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VIOLENT JUVENILE DELINQUENCY CASE PROCESSING

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Arrests for violent crime among juveniles seven through 15 years of age in New York State have increased dramatically in the past several years—especially in New York City.¹ From 1986 through 1989 in New York City, juvenile arrests for violent offenses climbed 62.5 percent, from 5,690 to an all-time high of 9,245, with the most substantial increases occurring during 1988 and 1989. During 1990, juvenile arrests for violent offenses dropped 2.6 percent to 9,008; however, during 1991, violent arrests for juveniles climbed 10.8 percent over 1990 arrests to 9,980. Arrest rates for violent offenses showed a similar pattern, climbing from 7.4 arrests per 1,000 juveniles to 11.4 in 1989, dropping slightly to 11.1 in 1990 and increasing to 12.0 in 1991.²

Juveniles who commit crimes—including those who commit violent crimes—have traditionally been treated differently than adult offenders. However, the rise in juvenile crime during the 1970s, coupled with the perception that sanctions were too lenient, led to legal reforms to deal with juveniles who commit the most serious offenses.³

Two laws form the State's most comprehensive response to serious and violent juvenile crime. First, the *Juvenile Justice Reform Act of 1976* added *the protection of the community* as a goal of juvenile justice to that of *-serving the needs and best interests of the child*.⁴ In addition, this legislation created more restrictive procedures for processing *designated felony* offenses—most of which are serious violent offenses. It also increased the severity of sanctions available to the family court when a juvenile delinquency (JD) finding is entered on designated felony offenses.⁵

The rise in violent juvenile crime in recent years makes it essential that we examine and understand the juvenile justice system's response to this serious problem. This report examines the processing outcomes of violent felony offenses in relation to legal factors of the case—felony class and the prior JD record. Under New York State law, the needs and best interests of the child must be balanced with the safety and protection needs of the community. When violence is involved, though, this can be a difficult symmetry to achieve.

Traditionally, the police, probation officers, prosecutors and judges have exercised broad discretion when dealing with juveniles. The report shows that, for this reason, violent youth are not sanctioned in proportion to the seriousness of their offenses. Under certain conditions, cases are dismissed, even after the allegations have been established.

The recommendations made suggest that introducing the principles of proportionality, equity, and accountability in case processing would help achieve a fairer system of justice, one that is more meaningful to juveniles, and more rational to the public. We hope that this report will foster further discussion of the issues raised here.

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The *Juvenile Offender Law* of 1978 granted adult criminal courts original jurisdiction over older juveniles who allegedly commit particularly serious designated felonies. It also increased the severity of available sanctions for youth classified as Juvenile Offenders (JOs).⁶

Designated felony and JO offenses are distinguished from JD offenses by the serious violent nature of the offense, its felony class seriousness, and the age of the juvenile involved. Some offenses, however, can be charged as JO, designated felony or JD offenses; in such instances, it is the age of the juvenile that determines how the case will be initially charged. For example, when youth are first taken into custody by police for Robbery 1st (*PL §160.15*), the offense would be charged as a JO offense if the juveniles are 14 or 15 years of age, as a designated felony if they are 13 years, or as a JD offense for youth seven through 12 years of age.

Most violent felony cases, however, are processed as JD offenses; these cases are not affected by laws that restrict discretion in processing or provide for more serious sanctions. For example, in New York City during 1987, 72.1 percent of all violent felony cases for which juveniles were taken into custody by police were processed as JD offenses, while 23.9 percent involved juveniles arrested as alleged JOs, and 4.0 percent involved designated felony offenses. In five other jurisdictions across the State for which comparable data were available, designated felonies and JO offenses combined to account for about 30 percent of violent felony cases.⁷ Thus, the law continues to grant juvenile justice practitioners broad powers of discretion in processing and sanctioning most cases involving violent felony offenses.

Purpose and Scope

The purpose of this paper is to determine the extent to which juveniles who allegedly committed violent felony JD offenses were held accountable for their behavior relative to the most serious arrest offense—as statutorily defined by felony class—and the prior JD record.⁸

The implications of these findings serve as a basis for recommending strategies that are intended to improve the effectiveness of the juvenile justice system. It is hoped that this policy paper will promote discussion and change in juvenile justice processing in New York State.

This study examined violent felony JD cases referred by the police for further legal processing in

New York City during 1987. Designated felony cases and JO cases were excluded to focus the analysis on cases in which practitioners had the widest discretion in decisionmaking. For a comparative context, property felony cases that did not involve secondary violent offense charges were also analyzed.⁹

The cases analyzed in this study are a subset of the 1987 probation intake cohort examined in the recent *Juvenile Justice Processing Study* conducted by the Division of Criminal Justice Services.¹⁰ This is the most comprehensive JD case processing data set currently available in New York State. Out of the seven sites, only New York City had enough violent felony cases for analysis. (See *Research Methods* for a more detailed discussion of the data.)

Felony Offenses at Intake

When alleged JDs are taken into custody, the police either divert cases from further juvenile justice system processing or refer them to probation intake or to family court.¹¹ The policy of the New York City Police Department in effect since the mid-1970s prohibits the diversion of juveniles taken into custody

Overview of the Analyses

Violent offenses at intake are shown in relation to other offense types, and Robbery, Assault and Sex Offenses are profiled by their legal and demographic characteristics. A diagram shows the typical outcomes of 100 violent felony offense cases at intake.

The case processing outcomes of violent and property offenses are shown and reported, first, in relation to felony class and, then, to the juvenile's prior JD record. Specific offenses are not separately reported, because processing patterns were generally similar to those of the respective offense type.

Where possible, the case processing analyses of both violent and property offenses are also controlled for categories of gender, race/ethnic status, age, collateral weapons charges, and prior violent offenses; meaningful relations, though not displayed in tables, are reported in the text.

Finally, the processing outcomes of violent offenses are compared to property offenses in cases where 1) offenses have the same felony class and 2) juveniles have the same prior JD record profile.

See *Research Methods* for criteria used in tests of statistical association.

Definitions

- **Violent Offenses** are non-designated felony offense cases in which the most serious arrest charge is a felony offense for Assault (PL §120), Sex Offenses (PL §130), or Robbery (PL §160).

- **Property Offenses** are non-designated felony offense cases in which 1) the most serious arrest charge is a felony offense for Burglary (PL §140), Criminal Mischief (PL §145), Larceny (PL §155), or a Theft-Related Offense (PL §165); and 2) no secondary charges in the case involve a violent felony offense, as defined above.

- **Felony class** reflects the statutory class of the most serious felony offense in the case. The felony cases examined in this study ranged from Class B through Class E; Class A felonies, all of which were either designated felony or JO offenses, were excluded.

Common elements in the classification of felony offenses include the offender's intent, the extent of the victim's injuries, the amount of theft or damage, and the threat or use of weapons. However, the correspondence between these aggravating factors in criminal events and the felony class ranking of Penal Law charges is not always clear. Except for collateral weapons charges, independent measures of these aggravating factors were not available in the data. Consequently, for purposes of this study, felony class was used as a gross indicator of offense seriousness.

- **Collateral Weapons Charges** include any felony or misdemeanor weapons offense that accompanied violent or property cases.

- **Prior JD Record** measures the most serious outcome in a juvenile's official history of JD cases. It includes only prior JD cases referred by police to probation intake or family court for further legal processing, and is used in this study to indicate the overall severity of the prior JD record. The prior JD record is measured at three levels:

- **None**—first-offense processing;
- **Only Favorable Prior Outcomes**—prior JD cases which were all favorably terminated; and
- **Prior JD Finding**—prior JD cases of which one or more ended in a JD finding.

- **Prior Violent JD Record** indicates whether any violent offenses are present among cases in a juvenile's prior record, irrespective of the outcome of such prior cases. It is based only on prior JD cases referred by police to probation intake or family court for further legal processing.

- **Processing outcome** measures how far a case advanced through the juvenile justice system from probation intake. Five categories of processing outcomes are examined. The first three are called "favorably terminated" outcomes because no JD finding is entered; the last two processing outcomes reflect the type of disposition ordered after a JD finding is entered.

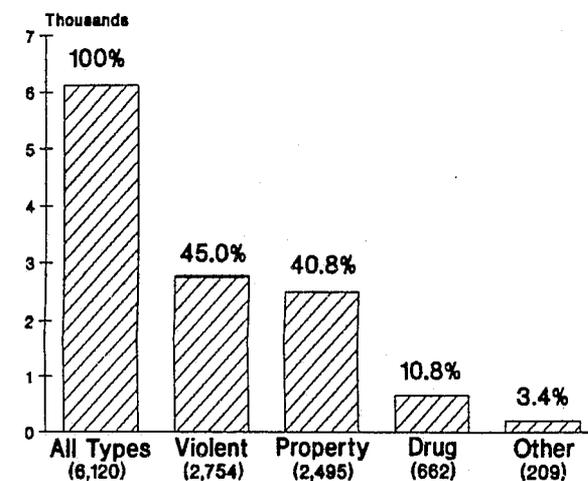
- **Adjusted**—informal handling by probation intake staff;
- **Declined**—presentment agency determination that petition filing not warranted by circumstances of case;
- **Dismissed/Acquitted**—favorably terminated family court outcomes;
- **No placement**—disposition of conditional discharge or probation; and
- **Placement**—residential facilities, group homes, foster care, parents, legal guardians or relatives.

for felonies, as well as for any misdemeanor involving unlawful assembly, jostling, prostitution or specified weapons offenses. Cases referred by police for further legal processing are screened at probation intake to determine whether adjustment (i.e., informal handling) is warranted.

- A total of 6,120 (non-designated) felony cases were opened at probation intake in New York City during 1987 (Figure 1).¹²

- Violent offenses made up 45.0 percent of all felony cases; property offenses (without violent felony secondary charges), 40.8 percent; drug offenses, 10.8 percent; and other offenses 3.4 percent.

Figure 1. Felony Cases Opened at Intake, 1987*



* Excludes designated felonies and property, drug and other felony cases with secondary charges involving violent felonies.

Profiles of Violent Offenses at Intake

Legal and demographic characteristics of violent felony cases—Robbery, Assault and Sex Offenses—opened at probation intake are presented in Table 1. Legal characteristics include felony class, collateral weapons charges, and the prior JD record, including prior violent offenses in the prior JD record. Demographic characteristics include the gender, race/ethnicity and age group of alleged JDs.

Of the 2,754 violent felony cases opened at intake, three in five were Robberies and one in three were Assaults; less than 6 percent were Sex Offenses.

Felony Class. Most violent offense cases opened at intake (94.1 percent) were Class C and Class D felonies. Four percent were Class B felonies and 2.1 percent were Class E. Seven out of ten Robberies were Class C felonies, while almost all Assaults (96.6 percent) were Class D. About one-quarter of the Sex Offenses were Class B felonies, and three-fifths were Class D.

Collateral Weapons Charges.¹³ One in five violent cases had collateral weapons charges (18.6 percent). However, this varied across specific offenses: weapons charges accompanied two in five Assaults, compared with one in ten Robberies and one in 20 Sex Offenses.

Of the 337 Assaults with weapons charges, all but 20 were for Assault 2nd (PL 120.05), a Class D felony. Of the 167 Robberies with weapons, 20 percent were for Robbery 1st (PL 160.15), a Class B felony; 35 percent for Attempted Robbery 1st, a Class C felony; 27 percent for Robbery 2nd (PL 160.10), Class C; and 14 percent for Attempted Robbery 2nd, Class D.

Prior JD Record. Juveniles had no prior JD record in 61.8 percent of violent offense cases opened at probation intake. Three in ten violent cases had prior JD records that contained only favorable outcomes. This varied across specific offenses, though, from 32.9 percent of Robberies, to 26.2 percent of Assaults, and 12.3 percent of Sex Offenses. Only 8.7 percent of violent offenses had a prior JD finding, ranging from a high of 9.5 percent for Robbery, to 7.9 percent for Assault, and 4.9 percent for Sex Offenses.

Prior Violent JD Cases. Over one-quarter of all violent offense cases (27.4 percent) had violent offenses in the prior JD record. Robbery had the highest percentage of cases with prior violent offenses (31.2 percent), followed by Assault (23.0 percent) and Sex Offenses (11.1 percent).

Excluding first-offenders, three out of four violent offense cases had a record of prior violent offenses.¹⁴

Gender. Males accounted for seven out of eight violent offenses. Over 90 percent of Robbery and Sex Offenses involved males. Females, however, accounted for more than one-fifth of Assaults.

Race/Ethnicity. Minority status juveniles were involved in 92.5 percent of the violent offenses. Blacks accounted for three out of four Robberies and Sex Offenses. By comparison, though,

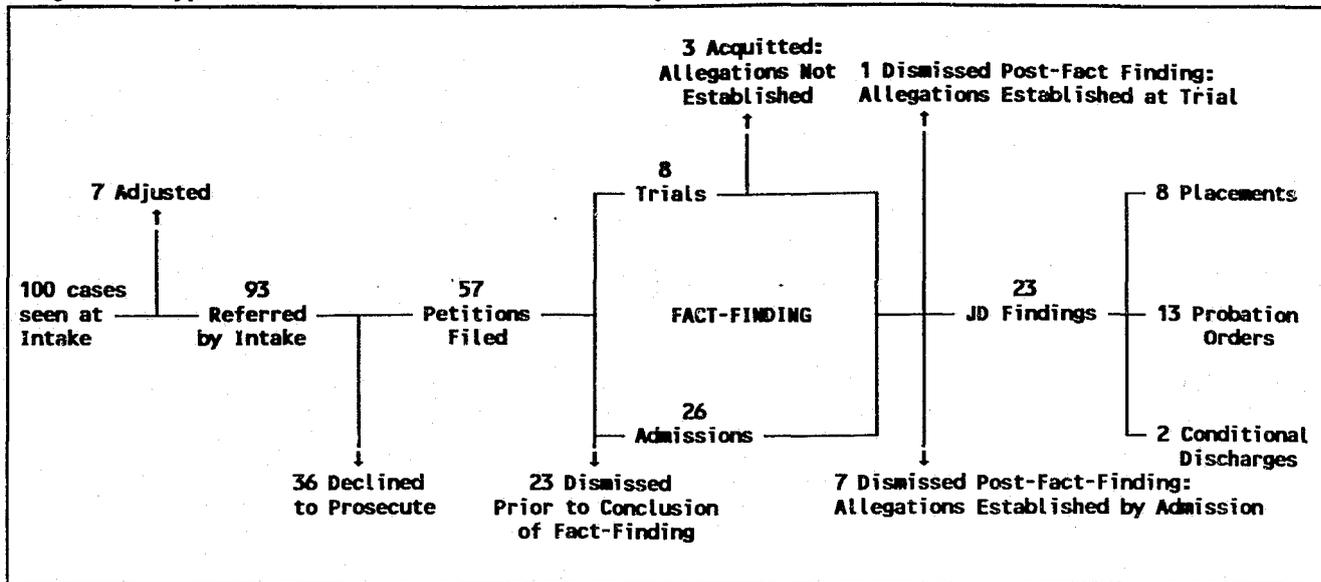
Table 1. Legal and Demographic Characteristics of Violent Felonies at Intake by Offense

	VIOLENT FELONY OFFENSE			
	Robbery		Sex	
	(n=1,713)	(n=879)	(n=162)	(n=2,754)
	Percent	Percent	Percent	Percent
LEGAL CHARACTERISTICS				
Felony Class	(1,713)	(879)	(162)	(2,754)
B	3.3	0.1	28.4	3.7
C	71.5	0.8	7.4	45.2
D	23.3	96.6	61.7	48.9
E	1.9	2.5	2.5	2.1
Collateral Weapons Charges	(1,713)	(879)	(162)	(2,754)
Yes	9.7	38.3	4.9	18.6
No	90.3	61.7	95.1	81.4
Prior JD Record	(1,713)	(879)	(162)	(2,754)
None	57.6	66.0	82.7	61.8
Only Favorable Prior JD Cases	32.9	26.2	12.3	29.5
Prior JD Finding	9.5	7.8	4.9	8.7
Prior Violent JD Offenses	(1,713)	(879)	(162)	(2,754)
None	57.6	66.0	82.7	61.8
One or More Violent Offenses	31.2	23.0	11.1	27.4
Nonviolent Only	11.2	11.0	6.2	10.8
DEMOGRAPHIC CHARACTERISTICS				
Gender	(1,703)	(869)	(162)	(2,734)
Male	90.3	78.3	96.3	86.8
Female	9.7	21.7	3.7	13.2
Race/Ethnicity	(1,633)	(838)	(156)	(2,627)
White	5.7	11.1	7.1	7.5
Black	75.5	62.3	76.3	71.3
Hispanic	17.9	25.3	16.7	20.2
Other	0.9	1.3	-	1.0
Age at Intake	(1,713)	(879)	(162)	(2,754)
7 - 12 years	17.0	12.9	48.8	17.5
13 - 14 years	45.8	40.6	32.7	43.4
15 years	37.2	46.5	18.5	39.1

Assaults had the highest percentages of cases involving whites (11.1 percent) and Hispanics (25.3 percent).

Age at Intake. Five out of every six violent cases opened at probation intake involved juveniles between 13 through 15 years of age. Nearly half the Robbery cases involved 13 to 14 year-olds; 15 year-olds accounted for almost half the Assaults, while almost half the Sex Offenses involved seven to 12 year-olds.

Figure 2. Typical Outcomes of 100 Violent Felony Cases



Overview of Juvenile Justice Processing

Cases not adjusted at probation intake are referred to the presentment agency for screening. In New York City, the Family Court Division of the Office of Corporation Counsel screens the vast majority of cases.¹⁵ The presentment agency determines whether the circumstances of the case warrant filing a petition and, if so, what charges will appear on the petition. Legal sufficiency is the most important screening factor. Processing ceases if the presentment agency declines to prosecute a case. Family court is the next processing stage. It has two distinct phases—*fact-finding* and *post-fact-finding*.

During the *fact-finding* phase, the court examines the charges alleged in the petition; attorneys can enter pretrial motions and motions for discovery and suppression of evidence.¹⁶ If the allegations are not established, processing is discontinued. Before the conclusion of fact-finding, the charges may be dismissed unconditionally or may be ordered adjourned in contemplation of dismissal (ACD); at the conclusion of the hearing, dismissal is by acquittal. When allegations are established through a guilty plea or by trial, the case proceeds to the post-fact-finding phase of court processing.

As a matter of judicial discretion, a family court judge may dismiss a case unconditionally in the furtherance of justice any time during family court proceedings.¹⁷ Among the criteria the court must consider when deciding whether to dismiss a case in the furtherance of justice are the needs and best interest of the child and the protection of the community.¹⁸ Except in designated felony cases, a judge

may order an ACD any time before entering a JD finding; if the ACD is successfully completed, the case is dismissed in the furtherance of justice.¹⁹ A juvenile who is granted an ACD must stay out of trouble for a specified period—not to exceed six months—and comply with any conditions set by the court.²⁰ These conditions may include participation in treatment or diversion programs, the performance of community service, and, where appropriate, the payment of restitution.

In the *post-fact-finding* phase (*i.e.*, after guilt is established), the court determines whether the juvenile is in need of supervision, treatment or confinement. If so, a JD finding *must* be entered, and the court *must* order one of several dispositions: conditional discharge, probation or placement. If the court determines at the conclusion of the hearing that the juvenile is not in need of supervision, treatment or confinement, the case *must* be dismissed.²¹ Cases may also be dismissed unconditionally any time during this phase or adjourned in contemplation of dismissal before a JD finding is entered. Thus, *even when guilt is established, it need not be a determining factor in deciding case outcomes.*

Processing Outcomes of Violent Felonies

The typical processing of 100 violent felony cases from intake through disposition in New York City during 1987 is presented in Figure 2. Adjustments and declinations ended further processing in 43 cases. Of the 57 cases in which petitions were filed, 23 cases—or about two in five—were dismissed before

Table 2. Processing Outcome (in percent) of Violent and Property Felony Cases at Intake by Felony Class

TYPE OF CASE AND FELONY CLASS AT INTAKE ^a	PROCESSING OUTCOME							TOTAL	
	No JD Finding				JD Finding				
	Adjusted	Declined	Dismissed/ Acquitted	Subtotal ^b	No Placement	Placement	Subtotal ^b	Number	Percent
VIOLENT FELONY									
All Classes	7.5	35.6	33.6	76.7	15.0	8.4	23.3	2,640	100.0
B	3.2	43.0	34.4	80.6	11.8	7.5	19.4	93	3.5
C	6.7	37.4	32.5	76.6	14.5	8.9	23.4	1,199	45.4
D	8.4	33.6	34.2	76.2	15.7	8.1	23.8	1,295	49.1
E	9.4	34.0	39.6	83.0	13.2	3.8	17.0	53	2.0
PROPERTY FELONY^c									
All Classes	9.5	31.5	33.8	74.8	13.2	12.0	25.2	2,383	100.0
B	-	50.0	33.3	83.3	16.7	-	16.7	6	0.3
C	6.6	32.2	28.2	67.0	12.8	20.3	33.0	227	9.5
D	9.1	31.4	34.6	75.1	13.6	11.3	24.9	1,309	54.9
E	10.9	31.3	34.1	76.3	12.6	11.1	23.7	841	35.3

^a Excludes designated felonies.

^b Cell percents may not sum to subtotal percent due to rounding.

^c Excludes cases with secondary charges that are violent felony offenses.

the conclusion of fact-finding; admissions of guilt were made in 26 cases; of eight cases that went to trial, five had allegations established and three ended in acquittal. *Eight cases were dismissed after the establishment of allegations—seven after admission and one after trial—accounting for one in four cases in which allegations were established.*²² A JD finding was the typical outcome in 23 of 100 violent felony cases, with probation ordered in 13 of these cases, placement in eight, and conditional discharge in two.

Felony Class and Processing Outcomes

Felony class was used as a gross indicator of offense seriousness for the purposes of this study (see *Definitions*). Processing outcome was analyzed overall—i.e., over all five processing outcomes; in terms of *JD finding status*—whether a JD finding was entered or not; and in terms of *placement status*—whether or not a placement was ordered (see *Definitions*). Processing outcome percentages distributed by felony class are presented in Table 2.

Violent Offense Analysis. Felony class was not meaningfully associated with any measure of processing outcome. Although processing outcome percentages varied across felony classes for violent offenses, JD findings and placements were no more likely for Class B than for Class D felonies. Nor were mean-

ingful associations found when the relation between felony class and processing outcome was examined within categories of gender, age, race/ethnicity, collateral weapons charges and prior record, including prior violent offense status.

- *As felony class increased, favorably terminated outcomes varied slightly.* A decrease in adjusted cases (from 9.4 to 3.2 percent) was coupled with a rise in felony class; however, declined cases generally increased with felony class seriousness (from 33.6 to 43.0 percent). Except for Class E offenses (39.6 percent), dismissal/acquittals varied only slightly, from 34.4 percent for Class B to 32.5 percent for Class C felonies.

- *One in four violent offenses ended in a JD finding.* A JD finding was entered in 23.3 percent of all violent felony cases. JD findings varied less than one percent between Class C and Class D felonies, dropping off to 19.4 percent among Class B and 17.0 percent for Class E felonies.

- *Placement was ordered in one in twelve violent offenses.* Over all felony classes, 8.4 percent of cases resulted in placement. For Class B, C, and D felonies, placement percentages were stable at 7.5 percent, 8.9 percent, and 8.1 percent, respectively. Orders of placement, however, fell to 3.8 percent for Class E felonies.

Table 3. Processing Outcome (in percent) of Violent and Property Felony Cases at Intake by Prior JD Record

TYPE OF CASE AT INTAKE ^a AND PRIOR JD RECORD	PROCESSING OUTCOME							TOTAL	
	No JD Finding				JD Finding				
	Adjusted	Declined	Dismissed/ Acquitted	Subtotal ^b	No Placement	Placement	Subtotal ^b	Number	Percent
VIOLENT FELONY									
None	10.1	36.1	35.4	81.6	14.6	3.7	18.4	1,639	62.1
Only Favorable Prior Outcomes	3.8	39.9	29.1	72.8	15.5	11.7	27.2	772	29.2
Prior JD Finding	0.9	18.3	34.9	54.1	15.3	30.6	45.9	229	8.7
PROPERTY FELONY^c									
None	13.7	33.5	35.7	82.9	11.3	5.8	17.1	1,343	56.4
Only Favorable Prior Outcomes	5.7	33.5	30.3	69.5	15.3	15.2	30.5	725	30.4
Prior JD Finding	0.3	18.1	34.0	52.4	16.2	31.4	47.6	315	13.2

^a Excludes designated felonies.

^b Cell percents may not sum to subtotal percent due to rounding.

^c Excludes cases with secondary charges that are violent felony offenses.

Comparative Analysis. As with violent offenses, the felony class of property offenses was not meaningfully associated with measures of processing outcome. The overall processing of violent offenses was generally similar to that of property offenses, with a few exceptions. Among Class C felonies, property offenses were more likely than violent offenses to result in placement.²³

Prior JD Record and Processing Outcomes

Prior JD record measured the most serious outcome among prior JD cases and was used to indicate the severity of a juvenile's prior JD involvement. This measure did not include prior JD cases diverted by the police (see *Definitions*). Table 3 presents processing outcome percentages of violent and property offense cases distributed by the severity of the prior JD record.

Violent Offense Analysis. Processing outcomes were more severe among cases involving juveniles who had a prior JD record. Both JD findings and placements in the instant case were more likely among cases with prior JD findings; these outcomes were less likely among cases which had only favorable prior outcomes.²⁴ Cases of juveniles with no prior JD record were the least likely to have JD findings entered or placements ordered.

Violent cases with one or more violent offenses in the prior JD record, however, were no more likely to proceed forward, to have JD findings entered, or placements ordered than cases with no prior violent offenses.²⁵

The direction and strength of the relations between the prior JD record and processing outcome measures proved stable for males, for all racial/ethnic categories, also for 13-14 year-olds and 15 year-olds.²⁶ These relations were consistent for Class C and Class D felonies,²⁷ and also for categories of collateral weapons charges and prior violent offenses.

- Four out of five cases with no prior JD record were favorably terminated—i.e., adjusted, declined, dismissed or acquitted. These first-offense cases had the highest percentages of adjustments and dismissals (10.1 percent and 35.4 percent, respectively).

- A prior JD finding increased the likelihood of placement, but did not influence the likelihood of non-placement outcomes. From 3.7 percent of first-offense cases, placement percentages climbed to 11.7 percent among cases with only favorable prior outcomes, and to 30.6 percent for cases with a prior JD finding. Non-placement outcomes, however, remained stable for first-offenders (14.6 percent), those with only favorable prior outcomes (15.5 percent), and those with a prior JD finding (15.3 percent).

- Declinations were least likely (18.3 percent) and placements most likely (30.6 percent) among cases that had a prior JD finding. Cases with only favorable prior outcomes were as likely to be declined as those of first-offenders (39.9 percent and 36.1 percent, respectively), but were more likely to have placements ordered (11.7 percent and 3.7 percent, respectively).

Comparative Analysis. As with violent offenses, the extent of legal processing of property offenses increased with the severity of the prior JD record; this relation was also consistent within legal and demographic categories. Among groups with the same profile on the prior JD record, processing outcomes for violent offenses and property offenses were similar.

Summary of Findings

Statutory changes to the Family Court Act in the late 1970s limited discretion in the processing of cases involving very serious offenses that were, for the most part, violent in nature. These offenses are classified as JO and designated felony offenses. However, they comprised only one-third of the juvenile arrests for violent felonies in New York City during 1987 and a proportion slightly less than that across other jurisdictions in the State. As a result, discretion in the processing of most violent offense cases in New York State remains quite broad throughout a juvenile justice system guided by the dual goals of *servicing the needs and best interests of the child* and *protecting the community*.

This study was undertaken to determine the extent to which juveniles who allegedly committed violent offenses were held accountable for their misbehavior in cases where discretion was not constrained by statute. The outcomes of these violent JD felony cases opened at probation intake during 1987 in New York City were assessed in relation to felony class and the prior JD record. For comparative purposes, property offenses were also examined. A summary of major study findings follows:

- As violent offenses increased in felony class, no corresponding increase occurred in JD findings or placements. Felony class remained unrelated to processing outcomes regardless of the severity of the prior JD record.
- Placements for violent offenses increased with the severity of the prior JD record. However, a history of violent offenses in the prior JD record was not related to the more severe processing of violent offense cases.
- Eight percent of all violent felony offense cases processed were dismissed after allegations were established either through an admission or by trial; these cases accounted for one in four violent felony cases in which allegations were established.
- Case processing patterns for violent and property offenses were similar.

The legal characteristics of cases examined in this study differ greatly in their respective abilities to account for the processing outcomes of violent felony cases. On the one hand, felony class was unrelated to the processing outcomes of violent offenses, suggesting that felony class was not a decisive factor in case processing. On the other hand, the probability of placement increased with the severity of the prior JD record, suggesting that practitioners were mindful of juveniles' previous encounters with the law. That cases with prior JD findings were the least likely to be declined and the most likely to be placed suggests that the presentment agency and the courts focused their resources on those youth with the most serious history of criminal activity, regardless of felony class seriousness in the instant case. The similarity in the processing outcome patterns found in the comparative analysis of violent and property offenses suggests that offense type did not influence case outcomes.

A determination of whether or not sanctions such as restitution or community service were stipulated in cases that were adjusted, received ACDs or had JD findings entered was not possible in this study due to the absence of data on these dispositional options. However, practitioners in New York City reported that neither restitution nor community service sanctions were used often.²⁸

Implications

A straight-forward interpretation of study findings is difficult given the absence of data that directly measure how the dual statutory goals of the Family Court Act influenced case processing. Thus, it was not possible to precisely measure the extent to which legal characteristics of violent felony cases affected case outcomes. It is clear, though, that *proportionality* was present with respect to the prior JD record; the extent of legal processing increased with the severity of the record. *Proportionality*, however, was not present with respect to felony class seriousness.²⁹ Had the extent of legal processing increased with felony class seriousness, some degree of *proportionality* could be said to exist.

It is also clear that guilt, when it was established, was not a controlling factor in case outcomes: one-quarter of the violent felony cases were dismissed in which allegations had been established. A discussion of these processing issues and strategies for improving JD case processing are presented below.

Proportional Sanctions. Juvenile justice practitioners in New York State have expressed concern about the lack of consequences for illegal behavior in the

present system.³⁰ They have also expressed concern that services and sanctions, when ordered, are often not commensurate with the needs presented by juveniles or the gravity of the offenses committed.³¹ Study findings show that sanctions were not commensurate with the seriousness of offenses.

Consideration should be given to the application of proportionality in the handling of youth. Proportional sanctioning in the processing of violent juvenile offenses does not necessarily imply a punitive harshness. In fact, sanctions imposed in proportion to the seriousness of offenses often complement traditional treatment goals by helping to ensure that delinquency adjudications have meaningful consequences for offenders. This, in turn, fosters accountability on the part of juveniles for their misbehavior. Proportionality would also help to ensure that the system can be held accountable for its actions through greater equity in sanctioning.

Policies should be developed to ensure that youth receive appropriate sanctions by linking case outcomes for violent and other types of offenses to offense seriousness and the prior JD record. Strategies should also be developed to expand and more fully exploit dispositional options—both treatment services and sanctions—to ensure the availability of an appropriate array of options.

Placement and probation supervision should be reserved for adjudicated JDs who commit serious offenses and for those with extensive prior JD records; the payment of restitution and the completion of community service should also be used with these sanctions where appropriate. Intensive probation supervision programs should be expanded to reduce the number of children placed in residential care. Also, the increased use of short-term intensive residential care by the Division for Youth (DFY) would allow DFY to divert from long-term residential care youth whose needs can be met by short-term programs. This would allow DFY to retain those most at risk for longer periods of time.

Juveniles involved in less serious offenses and those whose cases are adjusted or who receive ACDs should be held accountable through the payment of restitution, when appropriate, and participation in community service programs; community service activities should be coordinated with school programs whenever possible. Restitution and community service can impress upon youth that they are responsible for their behavior.

Finally, a policy encouraging proportionality in sanctions would not demand that all youth who com-

mit serious crimes receive the more severe sanctions of probation or placement. Mitigating factors may not warrant the imposition of these sanctions in all instances. To the extent possible, though, sanctions should be proportional.

JD Adjudications When Allegations are Established.

Under current law, juvenile accountability is undermined because the court is not required to enter a finding of juvenile delinquency upon the establishment of guilt. Petitions *must* be dismissed even when guilt has been established if, at the conclusion of the dispositional hearing, the family court finds juveniles do not require supervision, treatment or confinement. Also, the court *may* order unconditional or ACD dismissals after the establishment of allegations when it believes that the interest of justice would not be served with a JD finding.

Those whose cases are not dismissed after the establishment of allegations are officially labeled JDs and tagged with a JD record. In the event of a subsequent JD arrest, prior cases in which JD findings were entered *can* be considered by the police, probation, the presentment agency and the family court, while prior dismissed cases—including those in which allegations were established—*cannot*. As this study has shown, prior JD findings bear significantly on the outcome of subsequent cases.

The discretion afforded the family court to dismiss cases even though allegations have been established is a feature of juvenile justice processing that distinguishes it from the adult system. No other procedure better illustrates the issue of inequity in JD case processing. Certainly, individualized needs ought not be ignored in deciding what to do with juvenile delinquents; but neither should discretion be so unstructured that it becomes the source of gross inequities in the handling of children who have similar legal profiles, but differing needs.

The community would be afforded greater protection if official records were maintained in all cases where allegations are established. This would ensure that practitioners have access to this information for identification, treatment and dispositional purposes if youth re-enter the juvenile justice system.

The Family Court Act should be amended to promote greater accountability and equity in case processing and to ensure the protection of the community. Whenever guilt has been established through plea or trial, family court judges should be required to enter a finding of juvenile delinquency. In instances where adjudicated youth do not require supervision, treat-

ment or confinement, the court should be permitted to enter an order conditionally discharging such youth; this disposition does not permit probation supervision or placement. A finding of delinquency in such cases would create an official juvenile delinquency record, allowing juvenile justice practitioners access to these case records for identification, treatment and dispositional purposes if youth re-enter the juvenile justice system.

Summary

The significant increases in juvenile arrests for violent crime since 1986, coupled with the apparent disassociation of case outcomes from felony class seriousness and the establishment of guilt, raise concerns about the propriety and fairness of individualized standards of decisionmaking in juvenile justice. The implications of study findings suggest strategies for improving the processing of violent offense cases. These strategies promote proportionality and equity in case processing to help ensure that youth are sanctioned appropriately. Adherence to these principles would foster greater accountability on the part of JDs for their offenses and on the part of the system for its processing decisions. The community would also be afforded greater protection if official records were maintained in all cases where allegations are established to ensure the identification of youth who re-enter the juvenile justice system.

It is hoped that this policy paper will serve as a catalyst for discussion. The suggested reforms could add vitality and new meaning to the goals of juvenile justice in New York State.

Research Methods

This study was based on a subset of the data collected and analyzed in the *Juvenile Justice Processing Study* recently completed by the NYS Division of Criminal Justice Services. The research frame consisted of a census cohort of juvenile delinquency cases opened at probation intake in New York City during 1987.

Source data were derived from matching two databases maintained by the New York City Juvenile Justice Information Services (JJIS). These databases include the New York City Department of Probation (DOP/JJIS) system which contains arrest and intake information and the Corporation Counsel (CC/JJIS) system which contains presentment agency screening and court-related information.

While prior case records were matched to appropriate case records for the instant offense, DOP/JJIS prior records could not be matched to CC/JJIS prior records because the older case records contained too few of the common data elements to perform the match. Prior events of police contact in which juveniles were diverted rather than referred to probation intake could not be obtained from data sources. In *Cuevas v. Leary* 70 Civ. 2017 (S.D.N.Y. 1972), the NYPD agreed that contact records with juveniles could not be disseminated to any official or employee of a public or private agency other than the NYS Department of Social Services, and then only for certain specified reasons. (See Schlesinger, *et al.*, [1990b] pp. 30-32.) More recent data were not readily available because these two data bases are not routinely linked to track case processing.

For more information on the complete data set, see Appendix 1, "Research Methods," in Schlesinger, R.M. *et al.*, *Juvenile Justice Processing Study* (1990a).

The case was the unit of analysis in all analytic procedures. Consequently, an alleged JD may have had more than one case opened

at probation intake during the time frame of the study. These multiple intake cases comprised 40 percent of all felony cases opened at probation intake in New York City during 1987.

The great majority of felony cases opened at probation intake had completed outcomes. Percentages of cases with missing outcomes were 0.9 percent for violent offenses; 1.0 percent for property offenses; and 1.1 percent for drug offenses.

Statistical associations were produced by crosstabulating each outcome measure with measures of felony class and prior JD case outcomes. Where possible, analyses of these variables were controlled for categories of gender, race/ethnic status, age, collateral weapons charges, and prior violent offenses; meaningful relations, though not displayed, are reported in the text.

Kendall's rank correlation coefficients τ_b and τ_c were the measures of association used to analyze processing outcome. By incorporating corrections for tied ranks, each of these statistics is appropriate for assessing the strength of bivariate associations among ordinal level data. The range of each measure is from +1.00 to -1.00, with ± 1.00 indicating a perfect association. The value of τ is interpreted as the difference in the probability that two randomly selected cases will have the same order on two variables and the probability that they will have a different order. (Glass, G.V. and J.C. Stanley, *Statistical Methods in Education and Psychology*. Englewood Cliffs: Prentice-Hall, 1970, p. 178.)

Only *substantively meaningful* associations were reported in the study to control for the sensitivity of statistical measures to changes in sample size. To be considered *substantively meaningful* an association had to be statistically significant at $p < .05$, with a tau value equal to or exceeding $\pm .10$.

Notes

1. Schlesinger, R.M., S.E. Lansing, and R.J. Toon. *Juvenile Justice Processing Study, Vol. I: Juvenile Justice Case Processing*, New York State Division of Criminal Justice Services, Albany, NY (December 1990a), p. 22. Juvenile arrest data are a biased measure of juvenile criminal activity; not every crime is reported to the police and, even when reported, an arrest does not always follow. Nonetheless, arrest data are useful in indicating the volume of alleged criminal activity for which juveniles are responsible, as well as how different offenses are distributed by gender, age, and race/ethnicity.
2. Data on the incidence juvenile arrests from 1986 through 1990 are from the NYS Division of Criminal Justice Services, Uniform Crime Reporting System (UCR); incidence statistics for 1991 are based on preliminary UCR data supplied by the New York Police Department; arrest rates per 1,000 population for 1986 through 1989 and the base for the 1990 rate are from Schlesinger, R.M., *et al.*, (1990a), Table 2.1, p. 23, and Table 2.1.A, p. 240.
3. Sobie, Merrill. *The Juvenile Offender Act*. Foundation for Child Development. New York, New York. February 1981, p. 11.
4. FCA §301.(1) in *McKinney's Consolidated Laws of New York, Annotated. Book 29A, Judiciary-Court Acts*, as amended McKinney's Cum. Supp., 1989. St. Paul: West Publishing Co., 1989.
5. *Ibid.*, FCA §301.2(8) for statutory criteria defining designated felony offenses.
6. For statutory criteria defining Juvenile Offender Charges, see CPL §1.20(42), *McKinney's Consolidated Laws of New York, Annotated, Book 11A, Criminal Procedure Law*, as amended McKinney's Cum. Supp., 1989. St Paul: West Publishing Co., 1989.
7. These jurisdictions include Albany, Clinton, Dutchess, Erie and Monroe.
8. The top arrest offense was used rather than the top adjudication offense because of the extensive plea-bargaining that occurs in New York City family courts. In 1987, the top adjudication charge was one class lower than the top felony petition charge in 20 percent of the cases in which adjudications were entered; charges were lowered two or more classes in an additional 61 percent of the cases (Schlesinger *et al.*, [1990a] p. 257). The extensiveness of plea bargaining has rendered the adjudicating offense an unreliable indicator of the seriousness of youths' criminal behavior.
9. Eliminating these cases made the distinction between violent and property cases unambiguous for purposes of the comparative analysis. Drug offense cases were not analyzed, because felony class did not vary sufficiently, and the number of "other" felony offenses was inadequate to permit valid comparisons with violent offenses.
10. For a complete description of the New York City subset of the 1987 cohort and its data sources, see Schlesinger *et al.*, (1990a) pp. 226-232.
11. In New York City, JD cases referred by the police for further legal processing are usually referred to probation intake; only a few cases go directly to family court.
12. This total does not include 120 felony cases not analyzed in this study in which the most serious charge was a property, drug or other felony was accompanied by secondary charges that involved violent felonies. Drug offenses include 656 felonies for Controlled Substances Offenses (PL §220) and 6 felonies for Marijuana Offenses (PL §221). "Other" offenses include Criminal facilitation 2 (PL §115.05); Arson 2 (PL §150.05),

Arson 3 (PL §150.10), and Arson 4 (PL §150.15); Forgery 2 (PL §170.10), Criminal possession of a forged instrument 1 (PL §170.25), Criminal possession of forgery devices (PL §170.40), and Forgery of a vehicle identification number (PL §170.65); Escape 1 (PL §205.10) and Escape 2 (PL §205.15); Perjury 2 (PL §210.10) and Tampering with a witness 2 (PL §215.12); Riot 1 (PL §240.06) Criminal possession of a weapon 3 (PL §265.02), Criminal possession of a weapon 2 (PL §265.03), and Criminal possession of a weapon 1 (PL §265.04), Criminal use of a firearm 1 (PL §265.09) and Criminal sale of a firearm 2 (PL §265.11).

13. The presence and/or use of a weapon during the commission of a crime is a lesser included offense in several subsections of the New York State Penal Law that define assault and robbery; *separate weapons charges may or may not be brought in conjunction with these offenses.* (For example, secondary weapons charges were present in only one out of four cases where armed robbery [PL §160.15(2)] was the most serious charge, according to reliability statistics produced by the Office of Justice Systems Analysis from the statewide OBTS data base at DCJS.) Because Penal Law subsections were unavailable in the source data, weapons use could not be identified from the statutory elements of these offenses. Therefore, the *collateral weapons charge* variable may underrepresent the true incidence of weapons use for Assault and Robbery among violent offenses.
14. One in five property offenses (21.5 percent) had violent offenses in the prior JD record. Among property offense cases that were not first-offenses, however, this proportion increased to about one in two.
15. Prior to 1991, the district attorneys' offices handled original jurisdiction designated felony cases and JO cases removed from criminal courts to family courts; presently, Corporation Counsel processes original jurisdiction designated felony cases for all but Queens County.
16. See FCA Part 3—Discovery.
17. See FCA §315.2.
18. Prior to the 1983 enactment of Article 3, the FCA did not provide for dismissals in the furtherance of justice. This provision was added to provide juveniles with a procedure for dismissals similar to that in the Criminal Procedure Law for adults. See Sobie, *Practice Commentary, McKinney's Cons. Laws of NY, Book 29A, Family Court Act §315.2*, pp. 356-357 (1983). Unlike the CPL, the FCA permits dismissals after guilt has been established.
19. See Sobie, *Practice Commentary, McKinney's Cons. Laws of NY, Book 29A, Family Court Act, §315.3*, (1983) p. 359. The first statutory provision authorizing ACDs in family court, FCA §749(a), was enacted in 1973. This provision was added to provide juveniles a procedure for dismissals similar to that in CPL §170.55 for adults (L.1973, c. 806, §1; Bill Jacket). Under the CPL, ACDs are limited to misdemeanor cases and must be ordered prior to the establishment of guilt. Under the FCA, however, ACDs can be ordered in either misdemeanor or felony cases, with the exception of designated felonies, and, prior to the enactment of Article 3, an ACD could be ordered only upon or after a fact-finding hearing. With the enactment of Article 3 in 1983, the statute was amended to permit the court to order an ACD any time prior to the to the entering of a finding of juvenile delinquency.
20. See FCA §315.3.
21. See FCA §352.1.
22. A dismissal after the establishment of allegations was the typical outcome in 12 out of every 100 property offense cases.
23. Robbery accounted for 98 percent of Class C violent offenses and Burglary comprised 84 percent of Class C property offenses.

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24. By law, records pertaining to favorably terminated cases must be sealed. Favorable terminations include adjustments, declinations, and dismissals. While case files are sealed, probation and Corporation Counsel staff have access to index and administrative records for these cases, which alert them to the existence of prior cases. They may also have personal knowledge of information in a prior sealed case. Therefore, even though no official record exists, practitioners have access to varying degrees of information on prior favorably terminated (*i.e.*, sealed) cases. See Schlesinger, *et al.* (1990^b) for a more detailed discussion of sealing laws and practices in New York State.
 25. Tabular data for the analysis of this relation are not presented because *prior violent offenses* is primarily used as a control variable.
 26. The prior JD record of females was associated with processing outcome overall but not with JD findings and placements; the prior JD record of seven to 12 year-olds, however, was not associated with processing outcome across any of the three measures.
 27. Statistical associations between processing outcome and the prior JD record for Class B and Class E felony cases could not be reliably calculated due to an insufficient number of cases.
 28. New York State Division of Criminal Justice Services. "A Report of the Working Group on Juvenile Justice," *Eighth Annual Governor's Law Enforcement Forum: Reports of the Working Groups*. Albany, NY (October, 1991), p. 6. The Working Group was established by the State's Director of Criminal Justice, Richard H. Girgenti, to identify the key problems which foster crime and impede the effectiveness of the State's juvenile justice system. The twelve member Working Group was comprised of knowledgeable juvenile justice professionals, practitioners and academics in New York State.
 29. Analyses were conducted to determine if proportionality was present relative to the most serious adjudication offense for cases where JD findings were entered. Case outcomes for 1987 cases, as well as 1988 through 1991 cases, were examined. When differences across offense categories -- felony versus misdemeanor -- were examined, findings showed that placements were less likely to be ordered for misdemeanor adjudications than for felony adjudications. Among only felony adjudications, however, the likelihood of placement did not differ significantly across felony classes (Classes B through E) in any year except 1991 where findings suggested that there may have been some movement toward proportional sanctions; placement was less likely in Class E adjudications than in more serious felony adjudications. See Note 8 for further discussion about the reliability of the adjudicated offense as a measure of the seriousness of youth's criminal behavior given the extensiveness of plea-bargaining.
 30. "A Report of the Working Group on Juvenile Justice," p. 1.
 31. *Ibid.*, p. 6.

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