, and advocates of services on behalf of their clients and the community. This translates into the probation officer being visible in the community by visiting the juvenile at home, at school, and at work. It means being accessible to your probationers, giving them regular feedback on their performance, accentuating the positive, nurturing, leading, encouraging, correcting, empowering and presenting yourself as a mature, positive adult role model. If the juvenile's family is not willing to be involved in the probation plan, the probation officer and the community must become "the family" and be the resource. What is more, the probation officer is in a unique position among social service professionals in that the authority of the court stands behind all probation practice and can be used in a coercive way to motivate those resisting change.

The probation officer must monitor whether or not the juvenile and his family have completed specific tasks. Monitoring should be proactive, preventive and regular, whether it concerns community service, restitution, counselling, school work or other obligations imposed by the court. Collateral contacts should be made to verify the juvenile's compliance with case plan objectives and his behavior in the community.

Enforcement

The purpose of case monitoring is to maintain the probationer's compliance with the case plan. If noncompliance is found, the probation officer must assess the causes of the noncompliance. The probation officer must consider whether the probationer is unable or unwilling to comply.

If the answer is the former, the case plan must be amended to assist the probationer in complying with the case plan. The probationer might, for example, lack fundamental skills, thus making compliance impossible. The case plan must be reformulated to address these deficiencies. On the other hand, if the answer is the latter, the probation officer must decide the best way to motivate the juvenile. There are two ways to motivate: rewards for compliance and sanctions for noncompliance.

Ultimate sanctions include the revocation of probation and institutionalization. Conditions of probation need to be specific enough that a basis for revocation can be determined, thus protecting the juvenile and community. However, there are incremental sanctions, including imposition of community work service, curfews, costs, tighter supervision, extension of probation and so on. Sanctions should be incremental and progressive in nature. One court has labeled this system of sanctioning as "tourniquet sentencing." The tourniquet tightens and loosens as the probationer's behavior warrants. Many departments have formal house arrest programs or "short shock" detention sentences to sanction noncomplying probationers.

Good behavior, however, should be subject to rewards. Rewards could include reduction of costs, early termination of probation, the lessening of supervision restrictions and the like. The use of rewards for good behavior while on probation are important for two reasons: they recognize and encourage good behavior and they accentuate sanctions for bad behavior.

A court's failure to enforce probation orders seriously undermines the probation officer's ability to effectuate the case plan. The probation officer should operate with a realistic view of the court's willingness and ability to enforce its orders. A probation officer can neither promise nor threaten what the court will not deliver.

Probation officers must exercise discretion in determining a reasonable leeway in monitoring a juvenile's compliance and behavior, particularly where judicial resources are limited. However, bear in mind that studies have consistently demonstrated the link between technical violations of probation and subsequent offenses. Juveniles who begin to violate probation conditions, whether it be missed restitution payments or office visits, are sending up red flags for the probation officer sensitive enough to see them. When a problem surfaces, follow through, don't make idle threats. On the other hand, some violation is not uncommon and need not be seen as a "defeat" or failure. The probation officer must be perceptive in discerning those violations that require court notification from those that require probation officer action.

Generally, revocations should be filed on serious violations. Less serious violations should be handled in accordance with departmental policy. Revocation should be initiated by juvenile probation officers when

the purpose for which the juvenile was placed on probation is being threatened. Revocations may be necessary to maintain the safety of the child or the community, to reinforce progress central to the rehabilitation process or to change the supervision plan. (See Part 1B; Probation Revocations).

Probation officers must guard against being yet another "enabler," that is, a person with good intentions who inadvertently encourages or assists the youth in his bad behavior. This is especially true with youngsters involved in drugs and alcohol use. No matter how likable the child, how mistreated by others, how deserving of better things, the juvenile must be held accountable. The probation officer's role is not to excuse or rationalize delinquent behavior or violations of court rules. In a well organized probation office, the process of discussing cases with a supervisor will often guard against this natural tendency.

Record Keeping

Unlike social workers, mental health counselors, parents, and others who both supervise and treat young offenders, probation officers are officers of the court with an unique legal obligation to inform the court of the juvenile's behavior that violates the court order or case plan while under their supervision. There is no right of confidentiality between the probation officer and the probationer. Rather, the probation officer must be able to report accurately and document any pertinent information about the youth that may be requested by the court with the same high standard of care outlined above.

The probation officer may have to testify at the revocation hearing. If the district attorney is required to present the case for revocation, the juvenile probation officer should contact him/her prior to the hearing. Review all relevant source materials and prepare yourself for testimony.

Probation officers must also document that information necessary for proper court supervision. While formats vary, probation officers must record all pertinent contact with the youth and significant collateral contacts with school officials, teachers, parents, counselors, police and so on. A detailed chronology may be very helpful. Probation officers should also request and maintain periodic written reports from personnel of those agencies significantly involved with the juvenile, including schools, employers, police (particularly juvenile officers if the force has them), counselors and others. Records must be kept by date and be of sufficient detail that the case could be picked up if necessary by another probation officer unfamiliar with the juvenile.

Probation officer records, in addition to the formally prepared written report, often form the evidentially basis for court hearings and must be able to withstand legal and factual challenges. While professionals have a right and duty to record assessments and opinions based on their knowledge and experience, these entries must be identified as such and supported by specifically enumerated details, observations, and discernable facts. Case entries should be specific to the youth's behavior as well as the probation officer's efforts to implement the case plan. Extraneous detail is not often helpful.

Case Closure

Many jurisdictions have established legal procedures to mark the termination of a case, usually including a final appearance of the juvenile before the court or relevant official. It is important, however, that there be some formalized ceremony marking the end of the case. While the case may be of little significance to the overburdened court or probation officer, it should be significant for the probationer and his family. Other parties should also be notified if they were significantly involved in the case, including crime victims.

The nature of the case closure depends obviously on whether or not the probationer is terminated successfully or unsuccessfully. If the latter, parties to the case should still be informed. For example, if the probationer was supposed to pay restitution but got rearrested and adjudicated instead, the victim should be so notified. That way the victim knows that the juvenile was held accountable and the probation officer did his or her job. The victim should also be told what options remain in terms of a civil suit for the money or the like. If the case is terminated positively, probation should let the juvenile know what this means legally and in terms of the probationer's growth and citizenship.

Finally, case closure is an excellent opportunity for probation departments to discover how clients perceive the services they received. Recently, departments have begun to survey clients for their reactions about the legal process, the services they received, and the requirements of their probation. Probation departments should be open to this type of scrutiny and see it as a chance for improvement.

Intensive Probation

This *Desktop Guide* would be incomplete if it did not mention one additional case management strategy that is gaining widespread support among the field -

intensive probation supervision. Interestingly, intensive probation is, in the opinion of many, what probation was always meant to be: a highly structured program tailored to meet the unique needs of the client, to provide an acceptable level of public safety and to serve as a true alternative to incarceration.

At the closing session of a 1986 symposium on juvenile intensive probation sponsored by the National Council of Juvenile and Family Court Judges, symposium moderator, Dr. Alan Harland, stated one dominant finding:

> We as juvenile justice professionals are so used to functioning with limited resources that *making do* has become our daily reality. When we are able to lower caseload size, increase number of contacts, and provide more service to a selected group, we tend to consider these circumstances unique and different and to call it *intensive probation* (Romig and Lick, 1986:2).

The symposium participants made it clear that this type of intensive probation is merely *good* probation.

A 1986 survey, based on a random sample of juvenile courts nationwide, revealed that intensive probation programs were operating in approximately 35% of the juvenile justice agencies across the country (Armstrong, 1988). The concept of intensive probation seems to address many concerns: the conditions of intensive probation are presumably more rigorous than traditional probation; caseloads are small and the number of contacts between the juvenile and the officer more extensive; most intensive probation programs are nonresidential in nature, which pleases those who believe that juvenile offenders can be successfully treated within the community; and because they are nonresidential, they are touted as being more cost effective than placing youth in an institution.

Although some juvenile intensive probation programs are designed to deal with juveniles adjudicated for violent crime, the majority target chronic property offenders. For many programs, the target population is composed of serious and/or chronic offenders who would otherwise be committed to a correctional facility but who, through an objective system of diagnosis and classification, have been identified as amenable to community placement under conditions of intensified supervision.

Juvenile intensive probation programs have a primary objective of intensifying supervision but also attempt to satisfy various other justice philosophies and goals, most notably treatment and rehabilitation. In Armstrong's national survey, although 78% of the responding agencies stated their primary goal was increased surveillance, the other 22% of the agencies focused on rehabilitative goals, emphasizing the expansion of resources and support services.

According to Armstrong, the following features identify intensive probation programs.

- A greater reliance placed on unannounced spot checks; these may occur in a variety of settings including home, school, known hangouts and job sites.
- Considerable attention directed at increasing the number and kinds of collateral contacts made by staff, including family members, friends, staff from other agencies and concerned residents in the community.
- Greater use of curfew, including both more rigid enforcement and lowering the hour at which curfew goes into effect. (Other measures for imposing control included home detention and electronic monitoring.)
- Surveillance expanded to ensure 7 day-a-week, 24 hour-a-day coverage.

Other necessary components are clear and graduated sanctions with immediate consequences for violations as well as restitution and community service, parent involvement, youth skill development and individualized and offense-specific treatment (Romig and Lick, 1986).

As suggested above, those programs that emphasize rehabilitation as their primary goal often talk about the need to intensify the level of control in order to better facilitate carrying out treatment activities with these youth. Usually, these efforts focused considerable attention on intervention strategies for the entire family. Consequently, family counseling and parenting skills training are often mentioned as essential ingredients in the basic approach. Almost all intensive probation programs in Armstrong's survey actively engaged in referring their clients to outside agencies and organizations to obtain needed services and resources.

Generally, intensive probation units are characterized by reasonably small caseloads, ranging from 5 to 20 probationers. In terms of actual supervision format, a number of surveyed programs utilize a team approach to caseload management. Several basic patterns were exhibited in a team approach. One approach entails deployment of two-person teams, pairing a surveillance officer, whose primary responsibility is monitoring conduct and investigating possible violations of the court order, with a field service probation officer, whose primary responsibility is providing the traditional casework management and services that comprise much of standard probation

supervision. This division of duties provides a much clearer sense of the specific relationships that youth must develop with their probation officer. Furthermore, teamed officers will not be subject to the kind of stress that results from the role conflict accompanying a single officer's assumption of both enforcement and supportive postures.

A second approach to team supervision of intensive probationers uses two-to-four person teams, with team members sharing equally the responsibilities of case management. The strategy underlying this approach is one of saturation team members provide supervision and control over the youth during all hours of the night and day, as well as over weekends. The approach is clearly linked to the perceived need to provide a greater degree of community protection when high-risk youth are under community-based supervision. Because each team member knows the problems and needs of every youth in the caseload, when a crisis arises, any team member can respond regardless of the hour or day.

When a strong emphasis on treatment is present, Armstrong found that team members are often assigned more specialized roles. For example, in Pontiac, Michigan, where the target population for intensive probation is younger offenders (average age of 12.8 years), the overall approach is best characterized as a medical model of probation counseling and supervision with a strong commitment to psychotherapeutic treatment. The team consists of three positions and is differentiated into three basic roles, each filled by a different professional staff member: 1) surveillance monitor, 2) case worker, and 3) clinical intern.

Surveyed programs tend to cite a variety of reasons for referring juvenile probationers to intensive probation units. These include: 1) age, 2) nature of offense (defined primarily in terms of severity), 3) chronicity of offense, 4) score of risk assessment instruments, 5) gang membership, 6) persistent school and family problems, 7) history of drug and/or alcohol abuse, and 8) unsatisfactory adjustment on standard probation. Likewise, many programs cite specific reasons for automatically excluding certain juvenile probationers from participation. These include: 1) perceived to be too violent, 2) petty and/or first time offender, 3) status offender, 4) below a specified age, 5) exhibiting various physical, emotional, and/or cognitive problems (e.g., mental retardation, suicidal tendencies, psychotic episodes) and 6) low scores on risk and/or needs assessment scales.

It is very probable that intensive probation units will be the norm in most juvenile probation departments across the country during the 1990s. In providing guidance to the field, the Office of Juvenile Justice and Delinquency Prevention is currently funding a project entitled *Demonstration of Post-Adjudication Non-Residential Intensive Supervision Programs* conducted by the National Council on Crime and Delinquency. The Phase One Assessment Report was completed in November 1989.

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C. Special Techniques

Supervision is more than just seeing a juvenile once a week. It involves interacting with both the juvenile and his family in whatever ways are most appropriate for the situation. As the situation changes, so to must the intervention. There is a wide array of interventions suitable for dealing with delinquent youth. Individual treatment methods include psychotherapy, social casework, vocational counseling, positive contingency managment, crisis intervention, etc. Group treatment approaches include group therapy, mediation, guided group interaction, family counseling, milieu therapy, etc. Some of these interventions, such as psychotherapy, are best administered by specially trained and licensed practitioners. However, probation officers can acquire the skills necessary to use most of these tools to their advantage in working with clients. A thorough discussion of all of these interventions is beyond the bounds of this guide. However, we present two approaches that probation officers can use almost daily: family counseling and crisis intervention. Following these are brief discussions of mediation, restitution, and officer safety which highlight the need for training in these areas. The point of this section is to encourage probation officers to pursue training in these and other skill areas by encouraging department administrators to bring in outside trainers or by taking additional courses in an area of interest.

Family Counseling

It is frustrating to work with dysfunctional family members who expect you to "fix" their child and are irate that he is still disobeying. Learning and using family counseling techniques will lessen stress and increase your effectiveness. However, people new to family work, particularly those who do not have an extensive academic background in the area, may tend to become over-involved with families and believe they must do the work themselves rather than empowering the family (Kaplan, 1986). Ongoing supervision and training is important so that intuition is replaced with understanding of what works, and why.

Some probation departments will provide training in the use of family counseling skills; others will not see family counseling as the probation officer's role. Even when a probation officer develops such skills to a sophisticated level, there may be occasions when families will have to be referred to a licensed family therapist for more intensive intervention. Regardless of the personal interest level, it is helpful to understand some basics regarding the concepts of family counseling so that appropriate identification and referral are made. Additionally, some of the techniques are of assistance in day-to-day work with probationers and families. The following overview of family counseling theory is designed to provide a basic introduction to ways of viewing and altering family functioning.

Family counseling is a relative newcomer to the field of therapy. Napier and Whitaker (1978) summarize the schools of family counseling as follows:

Psychoanalytic: Insight oriented, therapist-client centered.

Communications: Emphasizes current interactions between family members and develops concepts such as "family homeostasis," "family rules," and the "double bind."

Family Sculpting: Uses non-verbal body positioning by family members who are intellectualized, defensive, or closed to growth.

Structural: Emphasizes changing stereotyped, repetitive patterns.

Experiential: Emphasizes the importance of emotionally meaningful experiences in therapy and the therapist's use of "self."

Behavioral: Emphasizes changing destructive patterns by altering the behaviors that reinforce those patterns.

Parent Effectiveness Training: Teaches parents, in behavioral terms, to respond consistently to child behavior and to explain to the child the impact of their behavior on others.

Most probation officers with previous training in counseling were taught counseling theories and techniques that apply to the individual. Seeing families as a unit with recurring interaction and communication patterns that affect each person and the family as a whole requires a change in thinking. The family may be seen as the critical intervening variable between the society and the individual and the main learning context for individual behavior, thoughts and feelings (Satir, 1967).

Skynner (1976) summarizes research of Stabenau, et al. and compares families of delinquent and well-adjusted youth in Table 1.

If certain patterns of behavior or interaction frequently recur among families with delinquent children, counseling can assist the family to develop more effective patterns. Court-involved families often have problems in more than one area of functioning. Additionally, the probationer and the family are often involuntary clients. These two aspects do not present a favorable prognosis from a traditional orientation that stresses individual motivation and willingness to change; yet, the success level of many family counseling programs spurs optimism about the potential for effective intervention through the competent use of these techniques (Minuchin, Montalvo, Guerney, Rosman and Schumer, 1967).

How do you identify functional or dysfunctional families? Kaplan comments that a functional family is...

> one in which instrumental needs (such as housing, utilities, and food) and emotional needs are met. The family's relationship to the community is cooperative and productive, or at least neutral. If parents fail to meet the instrumental and emotional needs of their children, and relationships with the community are consistently negative, the family is dysfunctional. [In contrast, a functional family will face problems but] is able to cope. There is a positive communication among family members, and a feeling of caring is prevalent. The family works together to resolve its problems and asserts family solidarity (Kaplan, 1986:9, 13).

A self-rating form completed by family members provides information regarding the family's perception of their adaptability and cohesion and whether these two attributes are within the balanced/mid-range or extreme range (Olson, et al., 1985). Kaplan (1986) describes three levels of assessment:

1. Instrumental - each family member's ability or inability to negotiate the environment on his or her own behalf.
2. Intrapsychic - each family member's ability or inability to handle his or her emotions.
3. Interpersonal - each family member's ability or inability to handle interpersonal relationships.

Some effective practices that probation officers can follow when working with families and youth are:

- Maintain a respectful attitude. Effective interaction counseling requires caring honesty on the part of the probation officer. Degrading or blaming prevents growth because the source is "tuned out."

Table 1

Expression of Emotion	
Well Adjusted:	Appropriately modulated, positive and warm.
Delinquent:	Relatively uncontrolled, sharply intense, and at times counterfeit and artificial.
Family Interaction	
Well Adjusted:	Autonomy, productive copying pattern, goal of mutual understanding and satisfaction, mother and father tend to interact in a complementary manner.
Delinquent:	Teasing manipulation, frequent open conflict, mother and father frequently at odds with each other.
Family Organization	
Well Adjusted:	Flexible, clear role differentiation.
Delinquent:	Unstable organization, unclear definition.

Using Family Counseling Techniques to Respond to Common Problems Facing Probation Officers

Problem Situation:

The probation officer finds that he/she is regularly "taking the side" of the youth against the parents or the parents against the youth. The probation officer has a pattern of "communication problems" with either parents or youth.

Common Causation

The probation officer may be inducted (caught up in participating in the dysfunctional family system) rather than assessing the family and controlling the process (recurring patterns of interaction) of the interview. It is also possible that certain dynamics "push buttons" that exist because of unresolved issues from the probation officer's own family of origin.

Try This

Whenever possible, avoid the negotiator or referee role. Know your issues from your family of origin and what "buttons" you have that families can push. Use reflective listening skills while directing the family members to talk to each other and resolve the problem. Remember that family systems are powerful and strive to maintain homeostasis (continuing the current patterns of interactions).

Problem Situation

The probation officer feels overwhelmed and hopeless as the family recites a litany of specific incidents and bad behaviors from past years through the present.

Common Causation

During the interview, the probation officer may be responding to the content, or literal subject matter, of the discussion instead of the process, which is the recurring pattern of interaction which must be changed.

Try This

Questions can be phrased in such a way as to pay attention to what happens between people rather than the literal content. Satir (1975) suggests a question format such as, "When did you first notice the symptom? Did you discuss it between yourselves? What steps did you take to try and relieve it? What happened to these attempts?" Minuchin and Fishman (1981) provide explicit descriptions of ways to gather information about process, as well as providing very clear examples of common family counseling concepts and specific techniques. Check the meaning with each person of the content being discussed. Always double check the accuracy of your assumptions about what is occurring and what it means to the people involved.

Problem Situation

The family-youth interaction is "out of control," i.e., screaming, violent, etc., in the presence of the probation officer.

Common Causation

The probation officer may be using an overly passive role with a volatile family with poor problem-solving mechanisms.

Try This

Give yourself permission to take control of the process of the interview. Respectfully stop out-of-control behavior. Separate the family members temporarily if necessary. Direct the changes necessary for effective communication and productive interactions. Again, specific techniques to accomplish these things are available in the literature.

- Develop a treatment plan that forms a partnership with the youth and family that is intended to empower them to function in an effective, healthy way that will lead to socially acceptable, legal choices.
- Always double check your assumptions. Clarify what the family wants, thinks, feels and how they respond. Work toward the goals they set for themselves.
- Develop your personal "self." The qualities of acceptance, reliability, consistency, communicating a sense of caring, patience and persistence are important factors. Practicing theoretical applications without the personal qualities necessary to connect meaningfully with others is often ineffective.
- Develop your conceptual understanding of family counseling. The personal qualities

described above are often ineffective without knowledge of family dynamics and therapeutic interventions.

- Seek and utilize supervision.
- Look for strengths rather than pathology. Describe family problems in ways that allow a solution.
- Work at your level of competency. Expand your boundaries but state clearly to yourself and the family when other therapeutic intervention is necessary.

Family counseling is an important tool in the field of juvenile probation. It is an important component in developing effective treatment interventions for many youth. When used as part of a well-organized treatment plan, family counseling and family interventions such as Parent Effectiveness Training can assist the youth and his family in developing long-lasting patterns of interaction that will support healthy functioning rather than anti-social behavior.

Crisis Intervention

Often when a juvenile is brought into court, there is a crisis situation which must be addressed. Probation officers soon recognize that the bulk of their day could easily be spent "putting out fires" by responding to crises in the lives of their probationers. In order to handle these situations, probation officers must respond in a crisis intervention mode. The resolution of the current crisis may lead to the solution of older problems as well, because of the reawakening of fears and repressed problems that recur during the time of the crisis (Trojanowicz and Morash, 1987).

Crisis intervention techniques are much like triage at an accident site. Optimum results are achieved by following a set of guidelines in sequence. The structure provided by the guidelines helps cut through unimportant information, and it prioritizes tasks so that time and effort are well-spent.

As at the scene of an accident, it is essential to first gain control of the situation to prevent further harm when possible and to calm those involved so that information can be obtained. In the case of an emotional person in crisis, a calm, firm voice and the use of direct questions will help regain stability. A question that addresses a specific topic will help to focus on the task. Continue with questions that require information, but can be answered briefly. A question that calls for a lengthy answer may result in an emotional response. Getting the person involved in a structured process can provide needed control.

Next, do an assessment of the events as rapidly and thoroughly as possible. The questioning used to help control the situation also provides information. Prioritize the less important problems from those that require immediate attention.

In making an assessment, use the best sources of information available. A mother may have very useful information and good hunches of her own about an incident, but siblings and peers can be better sources. Establishing rapport with younger persons may just be a matter of convincing them of the seriousness of the situation. If you are able to talk with your client during the crisis, ask your client whom they would like to rely on for support and obtain information on how to contact the person.

Once you have completed the primary assessment, consider what options are open and the resources available in the community. They may include law enforcement agencies, the courts, emergency foster care homes, battered women's shelters, hospitals, drug and alcohol treatment facilities and mental health centers. In addition, private and public civic organizations may offer programs or services of specialized interest such as language translation or transportation that may be helpful in the crisis intervention process.

The primary assessment and consideration of options are no longer needed when the immediate danger is gone, for example, when a runaway is found. Once a crisis is no longer a life-threatening situation, a secondary assessment is in order, followed by another look at available options. The goals of crisis intervention at this stage are to prevent a dangerous situation from happening again and to address the problems found during the secondary assessment. While the crisis is less intense, it still exists and needs attention. This is the time to redesign a case plan to meet the needs of the client. Case planning might include referrals to treatment centers, training programs or other service providers or to detention. Sometimes an inpatient psychosocial evaluation is needed to aid in the decision making process. Once the referrals are made and the juvenile has begun following the case plan, periodic follow up assessments and revisions to the case plan should be made as needed to avoid having new problems escalate into crises.

The crisis situations probation officers face at work can be as varied as the clients. Some persons may seem to go from crisis to crisis as part of their normal living experience. They adapt to this dysfunctional lifestyle, often depending on others to bail them out of difficulty, and they may have no motivation to make changes. Other clients will view an arrest as a devastating experience, one with which they have no means to cope. Less frequently, the professional

working with persons who have been arrested may have a client who becomes suicidal or homicidal. Emotionally volatile persons are difficult to work with since a wrong word or poor timing can result in a tragedy. Crisis intervention with such people requires special training in techniques of body language, wording, earning trust and use of resources. Professionals who are likely to come in contact with such high-risk individuals should become familiar with basic concepts in this specialized crisis intervention field.

Crises are a part of every life, but those people who find themselves frequently in such situations are often to be found involved with the courts in some way. Knowing how to quickly control the confusion helps reduce stress, saves valuable time and allows the process of problem solving to begin. Management of the ongoing problem is the meat of case planning and continued assessment of a client's progress provides feedback on the efficacy of the plan and allows the flexibility to help prevent further crises.

Mediation

Delinquent acts often arise out of conflicts between the victim or community and the juvenile. One tool that probation officers can use to resolve these conflicts is mediation. Mediation is a process by which a mediator assists disputants to reach a voluntary, negotiated settlement of their differences. It may result in a signed agreement which defines the future behavior of the parties. The mediator assists the parties in reaching a settlement but is not empowered to make decisions for them.

Mediation is not new to probation departments. New Jersey provides an 18-hour training course in mediation techniques to probation officers and community volunteers to mediate juvenile complaints and has made extensive use of this form of alternative dispute resolution since 1953. Many other states have adopted similar plans allowing mediation in juvenile and family matters. The Family Division of the Connecticut Superior Court operates one such program. At that agency, the court presents the juvenile and his parents the option of mediating a minor juvenile offense rather than pursuing the traditional route of a hearing and disposition in the juvenile court. Probation officers trained in mediation provide the service in conjunction with their traditional caseloads. The Lake County Superior Court (Indiana) runs a mediation program through its Special Services Division in which intake probation officers screen cases appropriate for mediation and refer them to Special Services probation officers for mediation and monitoring. The mediation procedure of the Cuyahoga County (Ohio) Juvenile Court entails the intake divisions screening cases for mediation and intake mediators conducting the mediation hearings.

More often, juvenile offenses are mediated by volunteer community boards without referral to the police or juvenile court. Once referred, intake departments often suggest this as an appropriate alternative and refer the parties out to community or private agencies offering mediation services.

Two of the earliest mediation programs involved mediation of status offenses and disputes between parents and their children. They are the Status Offender Mediation Project of the Children's Aid Society in New York City and the Children's Hearing Project in Cambridge, Massachusetts. Many local adaptations of these programs have grown up nationally.

Mediation is important to the juvenile probation officer because of its potential use in these areas:

- Diversion of cases at intake.
- Settlement of cases by community groups.
- Settlement of cases by the probation officer.
- Settlement of disputes between a juvenile and the school.
- Settlement of disputes between a juvenile and his/her family.
- Settlement of restitution, custody and status matters.
- Victim-offender reconciliation.

Mediation is advantageous because it leads to results that are more acceptable to all parties involved than court orders would be because the interested parties participated in the solution.

Whether or not a juvenile probation officer is expected to run a mediation program or to participate directly in the mediation process, a grounding in mediation can enable a probation officer to know what types of cases to refer to community mediation programs or court-run mediation programs and, conversely, those that would not ordinarily be appropriate for that service. A properly trained probation officer can become a better problem solver, can train volunteers to assist in the mediation of disputes and can help maintain and restore community peace and harmony. For more information on the broader topic of alternative dispute resolution, contact the National Council of Juvenile and Family Court Judges for a copy of *Court-Approved Alternative Dispute Resoultion: A Better Way to Resolve Minor Delinquency, Status Offender and Abuse/Neglect Cases (1989).*

Restitution

The recent growth of concern for the victims of crime has spurred renewed interest in restitution as a sanction for delinquent crimes. Restitution is the compensation of a crime victim by the offender. It requires the offender to take responsibility for the criminal act and allows the system to hold him accountable. Probation officers should promote the idea that every judicial order of probation include a condition that juvenile offenders make restitution to the victim or the community. Restitution has a positive impact on the juvenile as well as the victim and improves public confidence in the system. There are different types of restitution: monetary restitution, community service and direct service to the victim.

Probation departments are encouraged to send for a copy of two documents that will assist them in developing, expanding or improving restitution activites. The Restitution Education, Specialized Training and Technical Assistance (RESTTA) Program published a *Guide to Juvenile Restitution* (Schneider, 1985). It is available from the National Criminal Justice Reference Service's Juvenile Justice Clearinghouse (800-638-8736). In addition, the National Council of Juvenile and Family Court Judges, as part of their Juvenile Justice Textbook Series, published *Restitution - A Guidebook for Practitioners* (Armstrong, Hofford, Maloney, Remington, Steenson, 1983).

Officer Safety

It is a given that courts are concerned with the public safety. Too often, however, we forget that the court system and the people in it are a part of that "public" deserving safety. Juvenile probation officers are in two key positions relative to this issue. First, they can assist the court in developing and maintaining an environment that is as safe as possible. On the other hand, probation officers are in a position to become victims themselves if they are not cognizant of key safety issues. For these reasons, probation officers should be required to attend training in the areas of officer safety and court security. This is a part of developing good practice and professionalism that may be overlooked.

Safety issues and court security have always been important, but it now seems that skill development in these areas is even more critical. Several changes seem to be affecting this area including an increase in gang-related activity, in substance abuse, in weapons access/possession, in domestic violence, an increase in "field" activity by the juvenile probation officer, and a change in the way the public views the court environment. Again, this is stated for the purpose of reinforcing the need for training in this area and to advocate that each court have a clear set of rules and policies relative to probation officer safety and court security.

The juvenile department of the Wyandote County District Court (Kansas City, Kansas) promulgated the following policies regarding officer safety:

- A probation officer should not make an unaccompanied home visit or conduct an interview alone if threats have been made or if the probation officer believes the client will become violent. In fact, if the probation officer considers the threat to be of a serious nature, the home visit should not be made. Other arrangements should be considered with the assistance of a supervisor.
- Verbal intervention is preferred to physical intervention when the situation allows for this. A verbal style that is calming is the most helpful along with offering information that presents a client with behavioral options that are more acceptable.

In addition to the above, the following guidelines should be used when dealing with security issues:

1. If you become part of the problem, or are too emotionally involved, remove yourself or bring in another staff person to assist you.
2. Prepare clients/victims/witnesses, who may be concerned about security, on how to handle themselves in a manner that may prevent problems.
3. Be aware of the red flags on security problems and don't hesitate to ask for help.
4. Be aware of your style, language, and other factors that may tend to provoke people.
5. Look for ways to physically separate people who are likely to be in conflict.
6. Have a high degree of visibility of staff and security personnel when a high-risk case is being held.
7. Don't involve yourself in horseplay that may be misinterpreted as a security problem.
8. Be aware of noise that may indicate a security problem and report it to the appropriate persons.

Courts have used the United States Marshall's office in their area to gain insight into security issues. In addition, state corrections departments or the National Institute of Corrections can provide information on officer safety training.

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Substance Abuse

Among American adolescents, drug and alcohol use escalated dramatically during the mid and late 1960s, continued to spiral upward through the mid 1970s, peaked sometime during the late 1970s and has followed a gradual downward path since the end of the last decade. This pattern of consumption is consistent among the general adolescent population as well as among youth who have experienced formal contact with the juvenile justice system. Yet, despite recent declines in the level of usage, the rate of drug and alcohol consumption by teenagers is approximately ten times greater than it was two decades ago (Akers, 1984). In 1985 one in four 12- through 17-year-olds surveyed nationwide said they had used an illicit drug in the past year (National Institute on Drug Abuse, 1987). A 1989 survey of high school seniors found that 35% of these older youth had used an illicit drug in the past year (Johnson, Bachman, and O'Malley, 1990).

Juvenile court data for 1986 show that there were 3 cases referred to court with a drug offense as the most serious charge for every 1,000 youth age 10 through the upper age of juvenile court jurisdiction (Snyder, et al., 1990). These drug cases made up 6% of the delinquency cases handled by the courts. Four out of ten drug cases involved juveniles age 15 or younger.

Alcohol use, though, is much more prevalent among youth than use of illicit drugs. Over half of the 12- through 17-year-olds and more than eight out of ten of the high school seniors said they had used alcohol in the past year. About one-third of high school seniors report having 5 or more drinks at a single sitting during the past two weeks. This behavior is more common among males than females although the gap is narrowing.

Considerable research has been directed toward determining whether a particular group of adolescents is more prone to experiment with and/or become more heavily involved with alcohol and drug use. These inquiries have focused upon a number of factors including *personality* (attitudes, beliefs and values), *family characteristics*, *genetic inheritance* and *social environment* (school, peers), which may singularly or collectively predispose certain youth toward substance abuse. With regard to the role of psychological factors, a number of specific indicators have been shown to be related to substance use/abuse. They include: low self-esteem, low self-satisfaction, a greater need for social approval, low social confidence, high anxiety, low assertiveness, high impulsivity, rebelliousness, and impatience to assume adult roles (Goldstein and Sappington, 1977; Jessor and Jessor, 1977; Kandel, 1982). Several aspects of family process and dysfunction seem to correlate with adolescent substance use/abuse: poor relationships between parents and children, parental criminality or antisocial behavior, poor parental skills for family management, and parental use of alcohol and legal/illegal drugs (Kandel, 1981; Hawkins and Doueck, 1984). Overall, research on the relationship between school experiences and adolescent substance use has had mixed results. There is considerable evidence that students who smoke, drink and use drugs tend to get lower grades, do not participate in organized extra-curricula activities such as sports or clubs and are more likely than nonusers to engage in various forms of antisocial behavior (Demone, 1973; Jessor, et al., 1972; Wechsler and Thum, 1973). In assessing the role of peer influence, a number of researchers have concluded that an individual youth's association with drug-using peers during adolescence is among the strongest predictors of adolescent drug use (Akers, 1977; Akers, et al., 1979; Jessor and Jessor, 1979).

There may be an important distinction between the role of peer influence in the initiation of substance abuse and the development of a more serious pattern of substance use:

> Adolescent drug experimentation can be seen as a peer supported phenomenon reflecting the increasing importance of peer influence during adolescence. On the other hand, adolescent drug abuse appears to be embedded in a history of family conflict, school failure, and antisocial behavior (Hawkins and Doueck, 1984:10).

This breakdown is consistent with the data showing experimentation with alcohol and drugs to be a separate form of adolescent individuation from that of drug abuse. In trying to develop a scale that accurately reflects the nature and intensity of substance use/abuse, the National Council of Juvenile and Family Court Judges in a recent publication, Drugs - The American Family in Crisis: A Judicial Response (1988) suggested the following set of definitions of increasing dependency:

1. **Experimental Use:** Trial of a not-previously administered substance to experience it effects personally.
2. **Use:** Moderate, intermittent, self-administration of a substance to experience its effects on a repeated basis.
3. **Social Use:** Moderate, intermittent use of one or more substances within a social setting in which the substance(s) is accepted and used by a peer group.
4. **Misuse:** Use of a substance in amounts or for purposes not intended by its producer or distributor; usually associated with use of pharmaceuticals for recreational purposes.
5. **Abuse:** Immoderate use of one or more substances resulting in severe impairment in a single episode or multiple episodes.
6. **Pattern Abuse:** Episodes of substance abuse leading to severe impairment on a regularized basis, interspersed with periods of no use or moderate use, in a discernible "pattern" over time.
7. **Polydrug Abuse:** Immoderate, frequent use of two or more substances simultaneously or consecutively in the same episode.
8. **Dependence:** Physiological and/or psychological compulsive reliance on one or more substances for a sense of well-being and functioning capacity; recognized by the American Medical Association as a disease that is beyond the individual's ability to control.

One of the most important questions that needs to be posed is exactly what is the relationship between substance abuse and delinquency. One review of many studies found some evidence of association between drug use and delinquency reported in each study (Elliott and Ageton, 1976). The National Youth Survey reported a comparable finding; adolescents who use alcohol and marijuana, as well as other drugs, are twice as likely to commit serious offenses as those who abstain (Huizinga and Elliott, 1981). It is estimated that less than 2% of the general youth population are both serious delinquents and multiple illicit drug users. Among youth who used multiple drugs, 40% were serious delinquents. Of those who were serious delinquents, only 16% were also multiple drug users. Looking at the data over time, it appears that while delinquency interacts with drug use to increase the risk of future involvement with drugs, drug use does not add significantly to the risk of a future delinquent career. The authors concluded that delinquency and drug use are indeed correlated, but they are each caused by the same set of social psychological variables; they are part of "a general syndrome of adolescent problem behavior." On the whole, drug use and abuse have the same social correlates as delinquency - age, sex, race, class and residence as well as religion, family and peer groups (Akers, 1984:42).

Juvenile probation officers know the correlation between alcohol and drug abuse and delinquency. They have become increasingly aware of the fact that large numbers of youth being referred to court have substantial drug and alcohol problems but are entering the court charged with non-alcohol and drug-related offenses. Yet, substance abuse appears to be playing a major underlying role in their delinquent behavior. Because delinquent behavior cannot be controlled until the juvenile's drug and alcohol abuse is addressed, it is important that all juvenile probation officers become expert diagnosticians of alcoholism and drug abuse. Alcoholism is gravely under-diagnosed by the medical and psychiatric professions. Often doctors and psychiatrists will not accurately assess substance abuse because they are not used to patients lying to them and denying their symptoms, nor do they receive special training in this area.

In order to diagnose substance abuse correctly, the juvenile probation officer must adopt a single-minded attention to the possibility of such abuse, even in its early stages. As a noted physician has written: "Teaching and supervised experiences in alcoholism have been so vague and disorganized that clinicians often fail to pursue the hypothesis that the patient has alcoholism. In contrast, the alcoholism expert may verify the diagnosis after a brief exchange with a patient" (Clark, 1981:275). The probation officer must become that alcohol or drug abuse "expert" so that diagnosis can be made quickly and accurately.

A standard indicator of alcohol or drug abuse is crime. Drinking is, by definition, abusive when it lands the drinker into trouble, so:

1. Examine the police report or find out the circumstances of the crime or the juvenile's

> Probation officers should be absolutely emphatic with their charges about not drinking alcohol or doing drugs, not only because of the negative effects of those substances on a young person but also because it is against the law in every state. A probation officer who accepts anything but zero tolerance of both drug and alcohol use would thereby serve as an enabler for that behavior to continue.

behavior which led him or her to court. Was alcohol or a controlled substance involved?

2. Look also at the juvenile's prior record. Does it show a history of alcohol or drug abuse? Is there a prior drunk driving charge for example or "minor in possession of drugs" or even a record of delinquencies such as disorderly conduct or assaults and fights, or assault and batteries on police officers? These offenses typically involve alcohol or drugs. A string of larcenies or burglaries may show evidence of a need of drug money.

3. Look at school reports or other reports that may document abuse. Unexplained behavior that appears in the reports may be explained by drug or alcohol addiction.

4. Interview the juvenile to determine drug and alcohol abuse, anticipating evasiveness. Substance abuse is a disease of denial. If the youth comes from alcoholic or addicted parents, the youth will be least able to measure his/her own drinking, much less categorize it as abusive. Abusers also minimize their abuse.

Standardized questionnaires have been developed to measure abuse by the use of indirect questions. The most popular test is called the Michigan Alcohol Assessment Test (MAST). Developed in the late sixties, the test consists of 25 questions calling for yes or no answers and is widely available. Other common tests include the Mortimer-Filkins test (not copyrighted) which measures problems associated with alcoholism and was specially developed by courts to identify problem drinkers. There is also the MacAndrews Scale, which is a subscale of the widely used Minnesota Multiphasic Personality Inventory (MMPI). A simple four question test is called the CAGE test. The four questions are as follows:

1. Have you ever felt the need to Cut down?

2. Have you ever felt Annoyed by criticism of your drinking?

3. Have you ever had Guilt feelings about drinking?

4. Have you ever taken a morning Eye-opener?

A yes answer to any of the four questions is an indication of abuse.

Another method to diagnose alcohol and drug abuse is to perform random, unannounced urine, saliva, breath, hair or blood tests to determine presence of alcohol or drugs. There are a number of testing kits available at reasonable cost for on-site testing. Alcohol can be measured by battery operated breathalysers or chemically treated slips of cardboard the juvenile places under his tongue. Several major laboratories have developed on-site urine tests that run a few dollars per test per drug, or samples can be sent to area labs or hospitals for clinical tests. These tests, however, are much more expensive. In many jurisdictions, common on-site tests have been held accurate enough to suffice for probation hearings where the standard of proof is less than beyond a reasonable doubt.

An important effort has been emerging in a number of jurisdictions to develop early identification and assessment procedures at court intake which detect, with a reasonable degree of certainty, those youth who are having problems with drug and alcohol use/abuse (Armstrong, 1987). There are, however, major obstacles at this point in time in deploying suitable assessment procedures at court intake since necessary developmental steps have not been taken previously to produce suitable instruments to screen clients coming into the court. Simply stated, most of the assessment protocols that have been developed over the past few years are far too lengthy and complex to be tailored for use with the extremely large numbers of youth who annually enter this nation's juvenile courts. Brevity is necessary to prevent added strain from already overburdened court and probation resources. Furthermore, because most screening and assessment instruments and procedures have been internally developed within particular court systems, little time or thought has been devoted to standardization, validity and reliability issues.

Overall, a number of important questions must be raised in attempts to design these procedures for conducting effective, early identification and evolution of substance abuse. These include: 1) What are the essential assessment dimensions, or question clusters, required to effectively determine the presence, nature, and level of these problems among juvenile offenders; 2) What kinds of screening procedures are presently used for these purposes; 3) What qualifications and training must be possessed by individuals in the courts and probation departments who are responsible for these preliminary identification and assessment procedures.

At this point, answers to these questions are most readily available from a small group of practitioners and researchers working in a set of juvenile courts and probation departments around this country who are experimenting with the design, testing, and implementation of "front end," brief screening instruments and procedures for substance abuse assessment. They are located in San Jose, California; Salem, Oregon; and

Houston, Texas. In addition, the juvenile court and probation department in San Diego, California, has taken significant steps to train and further sensitize staff to the nature and management of adolescent substance abuse. Such staff training is essential if early identification and assessment procedures are to be conducted in the courts by their own intake personnel. Quickly administering and interpreting the results of these very brief screening instruments lies at the heart of success with early assessment.

If early court assessment reveals some level of chemical use/abuse, then a "gated" process can be put into motion leading to another, more intensive assessment farther in court processing to determine the exact nature and extent of the problem. In this "gated" system, increasingly more complex and time-consuming evaluation procedures are employed as youth are discovered to possess more serious drug and alcohol problems. At least two of these screening gates should be located within the juvenile court/ probation department.

Once a severe problem is detected, referral should be made to resources and services available in the outside network of professional treatment agencies. In such cases, the courts would refer the more heavily drug and/or alcohol-involved juvenile offender to appropriate service providers for more sophisticated and in-depth assessment, as well as subsequent treatment. One recommendation that is often made for managing these kinds of chemically dependent youth after outside referral is to retain them under court jurisdiction on intensive caseloads that have been established for serious substance abuse cases and handled by specially trained juvenile probation officers.

Validation of a Brief Substance Abuse Screening Instrument in Santa Clara County (San Jose), California

One recent effort to develop and validate an early identification and assessment screening instrument is based upon a request from the Santa Clara County Probation Department to the National Center for Juvenile Justice in Pittsburgh. The Probation Department wanted an efficient, brief and effective screening device that intake officers can use to identify youngsters to be referred for additional substance abuse screening and treatment.

Three short-form instruments developed in conjunction with the Santa Clara County Bureau of Drug Abuse Services were compared with the 300-item Personal Experiences Inventory (PEI) developed by the Minnesota Adolescent Chemical Dependency Project (Winters and Henly, 1987). The short forms, each consisting of 10 to 13 items and taking less than ten minutes to complete, evolved from the Client Substance Inventory, a validated chemical dependency assessment tool used widely in both the juvenile justice system and the secondary schools in Washington and Oregon. The short-form versions were derived by selecting those individual items which had differenentiated the top 5%, 10%, and 40% of substance abusing adolescents housed in the Santa Clara County detention facility and youth camp (N=424).

The study design in San Jose called for the random administration of one of the three short-form inventories to a 10% sample of youth appearing at intake (approximately 700 youth). Following the intake interview, a master's level intern administered the full PEI. This longer assessment device, which requires about one hour to administer, has been validated with delinquent populations but is far too complex for intake screening. The results will determine the extent to which short-form responses are consistent with substance abuse dependency scales on the PEI. A short-form screening device can then be derived which maximizes the screening accuracy of an intake-usable tool.

Note: Winters has since developed a shorter, less comprehensive version of the PEI - the 38-item Personal Experience Screen Questionnaire (PESQ) - which is intended as a preliminary screen. For descriptions and reviews of both PEI questionnaires and three other adolescent screening instruments see the National Highway Traffic Safety Administration's **Assessment of Classification Instruments Designed to Detect Alcohol Abuse**, (1988) available from the National Technical Information Service, Springfield, VA.

Special Deficits: Developmental and Learning Disabilities

Existing literature on the incidence of some form of developmental disability among youth in the juvenile justice system has shown a significantly higher level of occurrence than that found in the overall youth population in this country (Hockenberg, 1980; Keilitz, et al., 1979; Morgan, 1979; Murray, 1978). As any probation officer discovers when they ask a juvenile to read conditions of probation, it is just as inherently unfair for a learning disabled juvenile to go through the process unattended as it is for a Spanish-speaking youth. In addition, behavioral difficulties reflecting central nervous system problems have also been linked to the development of both antisocial acts and delinquency (Robbins, et al., 1983). Neuro-developmental examinations of delinquent youth indicate that 45 percent of those tested have at least one area of developmental lag and approximately 20 percent have multiple developmental dysfunctions (Karniski, 1981).

Although developmentally disabled youth are clearly at high risk for contact with the juvenile justice system, there is little definitive proof of a causal link between developmental deficits and delinquent behavior. The most frequently proposed theories are : 1) the Susceptibility Hypothesis, 2) the School Failure Hypothesis, and 3) the Different Treatment Hypothesis. The Susceptibility Hypothesis asserts that antisocial behavior is the direct result of the neurological difficulties experienced by these youths (Lane, 1980; Murray, 1976). The neurological difficulties include problems in modulating impulsive actions, in focusing and maintaining attention, in conceptualizing, in seeing cause and effect relationships, and in accurately perceiving social cues. The School Failure Hypothesis asserts that a negative chain of events involving classroom failure and frustration is largely responsible for these youths' orientation toward, and involvement in, illegal activities (Dunivent, 1982; Lane, 1980). Unable to function well and succeed in traditional school settings, these youth become angry and begin to believe school officials' labelling them as lazy and bad. Such youth tend to drop out of school and become involved in delinquent activities. The Different Treatment Hypothesis asserts that the system treats developmentally disabled youths to disproportionate representation in the juvenile justice system (Dunivent, 1982; Lane, 1980). From this perspective, developmentally disabled youths' behavioral histories and formal records of failure (e.g., schools, other human service agencies) generate more negativity and a harsher response from juvenile justice personnel than is experienced by non-developmentally disabled youths.

Despite the documented correlation between developmental disability and delinquency and the existence of theories that offer insights into the nature of this relationship, developmentally disabled adolescents often go unrecognized in the juvenile justice system. As a result, they tend to be inappropriately managed. Their symptoms (i.e., negative behavior) usually serve as the basis for intervention rather than a basis for identification of the cause of this behavior. This is unfortunate since supporting evidence is rapidly accumulating to indicate that diagnostically-based treatment programs for developmentally disabled juvenile offenders do work (Bachava and Zaba, 1978; Dunivent, 1982).

By far, the most common developmental disability condition exhibited by youth entering the juvenile justice system is some form of learning disability. These are learning problems which do not appear to be the result of low IQ or poor motivation and which involve difficulty in understanding or using the spoken or written language (Wepmen, et al., 1975). Probation officers are increasingly aware of a consistently high correlation between learning disabilities and juvenile delinquency. Learning disabilities occur in more than 50% of juvenile offenders, compared with a 10% occurrence level in the overall adolescent population (Keilitz and Miller, 1980). Studies of youth adjudicated delinquent have shown that learning disabled youth average over three years below expected grade level in math and over four years below expected level in reading. Further, it has been convincingly argued that these kinds of academic skill impediments are more contributory than social class factors in accounting for delinquent behavior. In addition, it has been shown that many times learning disabled youth entering the juvenile justice system are not even considered for alternative programs because of the difficulty these youth experience with reading and writing, as well as with memory retention, both of which constitute grounds for non-referral.

The term "learning disability" first came into use in 1963 when groups of parents and professionals convened to share their concerns about providing more effective educational experiences for youth who had been variously labeled as dyslexic, aphasic, minimally brain damaged and perceptually handicapped. These early efforts resulted in the creation of a national organization, the Association for Children with Learning Disabilities and, subsequently, in Congress passing Public Law 94-112, the Education for the Handicapped Act in 1975. In 1981, a consortium of leading professional organizations in this field agreed upon a definition that has been widely adopted:

["Learning disability" is] ... a generic term that refers to a heterogeneous group of disorders manifested by significant difficulties in the acquisition and use of listening, speaking, reading, writing, reasoning, or mathematical abilities. These disorders are intrinsic to the individual and presumed to be due to central nervous system dysfunction. Even though a learning disability may also occur concomitantly with other handicap conditions (e.g., sensory impairment, mental retardation, social and emotional disturbances) or environmental influences (e.g., cultural differences, insufficient or inappropriate instructions, psychogenic factors), it is not the direct result of these conditions or influences.

This definition recognizes that learning disabilities represent underlying physiological or psychological information processing deficits or deficiencies resulting in academic underachievement. These disabilities manifest themselves in the inability to acquire the more formal academic skills of reading (dyslexia), writing or written language (dysgraphia), or mathematics (dyscalculia).

Informed response to the findings from an Office of Juvenile Justice and Delinquency Prevention-funded study conducted in the 1970s by the Association for Children with Learning Disabilities gave momentum to a national awareness of this problem. The study showed a marked change in the behavior of learning disabled juvenile offenders after testing and 60 hours of appropriate remediation (Crawford, 1979). Another change was a greatly reduced rate of reoffending behavior. As a result, there has been an ongoing call for more research and innovative programming efforts to work with this population. For example, the American Bar Association passed a unanimous resolution recognizing the learning disability/juvenile delinquency link at its 1983 national meeting. In 1986, the National Council of Juvenile and Family Court Judges published a volume in its Juvenile Justice Textbook series entitled *Learning Disabilities and the Juvenile Justice System.*

The key to providing appropriate treatment for these youth is assessment and testing. Since learning disabilities are a heterogeneous collection of learning problems, it is necessary to deploy a battery of tests to precisely identify the nature and intensity of the particular disability. This procedure allows appropriate decisions to be made about placement options, remedial methodology, support services, and prognosis for life-adjustment activities. These diagnostic tests are typically administered by specialists in the field of learning disabilities and consist of:

1. Intelligence tests
2. Academic achievement tests
3. Language tests
4. Perceptual tests
5. Adaptive behavior tests

Given the large percentage of learning disabled youth appearing before the court, common sense would suggest that a routine screening procedure for detecting learning disabilities be implemented early in the court intake process regardless of the presenting offense. Intake personnel should obtain as much pertinent information as possible, focusing on the areas of life statistics, general body language, language tasks and school history. This information should be recorded on a standardized form. Perhaps the single most valuable source of information available to corroborate any indication of learning disabilities is the complete school record.

Violent and Chronic Juvenile Offenders

Over the past two decades, statistics from several national crime-reporting agencies have caused media and public attention to focus on the problem of violent juvenile crime. For example, 1988 FBI Uniform Crime Report (1989) data show that youth under the age of 18 accounted for 15% of all arrests for violent crime (i.e., FBI Index violent offenses: murder and nonnegligent manslaughter, forcible rape, robbery and aggravated assault). This translates to a violent crime arrest rate of 143 arrests per 100,000 youth under age 18 in the population (FBI, 1990). Despite recent concerns, youth arrest rates for violent crimes have actually shown an overall decline in the past ten years (from a high of 167 per 100,000 in 1978). However, there can be no question that violent juvenile crime has increased substantially over the past quarter century (the youth arrest rate for violent crime was only 65 per 100,000 in 1965).

Although not all youth arrested for violent crimes are referred to juvenile court, there are large numbers of violent cases handled by juvenile courts each year. In 1986 an index violent offense was charged in nearly 70,000 juvenile court cases (Snyder, et al., 1990). These violent cases made up 6% of the court's delinquency caseload for the year.

Researchers have attempted to determine exactly what kind of juvenile offenders are responsible for violent crime and from what social backgrounds and life experiences they are drawn. Several birth cohort studies have generated an impressive body of findings that prove the existence of a small, criminally active

subpopulation of hardcore delinquents who are disproportionately responsible for youth crime in this country (Wolfgang, et al., 1972; West and Farrington, 1977; Hamparian, et al., 1978; Shannon, 1982; McCord, 1979). This research has shown that about half of all juveniles with a police record have only one police contact, while the other half have multiple contacts (Tracy, et al., 1985; Wolfgang, et al., 1972). In addition, it has been found that a small percentage of juveniles are responsible for the vast majority of "serious" offenses committed by juveniles (Snyder, 1989; Tracy, et al., 1985; Shannon, 1982; Hamparian, et al., 1978; Wolfgang, et al., 1972). In fact, less than 2% of juveniles ever come to the attention of the police for a violent offense (Hamparian, et al., 1978; Wolfgang, et al., 1972). Some evidence supports the notion that early onset of a delinquent career means a longer and more serious career (Tracy, et al., 1985; Shannon, 1982; Hamparian, et al., 1978; Wolfgang, et al., 1972).

The earliest of these studies identified youth with 5 or more police contacts as *chronic offenders* (Wolfgang, et al., 1972). These youth were most likely to continue their criminal behavior - at least 72% had a subsequent police contact. However, a recent study of juvenile court careers (Snyder, 1989) found that youth who were referred to juvenile court for a second time before age 16 were likely to continue their law-violating behavior and could be considered chronic offenders (applying the same 72% recidivism probability, in this case returning to court). This finding implies that courts should not wait until youth return for a fifth time before taking strong action.

Juvenile court careers were also studied to investigate changes as the career lengthened. Referrals generally progressed from less serious to more serious offenses. Index violent offenses were more likely to be found toward the end of a juvenile court career. In addition, the more referrals in a career, the greater the likelihood the youth would be referred for a violent offense. However, juvenile court careers involving a violent offense were the least common of all career types. Careers containing only violent offenses (one or more) were not the most common example of a violent career. The most common violent career was one that included all offense categories (Index violent, Index property, nonindex delinquency, and status) - the *violent generalist.* Among the 16% of youth with 4 or more referrals who were responsible for over half of all referrals, the most common career type contained a referral in every category except Index violent. Not one of these youth had a career with only violent referrals. Thus, birth cohort research shows us that while there are chronic delinquents, chronically violent juvenile offenders are rare (Snyder, 1989; Hamparian, et al., 1978).

Despite their relatively small numbers these repeatedly violent youth are of special concern to the juvenile justice system. A number of states have legally defined youth repeatedly adjudicated delinquent for committing crimes against persons by establishing special dangerous or serious offender categories in their juvenile codes. This designation is usually qualified on the basis of age, offense and prior adjudication record. Some states simply identify this offender population; some include mandatory sentencing requirements; others provide for their automatic transfer to adult criminal jurisdiction.

Based upon birth cohort research findings, it has been argued that juvenile criminal violence can be viewed most accurately as an indicator of a more pervasive problem -- a serious antisocial orientation manifested in continued criminal behavior rather than the central problem facing the juvenile justice system (Bleich, 1987). Research on the effectiveness of programs for chronic juvenile offenders has consistently shown that high-rate offenders often exhibit a qualitatively different response to traditional treatment and are uniquely resistant to conventional rehabilitation programs (Coates, 1984; Gadow and McKibbon, 1984; Agee, 1979).

Research has been directed toward identifying and understanding those factors that indicate a high probability of generating chronic and/or violent delinquent behavior, after it was revealed that a relatively small number of juvenile offenders are responsible for a disproportionately large amount of all adolescent crime. Generally, predictors of repeat delinquency have been grouped into three categories: 1) noncriminal predictors; 2) past criminal acts; and 3) some combination of the two. A number of researchers have argued that demographic, psychological, behavioral and familial characteristics are more accurate predictors of chronic delinquency than prior criminal history. Others have shown a number of offense-related variables to be related to recidivism. These include: the delinquent's age at first adjudication, the nature of the first offense, whether the delinquent act was committed alone or in a group and the number of prior adjudications. The results of research combining criminal history and noncriminal predictors have been promising, if somewhat controversial.[1]

[1] Greenwood and Zimring (1985) claim that adding social and psychological factors to criminal records yields virtually the same group of chronic offenders as an inquiry based on juvenile records alone. Several other studies (Farrington, 1983; Monohon, Brodsky, and Shah, 1981;

Youth Gangs

To date, most of the attention directed at youth gangs in this country has been in the form of prevention and law enforcement responses in large urban centers. However, due to increased activity in drug trafficking and the emerging use of sophisticated weapons by gang members, more and more gang members are coming before the juvenile court and a probation department response is needed as well. At a minimum, probation officers should be aware of the cultural dynamics of gangs so that they may be better able to identify members among their probationers. Since many gangs are ethnically homogeneous and have strong cultural ties, a State Task Force on Youth Gangs in California (1986) recommended that probation departments recruit individuals with various ethnic backgrounds and bilingual skills since they are more likely to be effective in communicating with gang members and understanding their cultures. The Task Force also recommended that probation departments establish or expand special units to supervise gang members.

Efforts have been made sporadically since the early 1970s to test the efficacy of placing serious juvenile offenders in community-based settings in this country (Armstrong and Altschuler, 1982). All operated on the premise that certain inherent advantages result from placing serious juvenile offenders in settings which maximize access to community resources. These resources include community subsystems such as schools, churches, work opportunities, recreational facilities and training programs; they also include client social networks such as families, friends and peers (Armstrong and Altschuler, 1983).

This broad-gauged approach to community-based programming includes programs that target juvenile probationers for alternatives to incarceration, as well as programs which target juvenile parolees for gradual transitioning back into the community. Often these programs will serve both populations simultaneously since these more severely delinquent youth, whether on probation or parole, often pose the same basic problems for community adjustment and also exhibit similar needs.

Those programs working primarily with juvenile probationers tend to define their admission criteria so that chronically violent juvenile offenders are not admitted. Such offenders are usually committed by the courts directly to secure correctional facilities for long-term custodial care. Programs offering services to juvenile probationers, especially those felt to be high risk, target client populations tending to fall somewhere between the extremes of the chronically violent and the habitual misdemeanant. Most such programs contain a mix of offenders, some of whom have been referred for serious crimes against property, usually on a repeated basis, as well as occasional violent crimes against persons. Rarely do any of these programs admit youth who have been adjudicated delinquent more than twice for crimes against persons. Usually, clients have established patterns of court contact and delinquent activity, but have not established patterns of violent activity.

Philosophically, the central argument leading to experimentation with more severely delinquent youth in community-based programs is that the majority of youngsters adjudicated for major crimes against property and persons have experienced high levels of social deprivation and, in fact, are maturationally arrested at early stages in their emotional development (Strasburg, 1978; Taylor, 1980). The primary challenge posed by this category of offenders is one of basic "habilitation," since they exhibit major social deficiencies. The rich and more socially interactive environment provided by well designed community-based programs may offer the best opportunity for managing and reintegrating these youngsters. Further, the advantages offered by community-based programs rest in their ability to prepare youth for gradually increased community contact and to continually test these youth for those qualities requisite to successful community adjustment. Community-based programs for more seriously delinquent youth, regardless of format, share a desire to structure or create a tightly-knit and highly-controlled environment whereby all components are integrated into an actively directed intervention approach.

There are two related factors that have contributed to a widespread public and professional perception that providing security and asserting control are not part of, or cannot result from, community-based intervention strategies. One factor contributing to this perception is that some helping professions have in the past frowned upon the use of control (Weisman and Chwast, 1960). This position has fueled the false notion that a fundamental incompatibility exists between control and treatment. In reality, however, developing social and personal controls are very much part of what occurs in well-developed, community-based alternative pro-

Chaiken and Chaiken, 1982) had similar results in combining past criminality with noncriminal predictors. Further, Fagen and Hartstone (1984) have argued that it may be too difficult to objectify and consistently measure the interpretation and application of behavior traits.

grams. These controls are part of the repertoire of social skills which are internalized during the normal maturational process for most youngsters. For this difficult population a greater opportunity exists for the transmission of such skills and the internalization of such controls in community-based settings than in institutional facilities. A second factor concerns the perception that community-based programs are too lax and consequently are unable to act as a deterrent to misconduct. This notion of laxity has not generally been borne out in research on the effectiveness of such programs. The degree of laxity or strictness varies both within and between programs and is a function of the perceived/assessed need for more constant and close surveillance of particular juvenile offenders and the rate of each youngster's progress within the program.

Obviously, a great deal of thought and energy must go into developing the various approaches and techniques used in these programs. Programs requiring a greater degree of security are capable of providing it without losing sight of the equally important goals related to the acquisition of responsibility, accountability and social control. Many programs make use of differential reinforcement, sometimes achieved through the mechanism of contingency contracting, to exert control. Increased physical mobility, autonomy and responsibility can also be used as privileges that have to be earned. In this way, limit setting and constructive reactions to stress are reinforced. Sanctions for rule infractions and misbehavior can include a number of techniques: reprimand and individualized talk sessions, written exercises, work hours, curfews, mobility restrictions, loss of home visits, brief room confinement, group encounters, peer pressure, stigmatizing garb, physical restraint in countering aggression or violent outbursts, reports back to probation, etc.

Essential Community-Based Program Ingredients

As part of a national survey of community-based programs for serious juvenile offenders conducted for the U.S. Department of Justice, Altschuler and Armstrong (1984) distilled, from a broad sample of existing programs, a small set of operational categories that they felt should be taken into consideration in designing and managing these kinds of programs. They are:

I. Case Management

1. Components which are closely coordinated, consistent, mutually reinforcing and continuous;
2. Behavioral contracting;
3. A comprehensible and predictable path for client progression and movement;
4. Each program level or phase directed toward and directly related to the next step, to all successive steps and to developing aftercare plans;
5. A rating or reporting system to measure progress.

II. Reintegration

6. The early initiation of aftercare planning in which the client is actively involved;
7. Linking clients to community experiences and providing exposure to community subsystems and clients' personal social networks;
8. Attention to in-program practices and the extent and nature of community contacts.

III. Involvement and Achievement

9. Frequent opportunities for readily obtaining some form of achievement and success;
10. Instilling in clients a sense of program ownership or involvement in decision making.

IV. Control and Security

11. Consistent, clear and graduated consequences for misbehavior;
12. Close eyeball supervision or extensive tracking.

V. Education

13. An assortment of highly structured programming activities including education or vocational training and social skill development.

VI. Counseling

14. Various forms of counseling including individual, group and family approaches.

Case Management

The first five ingredients collectively constitute a variety of features and processes which develop an unambiguous, goal-oriented set of expectations for clients concerning their individualized intervention plans (i.e., goals and objectives for each program component and activity), what remains to be accomplished and the relationship of achievements to overall program movement and progression. Behavioral contingency or social contracting with each client is a way to individualize intervention and treatment so that broad categories are realistically fitted to the specific needs of every youth. Generally, contracts are written

to emphasize a manageable number of goals or expectations with specific incremental steps geared toward improvement of problems. Further, it is crucial that youth in these programs are provided with a comprehensible and predictable pathway for movement or progression and have a rating or reporting system to measure advancement. It is important to continually emphasize achievements, deficiencies and expectations because that will affect the youths' perception of fairness, increase the chances that accomplishments will give clients a greater investment in the program and hold the youth accountable.

Reintegration

Ingredients six through eight refer to preparing and testing the offender and designated support systems for the development of qualities needed for constructive interaction and successful community adjustment. Tasks and processes include identifying and bolstering positive supports in the community, developing new and constructive contacts, maintaining various forms of staff involvement and work with family, peers and socializing institutions and bringing the youth to a point where they are capable of dealing with the forces and influences in the community. In some of these programs, extremely tight control is exercised at the early stages of a client's involvement and all contacts with outsiders take place at the facility under supervision. In the case of other programs, much greater freedom of movement outside the facility is extended to clients soon after admission. Some residential programs accomplish this by using community schools and closely monitoring attendance and behavior. Other programs rely on group outings, daytime privileges and use of local recreational facilities as a way to minimize isolation and to create more normalized interaction.

Involvement and Achievement

Ingredients nine and ten are both concerned with promoting the development of a positive self-image, high self-esteem and increased social competence. In both residential and non-residential programs, various forms of point systems are frequently used to encourage, reinforce and reward positive conduct.

Clients who participate in decision making have a much stronger investment in their program outcome, sense of program ownership and a greater stake in daily operations. To insure that this process is set into motion, steps are usually taken to build into program operations a variety of points at which clients are called upon to actively participate in making various decisions.

Control and Security

While it is vital that programs have a system for providing consistent, clear and graduated consequences for misbehavior, the procedures designed to achieve this end can assume a number of forms and can be put into practice in various ways. Various techniques are used to impose high levels of control in situations involving client movement into and out of program facilities, client activity outside the facility or client behavior inside the facility. Intensive tracking is a common form of monitoring and controlling client behavior and activities outside the program facility. Tracking may be designed to operate on a 24 hour basis with the understanding that contact may be made by trackers with clients at any time. Often, clients have to make multiple, daily call-ins to the program, report any deviations from a totally pre-arranged schedule, and attend mandatory meetings at the program facility several times a week and on weekends. Clients are sometimes seen by trackers as many as three or four times a day. The key to this intensive approach is having trackers operate in teams.

From the perspective of those advancing the use of community-based programs for serious juvenile offenders, there are two principal security issues that must be addressed. First, public fear and anxiety over the presence of these youth in the community must be diffused. It is not unusual for new programs of this type to have engaged in protracted conflict with community organizations and residents over zoning regulations, building codes and other obstacles to program start up and survival. Second, is the more programmatic consideration of how the "treatment variable" must be adapted and tailored to mesh with those constraints that must be imposed on the activities and movement of high risk clients. In general, the most desirable and effective methods of establishing and maintaining security is through smaller numbers of clients, adequate staffing, and program content rather than through a dependence on high levels of mechanical and physical constraints.

Education

Education usually includes a variety of enrichment and cultural activities, recreational and physical education components and vocational training and skill development. These activities are blended into the overall educational curriculum, which includes the traditional requirements of reading, writing, mathematics, etc. Education must be tailored to meet the nature of the target population, individual client learning styles, the public school system's willingness to take these youth into its activities and its ability to

meet the clients' special needs (e.g., learning disabilities, developmental disabilities, disciplinary problems).

Theoretically, these programs have the option of utilizing either community schools or in-house educational components. The types of community schools relied upon include regular public schools, special education schools and vocational/technical schools. In cases where programs use community schools, the provision of education is itself a direct manifestation of a link with a major socializing institution. Since wide disparities exist in the educational achievement and in the individual learning needs of serious juvenile offenders, programs with in-house schools contain a vast array of educational resources and techniques: remedial instruction, GED preparation, team teaching, teaching machines and regular courses leading to a high school diploma. In most cases, the structure of learning in-house educational components is individually tailored with clients not being placed by grade. In addition, considerable emphasis is placed on job training and skill development in many of these programs since most clients are not going to enter college and lack the basic competence to obtain and hold jobs in the community.

Counseling

Some form of individual counseling tends to be provided in all programs of this type. Most also engage in both group counseling and family counseling sessions. As expected, counseling in residential programs utilizing a therapeutic milieu model tend to be intensive and the focal point around which all the other components and procedures are organized. This usually entails some version of group process where an effort is made to achieve a cathartic-induced effect, especially when this group counseling process utilizes a more aggressively confrontational style. Likewise, non-residential programs tend to place a major emphasis on various forms of family counseling since it is vital for the home situation to remain viable in order for the program to have any positive effect.

Treatment Programs for Violent Delinquent Youth

Most treatment programs for the violent adolescent are fairly new. These programs operate in mental health facilities, youth correctional facilities and joint mental health/youth correctional facilities. For those youth who have a long history of repeated violence and have been classified as extremely high risk, placement is most likely to occur within a closed, relatively secure facility if commitment to a state training school is not made. The majority of these youth have been committed to state correctional supervision but, on occasion, these adolescents may still be on probation status and will be referred to such programs as a condition of probation.

With only a few exceptions, the programs designed to treat the violent juvenile offender have many aspects in common. Most have as a major treatment emphasis a therapeutic community or positive peer culture approach. Most have structured treatment programs that provide youth with ongoing behavioral feedback. Most use a team management approach with staff and have a high quality and quantity of staff. Most have developed a discipline system that is prompt and have some sort of specialized approach in working with the sex offender portion of the violent juvenile offender population. Finally, most of the programs feel that a secure setting and adequate time for treatment are critical to their success.

During the past 20 years, many have felt that the therapeutic community/positive peer culture approach was the best answer for treating highly disturbed and behaviorally acting out youth. The most obvious benefit was the use of peer pressure to control and provide treatment to the youth in the program. The typical power struggle between adolescents and adults is increased greatly in a population of disturbed adolescents. However, a therapeutic community is able to avoid this control battle. The group values revolve around the philosophy of "we" rather than staff versus peers or peers versus each other. Like an ideal extended family, problems are handled within the group as they affect everybody. The youth who has had longstanding problems with interpersonal relationships learns how to meet the expectations of others and how to establish meaningful friendships. The youth who has successfully resisted becoming a contributing member of society cannot avoid the social framework in the therapeutic community. It pervades his/her existence, and it does this during a life phase when peer influence is paramount in importance. In addition, the therapeutic community confronts and attempts to reverse negative delinquent subculture values in youth before they become habitual.

Given the tradition of emphasizing the treatment of the offender rather than the victim in the medical model approach, little attention was paid to the issues of accountability and assuming responsibility for one's actions. It was Glasser (1965) who first began emphasizing the importance of making the client feel responsible for his/her own behavior. The concept has been expanded upon in most treatment programs that work with violent juvenile offenders, so that the whole process of being acutely aware of the negative effects of their behaviors on their victims is a major part of the treatment process.

Quality of staff is also seen to be a crucial factor in developing and monitoring a treatment program for violent juvenile offenders. A positive peer culture cannot exist in the absence of a positive staff culture. In addition to selecting people who are personally exceptional, staff selection must also be keyed toward people who function well in a team system. Violent juvenile offenders usually have considerable experience at being able to split staff and set them up against each other in an effort to divert attention from their negative behaviors. Ideally, in a team setting, there are usually strong values against allowing this to happen. Another staffing consideration that is a strong asset in these kinds of programs is the modeling of staff and clients along certain personality dimensions.

As Glasser (1965) has noted in his reality therapy model, the requirement for self-discipline is one of four basic needs to be met in order to learn responsible behavior. Often the violent juvenile offender has to have almost a complete resocialization process to learn this. In these efforts, the concept of applying natural and logical consequences is of fundamental importance. This concept requires two philosophical steps: 1) helping youth reach the level of ownership of the problem and 2) having them learn good decision making by looking at the consequences of their decisions, both for themselves and for others. Neither step is easy. The first step is confounded by the violent juvenile's habit of projecting blame for his behavior. Regarding the second step, youth with character disorders are renowned for their so-called inability to learn from experience. For these reasons, the discipline has to be structured enough to be resistant to strong attempts to manipulate, intimidate or escape from the consequences in the program.

Although the degree of security varies in different programs, it is generally accepted that the reason chronically violent juvenile offenders must be treated in secure settings, is for the protection of the community. Many violent delinquents under pressure, change behavior and attitudes to escape from demands, if at all possible. Obviously, they experience this kind of pressure in highly structured treatment programs. Unlike the nurturing, protective environment of traditional mental health programs, programs for the chronically violent juvenile offender are confrontative, structured and emphasize consequences for irresponsible behavior. Many programs for this population that did not attempt to prevent escapes and monitor behavior were terminated due to backlash from the general public and elected officials as well as the judiciary.

Successful treatment of the chronically violent juvenile offender is not possible in short-term settings. Unfortunately, many earlier attempts failed because the violent offender was not kept in the program long enough to see if surface behavioral changes would last over time. Not surprisingly, many of these juvenile offenders have become sophisticated over their delinquent careers in various treatment settings, so they are often successful at pretending to cooperate with program rules and guidelines until that point in time when staff feel they are ready for release. It is impossible to establish a hard and fast rule about what is enough time since it will vary from youth to youth. However, in carefully designed programs, treatment is designed with a level system wherein the youth earns increased freedom along with increased responsibility and is unable to leave the program until his/her behavior has improved and been maintained over enough time that the changes appear to be permanent. A critical part of this process is to test the youth with a slow transitional period back into the community.

One of the most ambitious and well designed efforts to develop an intervention model for the chronically violent juvenile that gradually transitioned these youth from secure settings back into the community was the Violent Juvenile Offender Research and Development Program. This initiative was funded by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention and was implemented in a number of states nationally. The proposed model of intervention integrated control, strain, and social learning theories. In this integrated framework were identified four theoretical principles that underly the model: social networking, provision for youth opportunities, social learning and goal-oriented interventions.

To translate these principles into structural components for provision of services, emphasis was placed on the following program features:

1. Continuous case management;
2. Community reintegration;
3. Diagnostic assessment;
4. Client and family involvement;
5. Education;
6. Job training skills and placement;
7. Leisure time activities;
8. Individual and family counseling;
9. Medical and health services; and
10. Specialized mental health treatment when needed.

For further discussion of some of the issues facing the juvenile court with respect to serious juvenile offenders, see *The Juvenile Court and Serious Offenders: 38 Recommendations* (Juvenile and Family Court Journal, Summer, 1984).

Adolescent Sex Offending

Prior to the past 15 years, sexual offenses committed by juveniles were very often simply dismissed as "adolescent adjustment reactions" or defined as "exploratory experimentation." Even when these cases were brought to court, charges were frequently reduced to nonsexual charges. Only recently has the behavior involved in adolescent sexual offending begun to be scrutinized and specialized interventions for this juvenile offender category have appeared.

Increasing attention has been focused on this problem behavior as it became clear that such acts are pervasive, drastically underreported and cause for public concern. Further, a significant link has been established between adolescent sexual misconduct and subsequent adult sex crimes. In one study, as many as 60-80 percent of adult sex offenders reported participating in sexual misconduct as adolescents (Groth, et al., 1982). Not surprisingly, with more information becoming available about sex offending, the picture that has emerged reveals that adolescents are responsible for perpetuating over 50 percent of the molestation of boys and 15-20 percent of sexual abuse of girls (Showers, et al., 1983; Rodgers, et al., 1984). Research findings indicate that while adult sex offenders report an average of over 380 victims, adolescents arrested for sexual offending report an average of less than seven victims (Abel, et al., 1986; Groth, et al., 1982). These findings make a strong case for early intervention.

Along with early intervention and the growing recognition of the broad-based pattern of persisting and intensifying sexual offending as individuals move from adolescence into full adulthood, has been the rapid proliferation of programs designed to treat this offender population. While only 20 programs existed nationally in 1982, over 520 specialized treatment programs serving juvenile sex offenders had been launched by 1988.

By definition, the adolescent sex offender is a specialized subpopulation of the violent juvenile offender category since they are engaging in a particular form of crimes against persons. Labelling sex offending behavior as criminal reflects our society's values and norms. The nature of the relationship is evaluated based on the equality or inequality of the participants, presence of exploitation, coercion, and control, manipulation, and the abuse of power. Historically, professionals have responded slowly to deviant sexual activities by adolescents due to a lack of preparation to sort out what is "normal" from what is "deviant" in juvenile sexual behavior.

Now that deviant sexual practices on the part of adolescents are formally recognized, it is critical that the juvenile justice system's intervention is based on legally constructed judgments about what is or is not criminal in this behavioral arena, not individual values and opinions. For example, so-called "nuisance" offenses such as peeping, exhibiting, obscene phone calls and sexual harassment should not simply be dismissed as victimless crimes, but should rather be viewed as serious acts on the continuum of sexual offending.

A number of different theories have been suggested to offer insight into the causes and dynamic of adolescent sex offending. Examples of such theories are: deviant arousal patterns resulting from learned behavior and social interactions; the sexual assault cycle being triggered by feelings of powerlessness and lack of control; irrational thinking patterns; deviant masturbatory fantasies; family trauma and sexual abuse; and a distorted and confused view of sexuality. This range of possible causal factors indicates that such behavior is a complicated multi-determined phenomenon. Obviously, not every juvenile offender committing sex crimes is shaped by the same factors, calling for an individualized application of theoretical principles to explain these acts that reflects the complex circumstances, problems and needs of each youth.

One must consider many factors in assessing this population in order to understand what led to the behaviors and to guide decisions about the appropriate treatment required. To date, there are no validated instruments to classify juvenile sex offenders although some nonvalidated guidelines do exist as a basis for evaluation. Currently, clinical experience is the basis for reaching most decisions about treatment. From that perspective, the offender's psychosocial, sexual, and behavioral history is felt to hold many keys to explaining his deviant behavior; this includes his views of the world, self-image and level of empathy. Early childhood history may reveal a progression of dysfunctional thinking, antisocial behaviors and exploitative patterns. The level of socialization may have been shaped by early childhood traumas such as physical or sexual abuse, abandonment, rejection and/or loss that may have deeply influenced his sense of self and others, values, relationships and communication. Family history may reveal dysfunctional learning and exploitation, role reversals, and, most importantly, patterns of denial and minimization.

Program development has been heavily influenced by a core group of pioneers in the field (e.g. Groth and Loredo, 1981; Knopp, 1982; Lane and Zamora, 1984) and by extensive networking among treatment providers. For this reason, there tends to be a high degree of similarity across programs in the fundamental approaches taken. Philosophically, the primary concern is with victim and community protection. Programmatically, interventions are drawn from several different models (e.g., behavioral-cognitive, psychosocial and education). Multiple modalities are utilized including group, family and individual treatment. Within this context, programs typically employ several different modes of treatment and content areas. These include acceptance of responsibility, victim empathy, anger and stress management, recognition of the "assault cycle," thinking errors, personal victimization, human sexuality and relapse prevention.

In spite of these broad similarities, juvenile sex offender programs are not carbon copies of each other. Although many share basic concerns and approaches, the highly eclectic nature of the field and its rapid evolution have produced a tremendous variety of programs and techniques. This variation is further influenced by differences across sites in organizational location of the program, offender populations, access to resources and other important local considerations.

Fay Honey Knopp (1982) offers the following sequence of intervention techniques as a promising model of treatment:

- Each adolescent sex offender needs a complete individualized assessment and treatment plan.
- Each sex offender needs to (a) accept responsibility for the offenses in which he has been involved and (b) have an understanding of the sequence of thoughts, feelings, events, circumstances and arousal stimuli that make up his "offense syndrome" that precedes his involvement in sexually aggressive behaviors.
- Each sex offender needs to learn how to (a) intervene in or break into his offense pattern at its very first sign and (b) call upon the appropriate methods, tools or procedures he has learned in order to suppress, control, manage and stop the behavior.
- Each sex offender needs to engage in a reeducation and resocialization process in order to (a) replace antisocial thoughts and behaviors with pro-social ones, (b) acquire a positive self-concept and new attitudes and expectations for himself, and (c) learn new social and sexual skills to help cultivate positive, satisfying, pleasurable and non-threatening relationships with others.
- Each high risk sex offender needs a prolonged period during his treatment when he can begin to test safely his newly acquired insights and control mechanisms in the community without the potential for affronting or harming members of the wider community.
- Each sex offender needs access to a post-treatment group for assistance in maintaining a safe lifestyle.

For more information on the topic, see *Preliminary Report from the National Task Force on Juvenile Sexual Offending 1988* (Juvenile and Family Court Journal, 1988, Vol. 39, No. 2).

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E. Enhancing the Profession

One of the major reasons for compiling this ***Desktop Guide*** is to enhance the professionalism of juvenile probation. To be professional means to be accountable. This seemingly diverse chapter includes some of the components necessary for holding the system accountable. A code of ethics, minimum employment qualifications, performance and program evaluations and community outreach all equate to accountability and a commitment to quality. Coming full circle, this commitment to quality will reflect upon a commitment to professionalism. The strategy proposed in this section focuses on the requirements of both individual juvenile probation officers as well as the entire probation department.

Code of Ethics

The juvenile probation profession should have a nationally accepted, written Code of Professional Ethics governing the conduct and decision making of all of its members, due to the profound impact that the probation officer's daily judgments and behavior can have upon youth, their families and the community. Many organizations assume that juvenile probation officers should be expected to conduct themselves at a high level of personal and professional integrity, but stop short of committing this expectation to written form. Three organizations that have followed through with a written code of ethical standards for professional conduct of their juvenile probation officers are the Chief Probation Officers of California, the Texas Juvenile Probation Commission and the State of Connecticut Superior Court, Family Division.

The State of Connecticut Superior Court, Family Division, is specific about its expectations for the conduct of its juvenile probation officers. The Code of Professional Ethics establishes Ethical Standards of Professional Conduct that state that a juvenile probation officer:

- will exercise independent professional judgment and not allow family, social or other relationships to influence professional conduct or judgement or create the appearance of influence;
- will never use his/her official position for personal gain nor will ever accept or solicit anything of value from clients including gifts, loans, privileges or advantages;
- will not use his/her position for partisan political purposes;
- will represent clients competently by maintaining education, training and keeping abreast of current trends and developments;
- will diligently safeguard that all of his/her reports concerning clients, colleagues and others are timely, relevant and accurate;
- will not make nor purport competency to make judgements beyond those for which he/she is professionally qualified;
- will act to prevent practices that are inhumane, discriminatory, disrespectful or unethical toward clients or colleagues.

The Connecticut Code further specifies ethical standards for juvenile probation officers that apply specifically to relationships with clients, with colleagues and other professionals, and with the public and victims. Some of the standards that apply to relationships with clients include provisions that a juvenile probation officer:

- will protect the client's civil and legal rights;
- will maintain impartiality and respect for the integrity of each member of client families;
- will stay fully informed of each client's condition and conduct;
- will neither seek personal information beyond that necessary to perform the officer's duties nor disclose information to those not having a professional need for it;
- has an obligation to fully and objectively advise the client of information necessary for informed decision making.

Beyond specifying a code of conduct for its juvenile probation officers, the Texas Juvenile Probation Commission is prepared with written enforcement procedures to back them up. The chief administrative officer investigates all reports of violations of the code of ethics and conducts a hearing in which the accused officer may appear and present evidence in his or her behalf. Following the hearing, the chief administrative officer may make any appro-

priate disposition, including a dismissal of the charges, discipline or removal from office. A board reviews all cases resulting in removal from office of an ethics violation. The chief administrative officer reports all alleged violations of the code of ethics to the Commission, including any findings and actions taken by the administrator and the board. The Commission takes appropriate action in regard to revocation of certification.

Whether or not your jurisdiction has enacted such a code, all of the above tenets should govern professional behavior. Further, the juvenile probation officer's attitude and behavior towards probationers should be dignified and without exploitation, such as use of probationers as sources of information about others. The juvenile probation officer should refrain from referring probationers and their families to specific private attorneys for legal counsel or representation. While well-intended, this practice could appear to profit the juvenile probation officer in some way. As a justice professional, the probation officer must be as wary of an "appearance of conflict" as with a real conflict of interest.

The youthful beginning juvenile probation officer commonly makes the mistake of trying to establish rapport with probationers by relating to them as a peer rather than as the positive adult role model that they need. Obviously, it is a serious error in judgement for the juvenile probation officer to participate with probationers in illegal or immoral activity such as drinking alcoholic beverages or using controlled substances under the excuse of "establishing rapport." It is, of course, never appropriate for the juvenile probation officer to engage in illegal activity for any reason.

While behaving in a manner that conveys the profession's highest ethical standards, every juvenile probation officer must also be concerned whenever the conduct of another officer violates accepted professional standards of behavior. It is certainly preferable for the profession to "police itself" than to experience external scrutiny.

Minimum Employment Qualifications

There is general agreement that applicants should satisfy certain minimum standards for maturity, education, skill and experience in order to qualify for admission to the juvenile probation officer profession.

Standard 23.9 of the National Advisory Committee (NAC) on Criminal Justice Standards and Goals states that community supervision staff should possess the necessary educational background to enable them to implement effectively the dispositional orders of the family court. They should possess a minimum of a bachelor's degree in one of the helping sciences, e.g., psychology, social work, counseling or criminal justice.

The American Correctional Association (ACA), recommends that an entry-level probation officer possess a baccalaureate degree, or an equivalent in terms of experience and training, in one of the social or behavioral sciences or a related field. While ACA believes that ex-offenders should not be categorically excluded, it emphasizes that a criminal record check should be conducted on new employees (ACA standards 2-7033 and 2-7034). While the track that the would-be juvenile probation officer chooses should be relevant to the field in general, such as human relations or criminal justice, courts or probation departments should remain sufficiently flexible in their requirements as to a major course of study to occasionally include promising candidates from other fields.

The ACA further recommends requiring a medical examination of any new or prospective employee at the time of initial employment, to be paid for by the field agency. Provisions should exist for re-examination according to a defined need or schedule. Physical examinations should be required in order to protect the health of staff members and to ensure their ability to perform effectively, and to avoid appointment or assignments incompatible with their physical condition. When employment is denied based on the findings of the examination, the physician must provide a statement which explains the relationship of the physical impairment to the work required by the position, so as not to preclude the hiring or continued employment of handicapped persons.

Finally, juvenile probation officers should serve an initial probationary period of employment of six to twelve months. This probationary period should be considered as a continuation of the hiring process. Tenure should be dependent upon the successful performance of the duties assigned during the probationary term. Employee performance during the probationary period should be evaluated at least bimonthly with the employee given the opportunity to discuss the evaluation. Forms for evaluation of employee performance should be developed and used. Persons not performing satisfactorily should be terminated during the probationary period.

The minimum age usually specified for a beginning juvenile probation officer is 21 years. Whether or not the perception is accurate, most people think that individuals attain a level of maturity by age 21 sufficient to be considered "adults."

The Multi-Faceted Role of the Juvenile Probation Officer

An organization can, and should, set standards for ethical and professional conduct for all of the various aspects of the juvenile probation officer role. These standards represent a framework for the ideal juvenile probation officer. Only the juvenile probation officer can "flesh out" the established framework and, through his actions and demeanor, fulfill this complex, multifaceted role. The probation officer is expected to fulfill many different roles, often "taking up the slack" after judges, attorneys, social agencies, parents and so on, have met what they see as their own clearly defined responsibilities in the case, and have expressed an unwillingness to extend themselves beyond these limits. Probation officers are all different in their individuality, but they share a strong, common concern for youth and the community.

A probation officer must balance many and sometimes conflicting roles, often within the same time frame. He or she must understand personal priorities, values and biases and how they coincide or conflict with those of the agency, resolving any conflicts in a manner that maintains credibility and effectiveness. The more the probation officer can be proactive in these roles, the less he or she will have to be reactive.

A short list of roles has been generated to stimulate thinking. Types of roles include diagnostician, agent of change, peace officer, and coordinator.

The Complete Juvenile Probation Officer

Cop - Enforces Judge's orders

Prosecutor - Assists D.A./Conducts revocations

Father Confessor - Establishes helpful, trustful relationship with juvenile

Rat - Informs court of juvenile's behavior/ circumstances

Teacher - Develops skills in juvenile

Friend - Develops positive relation with juvenile

Surrogate Parent - Admonishes, scolds juvenile

Counselor - Addresses needs

Ambassador - Intervenes on behalf of juvenile

Problem Solver - Helps juvenile deal with court & community issues

Crisis Manager - Deals with juvenile's precipitated crises (usually at 2 a.m.)

Hand Holder - Consoles juvenile

Public Speaker - Educates public re: tasks

P.R. Person - Wins friends/influences people on behalf of probation

Community Resource Specialist - Service broker

Transportation Officer - Gets juvenile to where he has to go in a pinch

Recreational Therapist - Gets juvenile to use leisure time well

Employment Counselor - Gets kid job

Judge's Advisor - Court service officer

Financial Advisor - Monitors payment, sets pay plan

Paper Pusher - Fills out myriad forms

Sounding Board - Listens to irate parents, kids, police, teachers, etc.

Punching Bag - Person to blame when anything goes wrong, kid commits new crime

Expert Clinician - Offers or refers to appropriate treatment

Family Counselor/Marriage Therapist - Keeps peace in juvenile's family

Psychiatrist - Answers question: why does the kid do it?

Banker - Juvenile needs car fare money

Tracker - Finds kid

Truant officer - Gets kid to school

Lawyer - Tells defense lawyer/prosecutor what juvenile law says

Sex Educator - Facts of life, AIDS, & child support (Dr. Ruth)

Emergency Foster Parent - In a pinch

Family Wrecker - Files petitions for abuse/ neglect

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(Continued)

Bureaucrat - Helps juvenile justice system function

Lobbyist - For juvenile, for department

Program Developer - For kid, for department

Grant Writer - For kid, for department

Board Member - Serves on myriad committees

Agency Liaison - With community groups

Trainer - For volunteer, students

Public Info. Officer - "Tell me what you know about probation"

Court Officer/Bailiff - In a pinch

Custodian - Keeps office clean

Victim Advocate - Deals with juvenile's victim

There are some specific areas of skill and ability that enhance one's ability to start off a career as a juvenile probation officer. These skills include:

- Basic knowledge of pertinent law.
- Skill in oral and written communication.
- Ability to plan and implement investigative or supervision services.
- Ability to analyze social, psychological and criminological information objectively and accurately.
- Basic knowledge of criminological, psychological and economic theories of human behavior.
- Ability to use authority effectively and constructively.

Certification/Licensing

One measure to increase the professionalism of juvenile probation officers is to require them to become certified or licensed. States that currently require certification vary somewhat in the particular ways they implement the certification procedure. In general, the process involves setting and enforcing professional standards, often including a test, for beginning juvenile probation officers for certification for an initial time period, generally one year. Yearly renewal of certification involves attaining specified additional training. Alabama and Texas are two states that certify their juvenile probation officers.

NAC standard 23.9 recommends that probation officers receive 40 hours of initial and 80 hours of ongoing training each year in the subject areas in which they will be required to provide services. The commentary to this standard recommends at least 40 hours of pre-service and inservice training per year. The commentary stresses the importance of initial training as well as ongoing motivation.

Self-Assessments

The basic concepts of self-assessment or self-evaluation assist in self-understanding and modification of professional behavior so as to generate the most positive results in others, including probationers, encountered on the job. An ability to do self-assessment as on ongoing process may be one of the key ingredients to the survival of professionals in the juvenile justice system. The reasons for this are:

It assists in recognizing personal needs, thereby helping to insure that they are met, thus reducing burn-out.

It assists in defining "fit" in the system and signals an approaching problem or conflict in the workplace.

It helps in defining a values conflict and, once defined, leads either to resolution or increased comfort with the situation through this understanding.

It assists in maintaining an attitude of openness and growth which allows learning and change as the system changes.

It assists in recognizing strengths and weaknesses and wards off performance or relational problems before they arise.

The following suggestions may assist in the development of self-assessment skills/styles.

- Attend a training seminar in which self-assessment instruments are utilized, or use on your own any of the many self-assessment instruments that are available. There are several low cost, easy to use testing instruments which will provide you with significant

feedback and which are reliable. Although some of these instruments suggest that they are for "managers," all juvenile probation officers are "managers" in their own areas, and these instruments are appropriate and valuable.

- Use your performance evaluations to gain insight into how you are viewed by others. Ask questions, and have an open mind. Approach each opportunity as a chance to expand your insight into your personal behavior, skills and effectiveness.
- Consider using "consumer satisfaction surveys." Any simple questionnaire using a rating scale and allowing for comments should work to gain insights into how others view performance. These surveys should be collected anonymously and may be given to probationers, parents and other professionals that are routinely seen in the work context.
- Develop an attitude of commitment to good and thorough work. A "just-get-by" attitude is the death knell of self-assessment.
- Take some time each week to do supplementary reading in your field. Self-assessment requires that we resist a "narrow mindedness" towards information.

Performance Appraisals

Performance appraisals are not (should not be) something "done to" a line officer, but an activity of involvement. Regular formalized evaluation of an employee's performance is necessary to the stability and effectiveness of the organization, and provides the following benefits:

- It affords an opportunity to review the employee's progress, indicates areas where improvement is needed, and provides an opportunity to recognize the employee for better than average performance.
- It can help identify training needs which previously may have gone undetected.
- It may affect work distribution and assignment of work to subordinates.
- It can lead to the identification of problems related to discrimination or employee negligence.
- It improves overall productivity and improves internal communications.
- It allows for an orderly, documented process for salary determination, promotions, disciplinary actions, assignments and layoffs.

The recommended rating period is once every six months. This interval allows for sufficient monitoring of the employee's performance, whereas the supervisor can make necessary changes and provide needed support before the crisis stage is reached.

An employee's evaluation is generally based on the supervisor's informal notes, maintained on a regular basis. Employees tend to accept ratings based on specific examples as constructive criticism. A particular employee's file should contain:

- Memoranda to the employee, with a copy of each to the personnel file, containing specific instructions, warnings, commendations, etc.
- Formalized reports, where applicable, rating work performance on specific tasks.
- Records of counselling sessions with the employee which outline the date, subject discussed, follow-up required and any observations regarding employee performance.

For evaluations to be effective, it is essential that both the supervisor and the employee know the criteria for satisfactory performance, the specific duties being evaluated and the level of skill at which duties are performed. These may be codified in a department as performance standards.

The employee should be rated on direct, objective measures of output or results rather than personal traits. The evaluation of an employee should be representative of performance over the entire span of time covered by the rating period. An employee's rating on one factor, good or bad, should not influence a rating on another factor. Law requires that an employee's personnel records must be made available to the employee on request. Documentation in the file should provide evidence of equity in treatment, clarification of goals, support for assignments and should be an adequate record for review upon appeal, if any, of evaluation ratings.

Integration with the Community

A probation officer who sits behind a desk, only to venture out occasionally to make a home visit, is a probation officer operating at a severe hardship. The problems of delinquency are not going to be solved solely around office visits. Without the involvement of the community, probation cannot succeed. The juvenile cannot be held accountable, cannot be made more competent, nor can the community be safeguarded, if the probation experience consists of

nothing more than periodic visits between the juvenile and the probation officer.

To tap community resources, the probation officer must get to know the community. Equally important for the long-term goals of the juvenile justice system, the community must come to know the officer and the system, how it can work and the probationer's place in the community. The legal system cannot do its work in isolation from the community, but must work in coordination for the best results for the public and the juvenile. The bridge between the system and the community is the probation officer who must know the social service and treatment agencies, the employers and the schools.

One of the fundamental criticisms of corrections is that, no matter what occurs in the institution, it has little lasting effect on the juvenile after release. Likewise a system of probation that is remote and isolated from the community will also come under scrutiny. The probation officer, then, necessarily works with juveniles in the context of the community. The juvenile must be held accountable to the community or to the individual victims whose peace, property or health have been injured, and the juvenile must learn how to cope with the demands and pressures of the community. In order to succeed in this the juvenile must get the assistance he or she needs to survive in the community. The probation officer, as the "bridge," serves as the juvenile's guide to the community, and assists the community in re-integrating the juvenile offender.

"Community" covers a lot of ground. It includes the general public, schools (including guidance counselors and truant officers or whoever generally monitors juvenile offenders), social service or treatment agency personnel (particularly those serving children or families) and public and nonprofit agencies where youth may potentially perform community service work. All of these may be sources of rehabilitative services contacts. An often over-looked group is the rest of the criminal justice community. Sometimes police, attorneys and others don't understand the juvenile justice system. As their conduct is critical for the smooth functioning of the juvenile justice system, the probation officer should take the opportunity, as it presents itself, to educate and improve understanding of the system's needs and aims.

One remaining key group should be of vital interest to the probation officer: the victims of juvenile crime. Victims can come to understand the juvenile justice system and can become allies of the probation officer in providing restitution documentation, meeting and confronting their offenders with the consequences of crime, and if they agree, can provide work or restitution opportunities.

There are various ways to reach these groups. Foremost, an officer should be building bridges with each contact made on each probationer's behalf, particularly when dealing with schools, agencies or employers to which the officer will have recourse again and again on other cases. Develop contacts - specific people - that you can call on at each frequently-dealt-with entity. Similarly, in the course of processing a case, follow a "public relations" approach when dealing with lawyers, other law enforcement personnel and victims. The goal should be to ever enlarge the potential for positive response to probation from everyone with whom you come in contact on a case. It may not always be possible to provoke an immediate positive response to a particular probationer, but you can foster confidence in the juvenile justice system by your handling of the case and your contacts.

The probation officer can also address various groups through public speaking in accordance with department policy. Employers may be reached through Rotary, Kiwanis and Chamber of Commerce meetings, and you may consider becoming active in such groups and volunteering your services as a speaker. Talks given to church groups may encourage volunteers to come forward with jobs, etc. Often, social service agencies sponsor conferences or training workshops at which a probation officer would be a welcome speaker. As with all outreach, the probation officer should inform supervision of his or her activities so that the department can coordinate these activities with those of other staff.

Most juvenile probation officers are so busy that they feel they don't have the time to actively seek public speaking engagements in behalf of probation. In order to create a broad base of community acceptance for probation that will best insure the success of the juvenile in reintegrating with the community, juvenile probation officers must realize that if they don't do it, no one else will explain probation and the juvenile justice system to the public and no one else will recruit allies and supporters in the community. Day to day diplomacy in the handling of your case contacts will not be enough to achieve this.

Juvenile probation is largely invisible to the general public. If the public has any conception of the juvenile justice system, it is probably mistaken, based on exceptional cases of juvenile mayhem and murder. Probation officers can make the community understand that these cases are the exceptions, not the rule. The public must understand that to write off all juvenile probationers is to write off the boy or girl next door. An educated public will respond more intelligently to the problems and challenges of juvenile crime.

Developing Community Resources

The probation department should take an active role in fostering community appreciation and support for probation and the juvenile justice system as a whole. Specific suggestions were made above to individual juvenile probation officers concerning building bridges to the community. The department as a whole should reinforce, assist and encourage officers' efforts in this regard, while coordinating and channeling individual efforts to best suit the needs, policies, and goals of the individual department. There are some things best done, however, as a result of department plan, rather than individual initiative.

For example, an important operating tool for the department is the office's manual of juvenile resources in the community. The manual should be organized around different case needs and should be in loose-leaf format. Headings should include "Community Service," "Education," "Employment," "Treatment," etc. Subheadings, for example, for "Treatment," should be broken down to include "Alcohol," "Drugs," "Family Counseling," "Incest," "Sexual Offender," and so on. Each entry should include the name of the agency, eligibility criteria, payment required, what insurance the agency accepts, and so on. The manual should include extra pages where individual probation officers can enter comments appraising the agency, citing past experiences with it, and giving the names of key contact people at the agency. It is difficult to keep such manuals up-to-date as human service agencies change quickly, but this can be done by each officer's comments and contributions. The task is worth doing. Probation officers should be encouraged to inventory their own acquaintances and contribute what other resources may be available to assist the department in adding to the manual. Colleagues may have access to employers or agencies looking for young workers or volunteers.

The probation department should develop a listing of problem areas or of key people or groups in the community whose support is necessary for the office to do its job, but whose cooperation has been lacking in the past. Perhaps there is lack of police cooperation, especially in accurately recording the names of crime victims and indicating their losses. Maybe there are few youthful employment opportunities in the community. Once listed, the department should analyze the obstacles, determining the key actors and identifying the resources necessary to solve the problem.

Probation departments can also reach out proactively to work with the community. If there is a problem of widespread community concern with known juvenile involvement, the department may help the community solve it. For example, if there is racial trouble at a specific housing project, the department can assign a probation officer to meet with the project director. If it is determined that much of the trouble is caused by certain juveniles who are on probation, the officer can then secure court orders to ban these troublemakers from the project. If there are certain eyesores in the community, the probation department can assign offenders who must fulfill community service orders to clean it up.

Positive media coverage could significantly enhance the image of the probation department to the broadest regional population; however, individual officers may not be authorized to give press statements for the department. If the media is to be used as an educational tool, a department media contact may be delegated, and then, this officer can be trained to react appropriately to reporters' calls or to initiate calls to news services, when a newsworthy positive corrections story can be told. For example, media coverage of the clean-up suggested above would be a success story.

Building coalitions with others in the community may be helpful. Coalitions can be built through the development of advisory boards. The boards may be formed temporarily, around special problems or challenges, or on a more on-going basis. Police, district attorney, business, treatment providers and school officials might be included, as well as concerned citizens.

There are numerous community development programs across the country. Many probation departments maintain formal Speakers Bureaus of probation officers to keep the message alive. Many have formal volunteer programs that recruit citizens into department activities. Others sponsor student internship programs, both to introduce probation to students and recruit bright students for future employment. Many administer sophisticated victim assistance programs to reach out to crime victims. Others administer a variety of community work service and restitution programs that involve numerous community agencies and private sector businesses. Although these restitution programs allow probation to form alliances with local businesses around restitution and work programs, these relationships once developed, can be used for other activities.

Many probation departments have gone further and actually helped establish external, non-profit entities to assist them in their work. The Salt Lake City Probation Department, for example, established Youth Inc. to raise money, receive grants and administer programs to assist the department in working with delinquents. As an independent agency, the non-profit corporation can do things that a county or public agency either cannot do or cannot do well on its own.

The use of volunteers is worth emphasizing separately. There are two kinds of volunteer programs. The tradition is to recruit individual volunteers to work as deputy probation officers, working one-on-one with juveniles under the supervision of professional staff. Some programs also have volunteers fulfill other roles, including processing intake forms, assisting in court, helping probation personnel record court dispositions, escorting defendants to the correct court offices, typing or other clerical functions or work on special projects. Volunteers can also be used in less traditional ways. The probation department can encourage volunteers to share their expertise with the court. Rather than ask, for example, a business executive to volunteer with kids, the department can ask that executive to help the department manage its money collections, automate its bookkeeping, or train its personnel. The local banker can be asked to train probation officers how to help defendants manage their money more successfully or how to set up savings accounts. Don't forget the importance of public appreciation of volunteers, whether by annual dinner or certificates, for example.

Some departments have run extremely successful fundraisers for new institutions or programs, simply by asking community people to volunteer their money. The juvenile restitution program in Toledo, Ohio, for example, raised $30,000 to establish a fund from which to pay juveniles doing community work services so that they, in turn, could pay their crime victims.

Requests can be made of organizations and corporations as well as individuals. Boy Scouts can be invited to help establish a troop at the detention center. Beauticians can be asked to help train girls interested in how to apply make-up skillfully or better yet, resist the impulse to overdo it. Local hospitals can be asked to donate a treatment bed for a court referred youth. The point is that there are many opportunities for voluntary assistance in the community.

At their best, probation departments can act as community organizers to insure that juveniles receive the resources and attention they need so that they can become the citizens the community wants. Nowhere is this endeavor more important than in the area of crime prevention.

Crime Prevention

While the role of the probation officer and the department has been considered primarily remedial, the probation department is also in a strategic position to contribute to delinquency prevention and community development efforts. This becomes possible because the probation department is a repository of information about the demographics of juvenile crime. Any probation department's records can assist in determining areas of a community that have a high crime rate. This data can be analyzed to determine groupings of offenders by age, school districts or neighborhoods that have shown patterns of delinquent behavior and the most likely types of crimes that young people commit from any district.

All too often, this information is not analyzed and cross-referenced or provided to the community to assist the community in planning to prevent juvenile crime activity. Many astute departments do collect information and produce an annual report on the probation department's activities and then produce a summary report for the community. This information should be put into a context to help law enforcement and the community at large better plan to prevent delinquency.

The following data should be collected and included in any annual (or more frequent) report: offense types by neighborhood, by school district, by age of offender, by race and sex, according to family status and according to education level and educational participation. This information, once collected and published, becomes a community youth needs assessment. It can be provided to city, county law enforcement planning commissions, schools, youth clubs and other agencies concerned about patterns and trends of delinquent behavior. This information should also be disseminated to civic organizations to allow them to determine where they would best target their efforts to improve and enhance youth activities that are deemed preventive.

In most states and localities, every unit of government that provides services for youth has an annual budget process that allows for public participation. The probation department should never pass up the opportunity to contribute to this important planning process because it collects valuable information which can help the community determine where it should target its efforts to prevent crime.

The probation department is ideally situated to make another type of preventive contribution. All too often, delinquency and crime become family traditions. Probation officers who come in contact with older siblings can determine if a family is in a vulnerable position for continued criminal patterns. The office is in an excellent position to rally support services from the community for younger siblings not yet caught up in a pattern of delinquency. Many departments have specialized in early intervention. The research of the National Center for Juvenile Justice on the court careers of delinquents (Snyder,

1989) has shown that young offenders caught up in an early pattern of truancy, drug and alcohol abuse and assaultive behavior demand a thorough look, regardless of the presenting offense.

Young people who find themselves in a pattern of delinquency can become resources to help prevent further delinquency in the larger community. For instance, young offenders on a community service work crew could construct playground equipment, baseball diamonds and other recreational resources in impoverished neighborhoods to improve adequate and healthy recreational opportunities. Thus, offenders can become resources for community development.

With these results in mind, the probation department would be remiss if it did not situate itself in a position to contribute to crime prevention and community development at large.

Program Evaluations

It is not uncommon for juvenile probation departments to resist taking a hard look at whether programs "work." However, in order to be viewed as an accountable profession we must evaluate not only ourselves but also the programs within which we operate. Probation officers need to better understand evaluation research so that informed judgements can be made about programs. The purposes of evaluation are to determine if the idea upon which the program is based is relevant, if the program is working as it was intended and if the program produces the expected outcome. The benefit of an evaluation is the opportunity to enhance or, when necessary, redirect or even redesign the program when the evaluation suggests that the idea did not work as anticipated.

It is important to build an evaluation component into every new program design. In a monograph entitled *A Model for the Evaluation of Programs in Juvenile Justice*, LaMar Empey (1977) encourages collaboration between program and research people both in planning and developing a new program and in designing and implementing an evaluation strategy. An outside, independent researcher ensures objectivity of findings and avoids controversy about whether the evaluation is biased or self-serving in any way. The probation department brings an idea or plan for addressing a problem; the researcher brings his or her training in conceptualizing the new approach. The two should work hand-in-hand.

In order to demonstrate and describe the elements and the process of program and evaluation design, an example will be used of a probation department that desires to implement an intensive probation program.

First, the department and the researchers must agree on the theory to be tested. The department thinks that an intensive probation program would reduce recidivism. That simple statement provides the beginnings of program and evaluation design based upon *an independent variable* - the cause, or the influencing factor, i.e., the intensive probation program; and *a dependent variable* - the effect, or the factor being influenced to change, i.e., recidivism.

The researcher helps the probation officers turn their ideas about why they think intensive probation would work into a clearly stated hypothesis (an idea that can be tested). In other words, they establish the rationale for the program. In the example, probation officers believe the rationale (the "why") is that increased contact with probationers will act as a deterrent to their committing future delinquent acts. The researcher may rephrase the original hunch into a more abstract theoretical hypothesis, for example, that a lack of effective social control leads to crime and delinquency (recidivism).

The probation department hopes that the program will achieve multiple goals. The broad goals of "increasing contacts" and "reducing recidivism" are the ultimate outcomes. If these broad goals aren't met through an intensive probation program, what other goals might prove worthwhile and be evident as the juvenile is about to end his time on intensive probation? The probation department believes that desirable intermediate outcomes might include an improvement in behavior at home and at school, decreased drug and alcohol use and no new arrests or technical violations while on probation.

Each goal should be taken into consideration separately as part of the overall evaluation design in order to ascertain whether the desired effect, or impact, has been achieved in each case. To do this, program goals must be operationalized for the purpose of measurement. Usually, this is handled by directly linking goals to explicit program activities or intervention strategies that can be described in quantitative or numerical terms. Essential to this procedure is some type of formal observation or standardized data collection procedure that allows the results of program activities with clients to be rendered into numerical form.

The probation department operationalized the goals of increased contact as follows:

- daily face-to-face contacts with juvenile
- weekly school visits
- nightly phone contact with juvenile
- weekly home visit with juvenile and parents

What staff will be used?

- Every probation officer will have at least 3 juveniles on intensive probation along with a regular supervision caseload.

These guidelines are developed to ensure that probation officer #1 will provide the same services as probation officer #2 and that every juvenile on intensive probation will receive virtually the same intervention.

The probation department should identify the target population early on because program goals will likely vary depending on the population served. For example, an intensive probation program aimed at younger, first time offenders (to come down hard the first time around) would be quite different from one aimed at older, more sophisticated felons (to reduce commitments to training schools). The department decides the target population will be older juveniles who have been on probation at least once before.

The next step in the process is designing the evaluation strategy. The evaluation should tell how the program was implemented and whether it had the desired impact. Three basic evaluative procedures should be carried out in conducting effective program assessment. (The first two involve an impact or outcome evaluation; the last procedure involves a process or monitoring evaluation.)

One, an evaluation of long-term program outcomes with the targeted client population as defined by specified goals is essential. This kind of evaluation should entail the following steps: random assignment of subjects to experimental and control groups (if impossible, a careful and systematic matching procedure for group assignment), developing and administering appropriate data collection instruments to all experimental and control subjects, and following subjects for a sufficiently long period of time after program completion to determine long-term effects. This determination should reveal whether the experimental program, defined in terms of a theory-driven intervention strategy, has a statistically significant, positive effect on the targeted youth, as measured by a reduction in reoffending behavior as well as other relevant performance indicators such as educational progress, obtaining and sustaining employment, improved social and life skills, improved mental health, and positive personal outlook.

Two, an evaluation of intermediate, or in-program, performance outcomes is an important aspect of program dynamics to assess. This is a short-term indicator of how well the program is operating in terms of maintaining positive client participation. It can serve as an objective basis upon which to decide the need for altering design features and operational procedures. Commonly used measures of in-program effectiveness with clients are reoffending behavior and program rule violations.

Third, a process evaluation involving a systematic observation and description of the program to gauge whether the program actually operated according to design is essential. The researcher will be explicit about how the program is conducted and describe what happens while a juvenile is in the program. Process evaluation is absolutely essential for program replication and is also important for any program modification which may be necessary.

In their evaluation of the Vision Quest program, Greenwood and Turner (1987) considered the quality of program implementation to be an essential component in program evaluation. They included five other variables which appeared to influence a program's basic character. They were: funding level, facility, number of staff and training or experience level, management, and the characteristics of the juvenile justice system in which the program is embedded. The authors further suggested that the quality, training, and enthusiasm of the staff, along with the skills and dedication of program management may be as important a contribution to program success as the treatment. This is not surprising. It is often the case that dedicated individuals make things work, and is one reason why "model" programs replicated in other jurisdictions may not be as successful as the original.

The group must next decide how both the independent variable and the dependent variables will be counted and measured. "Increased contact" will be measured each month by keeping track of the number and type of contacts on a form developed by the researcher. Recidivism is operationalized in terms of new arrests for a delinquent offense during and after the program and technical violations during the program. The researcher will be looking for a reduction in the frequency of crimes as well as a reduction in the seriousness of crimes. Police records and probation officer observations will be used to determine if and when recidivism occurs during the program and within 6 and 12 months of termination. Improved behavior and attitudes will be measured by a reduction in "bad" behavior (frequency and seriousness) and an increase in "good" behavior and attitudes, such as getting along better with parents and siblings, and attending all classes in school. Educational performance at the time the juvenile leaves the program will be measured by improved grades and attendance. Instruments used to collect these data will be official probation records and police reports, probation officer observations, behavior rating

checklists completed by parents, teachers, and probation officers, grades and school attendance records, youth "exit" interview questionnaire, and one year follow-up youth interviews and official records check.

By this point, the program and research designs have been completed. It is now time to implement the program, collect data, and conduct the evaluation. If the length of time on probation is about twelve months and the follow-up period for measuring recidivism is set at one year after release from probation, the probation department can expect to be involved in the evaluation for at least two and a half years. Preliminary results which describe the nature of the program and the characteristics of the youth in both groups would be available at the end of the first year. Final outcome measures require another year to collect.

Evaluation research allows the department to test its basic assumptions by examining the accuracy of their ideas about the problem; to examine the quality of the program's implementation; and to assess the program's impact by measuring the outcomes relative to its intermediate and ultimate goals. The researcher's role is to foresee problems that would pose threats to the validity of the evaluation and affect the results. By discussing possible findings in advance of program implementation, the researcher should describe things that could go wrong as the program and data collection process moves along so that there are no surprises at the end of the study. The researcher's job is to monitor such factors as random assignment and uniformity of service to ensure compliance with the program design.

Experimental or Nonexperimental Design?

Experimental studies are considered more powerful because they involve principles of control and random assignment and can provide evidence of causal relationships among variables. *Control* refers to the ability to hold constant certain variables which are not of direct interest to the research so they do not contaminate results, and to systematically vary the independent variables under study. For example, if the department is purely interested in quantity of contacts, the quality of contacts should be held constant and only the number of contacts changed. Random assignment means that each juvenile in the target population has an equal chance of being placed into treatment or comparison/control groups, that is intensive supervision or regular supervision. This ensures that youth characteristics such as race, offense, IQ, and sex are spread evenly in both groups. It ensures that there were no initial differences among the youth within the treatment and the control groups. Therefore, when the evaluation is completed, if there is an observable difference between the two groups, it can be attributed to the treatment with a fair amount of confidence. Random assignment is not haphazard. It is very specific and can be determined ahead of time to reduce the temptation to tinker with the assignment based on individual juvenile characteristics.

A major difference between experimental and nonexperimental design is this random assignment. In a nonexperimental study several groups receive different levels of treatment but there is no random assignment of subjects to treatment or control groups. A nonexperimental design establishes that relationships exist among variables not whether the relationship is a causal one. Such designs are also known as observational or correlational studies and basically measure natural variation in both the independent variable and the dependent variable.

A nonexperimental study involving a single group, popular in the social sciences because of its simplicity, is known as the pretest-posttest (before-after or test-retest) design. Using the example, recidivism would be measured before and after the administration of intensive probation. The juveniles receiving intensive probation serve as their own control group and comparisons are made before and after treatment. An obvious shortcoming of this design is that the department cannot be certain that some factor or event other than the treatment was responsible for any posttest change. Nevertheless, nonexperimental designs are useful for field studies and program evaluations because, although they may not be conclusive, they can provide useful information which may be far superior to intuitive judgement (Spector, 1981). No design will be perfect or without problems, but at a minimum, the design must ensure comparison and attempt to rule out alternative explanations for any observed effects.

Three possible results of the evaluation of the department's intensive probation program are:

1. The intensive program group recidivated less than the regular probation group, i.e., statistically significant difference in the right direction.
2. The intensive probation program group recidivates more than the regular probation group, i.e., statistically significant difference in the wrong direction.
3. Youth in the intensive probation program recidivated at the same rate, i.e., no statistically significant difference.

The researcher may be able to clarify the outcome. Did intensive probation work the same for every juvenile, or did it work better for some, but not for others? If there was random assignment, and enough different types of juveniles were in the treatment and control groups, the researcher can do analyses that look for differential impact. Did the program work better for boys than for girls, for older kids than younger kids, for juveniles with person offense convictions than for juveniles with property offenses? Did prior histories of court involvement make a difference? Family environment? Did probation officer style make a difference? Did the officers maintain quality and quantity of contacts? There is a long list of factors that may be important to consider when evaluating a program. Take time before the program is implemented to consider the range of questions you would like answered by the evaluation. Don't go overboard so that probation officers are overburdened by filling out endless forms or constantly giving tests to their probationers. If you think family environment might make a difference, weigh how important it is to know that and then figure out how it will be measured.

Care must be taken to assess whether participants intentionally or unintentionally biased the data collection process. Was random assignment violated, or were the groups different in some systematic way.

Some Major Points on Data Analysis

Data must be summarized and systematically analyzed using appropriate statistical tests because information cannot be easily interpreted without being summarized (it would be hard to interpret/synthesize 100 case descriptions), and because data may present ambiguous conclusions unless analyzed (Mere "eyeball analysis" which *looks* like a relationship exists can't be trusted). Researchers make judgements, based on the evidence, about whether a relationship exists. Sometimes, despite strong evidence, their judgement is wrong. There are two ways they can be wrong:

Concluding a relationship exists when in truth it does not (e.g., concluding intensive probation reduces recidivism when in truth it does not). Researchers call this a Type I error.

Concluding that no relationship exists when in truth it does (e.g., concluding intensive probation does not reduce recidivism when in truth it does). A Type II error.

The first type of error has generally been considered worse than the second type. Therefore, researchers try to minimize the chance of making a Type I error. Research convention is to arbitrarily set the acceptable risk of making that kind of error to 5 times out of 100. This acceptable risk is referred to as statistical significance level. You will often see phrases like "statistically significant at the .05 level." This simply means that the odds are only 5 in 100 that the relationship occurred by chance - that it appears to exist but in truth does not.

The smaller the researcher sets the significance level the lower the odds of making a Type I error, but the higher the odds of making a Type II error. Sometimes it may be important to reduce the likelihood of Type II errors, in which case the significance level may be set at a higher level, say .10. Statistical significance has nothing to do with whether the relationship (or difference) is meaningful or important. It may help to remember this by always using "statistical" in front of "significance." It shows that a relationship exists but the relationship might not be important. The probation officers, with the help of the researcher, must determine if the observed difference is substantial enough to take action, i.e., to change a policy or a program.

This could occur if a judge interfered by demanding that certain juveniles be put in the intensive probation group. By discussing these threats to validity prior to program implementation, the researcher and the probation officers will be able to collectively design a study that would prevent these things from occurring. Then, if after the program is implemented with positive results, the department can feel fairly confident in concluding that the program "worked."

The researcher and probation officers should discuss the possible findings in terms of the relative utility of the program versus other alternatives, comparative costs of approaches, and/or unanticipated and perhaps negative consequences of the effort. After this discussion, the probation administrator (or the funders), not the researcher, makes the decision whether or not to continue, expand, or change the experimental program. If intensive probation worked as well as regular probation, but the collective wisdom of the department is that regular probation is not enough, cost factors must then be considered. If the probation department can afford to increase their level of services, they may choose to do so. If the results demonstrated that the intensive program was more successful with a certain type of juvenile, the administrator could decide to use the program only for those juveniles.

While most probation departments do not have the funds to hire full time research staff, they do have access to local colleges and universities. Many professors are looking for local research projects for their graduate or practicum students. The professor should oversee the work of the students and provide advice on the direction of the evaluation. As with any outside consultation, program people should demand certain things from an evaluator:

- Even though collaboration is essential, only the administrator, not the researcher, can appraise the value of the program in terms of worth versus expense. However, program people must agree to let the research proceed in a naturally occurring way.
- Demand that reports be written in a language easily understood by lay people - not research jargon.
- Timely reports - deadlines - must be set and met by the researcher as well as by the probation officers who supply the data.
- The researcher should limit the intrusion of data collection instruments that probation officers are expected to complete during the course of the evaluation.
- The research design should not be too disruptive to the daily routine of the program.

One final note: Researchers are beginning to question at what point an evaluation should begin. Whether a probation department decides to develop a new program from scratch or pull together several ideas from already existing programs, the process of program development and refinement can take several months. Further, procedural and treatment changes or enhancements can occur after the program is implemented. Even the target population can change. It may be more efficient and effective to do the process evaluation during this start-up, formative stage but to postpone the impact evaluation until the department is reasonably satisfied with the program design.

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The goal in writing this *Desktop Guide* has been to enhance the practice of juvenile probation as a career. We have accomplished this goal by demonstrating that the essence of good probation practice should guide professional development. However, aside from the passive activity of reading this document, juvenile probation officers must take an active role in their continued growth as professionals. We offer several suggestions for actively pursuing professional development.

Each and every juvenile probation officer should periodically step away from his or her day-to-day activities and ask "Are the juveniles on my caseload any better off, the community more secure and confident, or victims more suitably redressed as the result of my intervention? How can I do even better?"

A juvenile probation department can determine whether it has developed a professional environment through a process of accreditation. Accreditation is a periodic internal and external assessment of an organization's standards. These standards relate to the agency's organization and administration, staffing, policies and procedures and services. The accreditation process enables an organization to proactively establish that it has adequately adopted, implemented and maintains all of the elements necessary to meet the requirements of professionalism.

Probation officers also need to look beyond their department and get involved in membership organizations that promote professional development in the field. Four such organizations that represent juvenile probation are:

National Council of Juvenile and Family Court Judges
P.O. Box 8970
Reno, NV 89507
(702) 784-6012

National Juvenile Court Services Association
P.O. Box 8970
Reno, NV 89507
(702) 784-4859

American Probation and Parole Association
c/o The Council of State Governments
Iron Works Pike
P.O. Box 11910
Lexington, KY 40578
(606) 231-1908

American Correctional Association
Juvenile Programs & Projects
8025 Laurel Lakes Court
Laurel, MO 20702
(301) 206-5045

Finally, probation officers need a national perspective from which to gauge local and state activities. Federal government initiatives promote such a perspective.

The Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended, authorized the establishment of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) within the Department of Justice. OJJDP was created to provide direction, coordination, resources and leadership in addressing the problem of juvenile crime and delinquency. OJJDP has four divisions:

The **Training and Technical Assistance Division** provides training to juvenile justice practitioners and technical assistance to federal, state, and local governments, courts, public and private agencies, institutions, and individuals in planning, establishing, funding, operating or evaluating juvenile delinquency programs. In addition, a unit in this division serves as a clearinghouse and information center.

The **Research and Program Development Division** sponsors programs to develop estimates and monitor trends in juvenile delinquency, improve understanding of the causes of juvenile delinquency, develop effective prevention strategies, and improve the system's handling of juvenile offenders.

The **Special Emphasis Division** provides discretionary funds directly to public and private agencies, organizations, and individuals to foster promising approaches to delinquency prevention and control.

The **State Relations and Assistance Division** provides formula grant funds to states participating in the implementation of the mandates of the JJDP Act

and training and technical assistance in the areas of deinstitutionalization of status offenders, separation of juveniles from adults in jails and lock-ups, the removal of juveniles from adult jails and implementation of comprehensive state plans.

For further information about the Office contact:
Office of Juvenile Justice and Delinquency Prevention
633 Indiana Avenue, NW
Washington, D.C. 20531
(202) 307-5911

Several clearinghouses cater to the field. They include:

National Criminal Justice Reference Service
(centralized national clearinghouse of criminal justice information and publications) operated by the National Institute of Justice
(800) 851-3420

Associated clearinghouses:
Juvenile Justice Clearinghouse
operated by the Office of Juvenile Justice and Delinquency Prevention
(800) 638-8736

Justice Statistics Clearinghouse
operated by the Bureau of Justice Statistics
(800) 732-2377

National Victims Resource Center
operated by the Office for Victims of Crime
(800) 627-6872

Bureau of Justice Assistance Clearinghouse
operated by the Bureau of Justice Assistance
(800) 851-3420

Drugs & Crime Data Center & Clearinghouse
operated by the Bureau of Justice Assistance and the Bureau of Justice Statistics
(800) 666-3332

NIJ/AIDS Clearinghouse
operated by the National Institute of Justice
(301) 251-5500

Government Printing Office
Superintendent of Documents
U.S. GPO
Washington, D.C. 20402
(202) 783-3238

National Clearinghouse for Alcohol and Drug Information
operated by the National Institute on Drug Abuse
(301) 468-2600

National Institute of Corrections, Information Center
funded by the Department of Justice; provides technical assistance and training mostly in area of adult corrections
(303) 939-8877