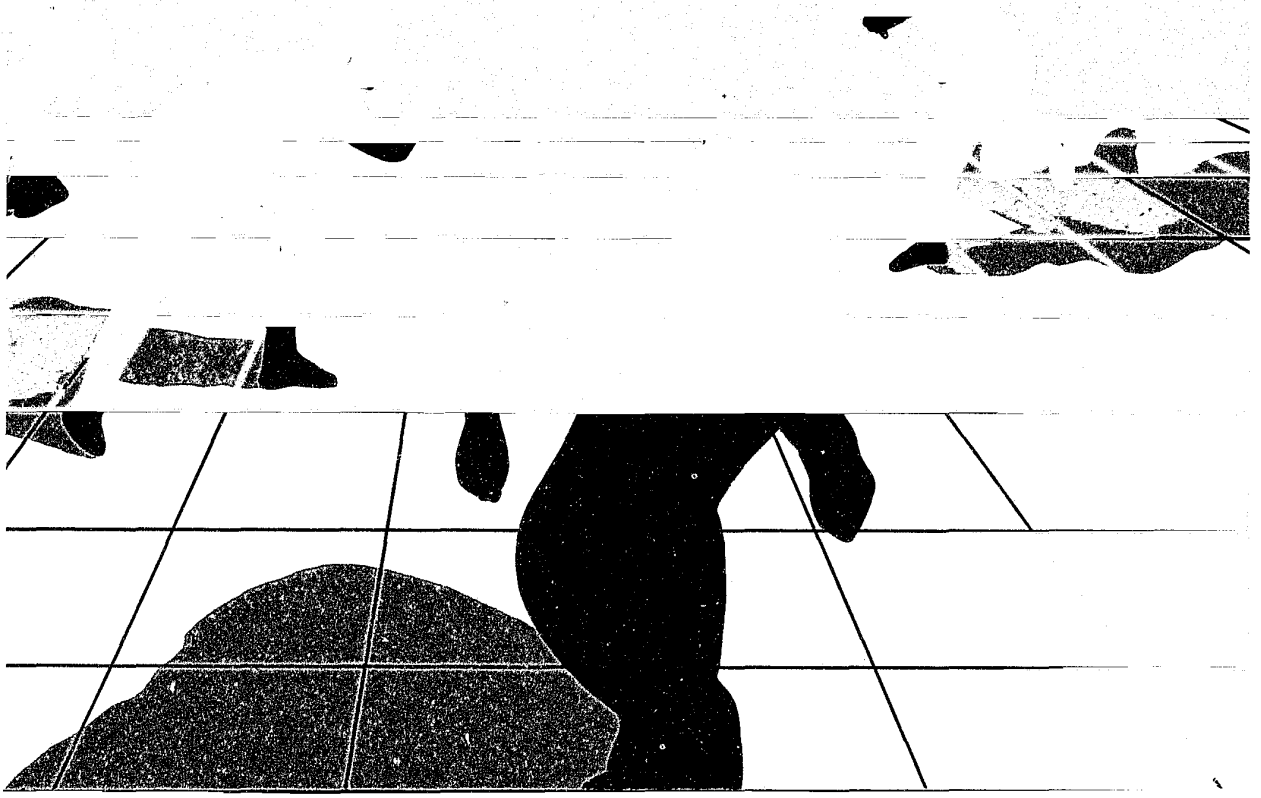
THE SERIOUS JUVENILE OFFENDER

Proceedings of a National Symposium, September 19 and 20, 1977, Minneapolis, Minnesota

Office of Juvenile Justice and Delinquency Prevention
Law Enforcement Assistance Administration
U.S. Department of Justice



b

THE SERIOUS JUVENILE OFFENDER

Proceedings of a National Symposium

Held in Minneapolis, Minnesota on

September 19 and 20, 1977

This publication was prepared by the National Office for Social Responsibility under contract number J-LEAA-008-77 from the Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, United States Department of Justice. Points of view or opinions stated in this document are those of the individual contributors and do not necessarily represent the official position or policies of the United States Department of Justice.

Office of Juvenile Justice and Delinquency Prevention
Law Enforcement Assistance Administration
U.S. Department of Justice

ACKNOWLEDGEMENT

The publication of these proceedings was made possible through the collaboration of the Minnesota Department of Corrections, the Office of Juvenile Justice and Delinquency Prevention, and the National Office for Social Responsibility.

We are grateful to the contributors for providing a stimulating collection of papers; to Mr. S. Alan Boren, National Office for Social Responsibility; Mr. Douglas Dodge, Office of Juvenile Justice and Delinquency Prevention; and to Commissioner Kenneth F. Schoen, Minnesota Department of Corrections. This project was supported by a technical assistance grant from the Office of Juvenile Justice and Delinquency Prevention. Special thanks to Victoria A. Carlyle for preparing this publication.

Joe Hudson and Pat Mack
Minnesota Department of Corrections

PREFACE

The National Symposium on the Serious Juvenile Offender, held in Minneapolis on September 19 and 20, 1977, brought together over two hundred professionals and leading citizens knowledgeable about juvenile justice issues. They met to identify key policies and to assess present attitudes and information regarding youth who commit serious crime; especially violent crimes.

The American system of juvenile justice is under fire for its failure to stem the tide of youthful criminal violence. It is vital that the lurid publicity given to a small percentage of violent youth not distract us from the reality of a system whose wide net catches predominately non-offenders (abandoned or neglected) and minor delinquents who are subjected to unwarrented detention and incarceration grossly disproportionate to the harm, if any, generated by their conduct. Such indiscriminate angling permits the appropriate punishment of even fewer violent offenders.

The traditional solution to juvenile justice problems has been to upgrade personnel, improve services or refurbish facilities. This is not enough. We need an uncompromising departure from the current policy of institutionalized overkill which undermines our primary socialization agents - family, school and community. Likewise, we must shift our resources toward developing productive, responsible youths rather than reinforcing delinquent or undesirable behavior.

We must reject the repugnant policy of unnecessary, costly detention and incarceration of scandalous numbers of young Americans. It is time to accept responsibility for the antiquated and destructive practices which undermine the fabric of our next generation. We must, however, support policies and practices which protect our communities while also assuring justice for our youth. Some youthful offenders must be removed from their homes for society's sake as well as their own. But detention and incarceration should be reserved for youths who cannot be handled by other alternatives.

The current overreach of the juvenile system in its reliance on detention and incarceration is particularly shocking as it affects so-called status offenders. These youths are actually more likely to be detained, more likely to be institutionalized, and once incarcerated, more likely to be held in confinement than

those who are charged with or convicted of criminal offenses. Additionally, even a cursory review of the handling of young women reveals the grossest application of the double standard. Seventy per cent of the young women in the system are status offenders!

Many status offenders are arrogant, defiant and rude - and some are sexually promiscuous. Detention or incarceration, however, helps neither them nor us. Some of these children cannot be helped, and others do not need help. Real help, for those who need it, might best take the form of diverting them from the vicious cycle of detention, incarceration and crime. A firm but tolerant approach will not compromise public safety and will salvage young lives.

When we discuss juvenile crime we should address the policies of a state and its respective communities rather than focusing solely on the individual juveniles and the case-by-case emphasis on the needs of individuals which often permits those intimately involved with the implementation of policy to overlook the cumulative impact of their practices.

The National Juvenile Justice Act has been a catalyst for a long overdue and healthy assessment of current policy and practices. Additionally, it has stimulated the development of criteria for imposing incarceration while stressing certainty of punishment for serious offenders. Similarily, the wealth of advice expressed through diverse viewpoints in this publication is provided to help policy makers and other concerned citizens develop more appropriate responses to one of our nation's most critical problems.

JOHN M. RECTOR, Administrator
Office of Juvenile Justice and Delinquency Prevention

CONTENTS

PAGE

THE SERIOUS JUVENILE OFFENDER:
PROCEEDINGS OF A NATIONAL SYMPOSIUM

1. INTRODUCTION

JOE HUDSON and PAT MACK

Considerable concern and controversy have been raised regarding the way in which we deal with juveniles adjudicated for particularly serious delinquent acts. The extent of this concern is reflected in the type and amount of activity recently devoted to assessing the scope of this problem and to developing alternative ways for dealing with it. The papers in this volume are a further example of this concern. The aim of this introductory statement is to identify briefly some recent developments bearing upon serious youth crime, to suggest some major issues associated with this phenomenon, and, in the process, to present a context for the papers which follow.

NATIONAL SYMPOSIUM ON THE SERIOUS JUVENILE OFFENDER

The papers in this volume were first presented at the National Symposium on the Serious Juvenile Offender held in Minneapolis on September 19 and 20, 1977. The Symposium was funded by the Office of Juvenile Justice and Delinquency Prevention as a technical assistance grant to the Minnesota Department of Corrections for the explicit purpose of assessing the present state of knowledge about serious youth crime, particularly in relation to three major areas: definitional and incidence, treatment and control, and legal. In turn, each of these major categories encompass a wide variety of more specific issues. For example, among the definitional and incidence issues and problems discussed at the Symposium were the following:

- Relative scope of the problem of serious youth crime and how this has varied over time across population groups;
- Characteristics of the population of serious juvenile offenders and how these may have varied over time and across jurisdictions;
- Criteria by which a "serious juvenile offender" can be defined and the extent to which such criteria are synonymous with either the commission of a violent offense or a series of non-violent offenses; and
- Extent to which serious juvenile offenders continue into adult criminal activity.

Questions raised concerning the wide variety of treatment and control issues and

problems at the Symposium included:

- To what extent can we empirically support program outcome judgments about the relative effects of alternative treatment/control methods in dealing with a population of serious juvenile offenders?
- What are the specific ingredients of relatively successful intervention programs and on what evidence has this judgment been based?
- What are some of the varieties of intervention strategies being pursued within different juvenile corrections jurisdictions in this country?
- To what extent does the establishment of a "secure treatment program" for juveniles result in "spreading" or diluting the admission criteria over time so that the program begins to handle youth who cause management problems in other institutional settings?
- To what extent do specialized and secure treatment programs for the serious juvenile offender have the potential to operate as "self-fulfilling prophecies" so that youth come to define themselves as "hard-core," "violent," or "dangerous," and consequently behave accordingly?

Finally, the variety of statutory and legal issues addressed at the Symposium included:

- What types of binding-over procedures are in use around the country and what are the developing trends--if any--in this regard?
- What are recent statutory developments aimed at dealing with serious youth crime and, on the basis of these, what are some likely future trends?

RECENT REPORTS AND STUDIES

A number of reports and studies dealing with the subject of serious youth crime have recently been completed around the country and reflect the increased concern and attention being given to the topic. Among these reports have been those issued by the Rand Corporation, [1] the Vera Institute of Justice, [2] New York State Governor's Panel on Juvenile Violence, [3] the classic study published by Marvin Wolfgang, Robert Figlio, and Thorsten Sellin, Delinquency in a Birth Cohort, [4] as well as three reports recently published on the situation in Minnesota--the Minnesota Supreme Court Juvenile Justice Study Commission, [5] the Youth in Crisis Task Force of Hennepin County (Minneapolis), [6] and the Minnesota Governor's Commission on Crime Prevention

and Control.[7] The major findings and, where they exist, the recommendations of these reports and studies can be briefly summarized relative to issues pertinent to definitions, characteristics, and recommendations for action.

DEFINITIONS AND CHARACTERISTICS

In the study by Wolfgang, Figlio, and Sellin, a cohort was followed of close to 10,000 boys born in Philadelphia in 1945 who had resided in that city from their tenth to their eighteenth birthday. This investigation found that 18% of all juveniles in the cohort with any type of delinquent record (6.3% of the total population) had five or more offenses, and could be classed as "chronic recidivists." This group was identified as responsible for 51% of all delinquent acts committed over a ten-year period by the entire group. However, of the more than 5,000 total offenses committed by this group of chronic recidivists, only 329 of the offenses (6.2%) were for such violent offenses as homicide, rape, robbery, aggravated assault, or arson. Among the distinguishing characteristics of the group of chronic recidivists were the following:

- Five times as many nonwhites as whites;
- Lower socio-economic status than non-chronic offenders;
- Greater number of residential moves than non-chronics;
- Lower intelligence scores than non-chronics; and
- Fewer grades completed than non-chronics.

The report published by the Rand Corporation, Intervening With the Serious Juvenile Offender, defines serious juvenile offenders as those adjudicated for non-negligent homicide, armed robbery, aggravated assault, forcible rape, and arson. This is in contrast to a major focus of the Wolfgang, Figlio, and Sellin report which emphasized the criterion of offense repetition. In terms of rough estimates, the Rand report suggests that this serious offender group constitutes approximately 15% of all institutionalized delinquents in the country (state, local, or private institutions), yielding a nationwide population estimated at approximately 6,000 juveniles.

Financial support given by the Ford Foundation to the Vera Institute of Justice to study serious youth crime in this country is further evidence of the national concern. In this study, the investigators selected a 10% random sample of delinquency petitions brought in 1974 in the juvenile or family courts of three metropolitan New York City counties. The major results of the study can be summarized as follows: approximately 29% of sampled delinquents brought to court had been

charged with a violent crime (homicide, rape, robbery, assault), approximately 6% of the sample had been charged more than once with a violent crime, and the most common violent crime was assault followed by robbery. The characteristics of the group arrested for committing violent crime included a high proportion of minority group males with learning disabilities who were from ghetto areas of large cities.

The report completed by the Minnesota Supreme Court Juvenile Justice Study Commission dealt with the population of juveniles in ten counties of the state for whom certification hearings were initiated from January 1973 to December 1975. A total of 134 cases were identified. Because of the sample selection procedures used, the results cannot be generalized to the population of certification hearings initiated in the state during the study period. At most, the findings reflect some indications of the procedures being followed in the binding-over process as well as some characteristics of youth for whom such procedures were initiated. Supplementing the Study Commission's findings is information available through the Minnesota Department of Corrections on the population of juveniles certified, convicted, and committed to adult correctional institutions in the state during the five year period July 1, 1970 through June 30, 1975. The total yearly number varied from a low of seventeen in 1972 to a high of twenty-eight in 1974. Most of these youth were from the metropolitan area of Minneapolis-St. Paul, had long records of delinquency adjudications, were disproportionately composed of nonwhites, and had been certified on the basis of violent crimes against persons.

Another study commission recently reported its findings in Minnesota on the problem of serious youth crime. The Report of the Children and Youth in Crisis Project of Hennepin County (Minneapolis) proposed a definition of the violent juvenile offender as including two or more arraignment hearings for major person offenses (murder, forcible rape, aggravated assault, robbery) or three or more arraignment hearings for major property offenses (burglary, theft, and auto theft). Applying these criteria to a 1974 sample of offenders in the county juvenile justice system, it was found that 246 of the total population of 6,607 youth (approximately 4%) met this definition.

The third study commission report completed in Minnesota within the past two years was completed by the Governor's Commission on Crime Prevention and Control and contained a recommended definition of the serious juvenile offender as involving the following:

a) Juveniles, fourteen years or older, with a sustained petition for homicide, kidnapping, aggravated arson, or criminal sexual conduct of the first or third degree;

b) Juveniles, fourteen years or older, with a sustained petition for manslaughter, aggravated assault, or aggravated robbery with a prior record in the preceding twenty-four months of a sustained felony;
c) Juveniles, fourteen years or older, with at least two separate adjudications for such major property offenses as burglary, arson, theft over $100, aggravated criminal damage to property, motor vehicle theft, or receiving stolen property over $100.

The application of this definition to a random sample of juveniles adjudicated in Minnesota generalizing to the population of juvenile offenders in the state during 1975 resulted in an estimated population of 650-730 juveniles.

In summary, these reports and studies illustrate the lack of definitional precision used in referring to the phenomenon of serious youth crime. Different studies use different definitions and, as a consequence, arrive at different estimates of the incidence of serious youth crime in particular jurisdictions. In part at least, this is a function of the different research purposes of the studies as well as the jurisdictional variations in legislation concerning the juvenile offender. At the same time, however, these reports are fairly consistent in suggesting that the relative proportion of serious juvenile-aged offenders in different jurisdictions is quite small, and is composed predominately of males at the upper limits of juvenile court jurisdiction, from inner city areas, and disproportionately of minority group youth.

RECOMMENDATIONS FOR ACTION

In common with the different emphases placed upon definitional and incidence information, the different studies emphasize alternative ways of intervening with the target group youth. For example, one of the major findings of the Rand study was that no basis can be found to relate a specific set of treatments to a defined population of serious offenders and, further, that insufficient data were available to support judgments about the relative effects of different treatment approaches. In addition, this report concluded that the important characteristics of relatively successful intervention programs stressed youth involvement, clear definitions of individual tasks and responsibilities, staff role models exhibiting fair, consistent and thoughtful behavior, and structured incentives and rewards.

Two of the recent reports completed in Minnesota came up with opposing program recommendations. The Supreme Court Study Commission, for example, recommended the Minnesota Department of Corrections' plan for providing additional programs and

facilities to deal with the violent juvenile offender. In making this recommendation, however, the report did not support the construction of a special facility for such youth. In contrast, the Hennepin County Task Force strongly recommended the development of a secure facility for serious delinquent offenders.

In a similar vein, the report of the New York State Governor's Panel identified a need to develop small secure facilities for juveniles aged fourteen or fifteen who had committed violent acts. Placement in such facilities was recommended for a minimum of one year, followed by placement in less restrictive programs for up to two additional years.

A strikingly different program recommendation is contained in the report issued by the Vera Institute of Justice for the development of a "continuous case management" approach to dealing with the serious juvenile offender. This recommendation would involve a small group of staff--the case management team--assuming overall responsibility for offender assessment, development of formal placement recommendations to the court, referrals to post-dispositional treatment programs, and maintenance of ongoing placement monitoring as well as post-placement referrals. The case management team would provide few direct services, but instead would develop treatment contracts, organize and coordinate the necessary institutional and community services to be provided, and maintain liaison with the juvenile court. The explicit aim of such an approach is to provide a "single locus of accountability" for the development and provision of services to the serious juvenile offender.

To summarize, the different reports arrive at different conclusions about intervening with a population of serious juvenile offenders. Among the major intervention issues running through these reports are the different bases suggested for dealing with "serious juvenile offenders" as an internally homogeneous group with similar characteristics and needs as distinct from other juvenile offenders. Commonly complicating intervention issues is the question of prediction. Clearly, prediction lies at the core of the juvenile justice system and is a central issue in discussions regarding the serious offender. Both the arbitrary nature of defining the population of serious juvenile offenders, as well as the lack of evidence that any particular set of interventions are effective, place program administrators in the difficult position of attempting to deal with an undetermined population with an undetermined set of interventions to accomplish the goals of protecting the public and aiding in the rehabilitation of the offender. This problem is crystallized in the development and operation of secure treatment facilities. While such programs are commonly designed for a specified population of youth, they commonly tend to operate as a back-up resource for other juvenile institutions. As a consequence, they frequently end up handling youth who cause management problems in those

institutions. Furthermore, by their nature, such secure facilities are likely to become problematic because of the restrictive area available for the confinement of offenders. At the same time, community involvement in the program is impractical because of the small size of the program, the security requirements, and the common practice of locating such facilities at considerable distances from the home community of the youth.

ORGANIZATION OF THE PUBLICATION

The major focus of this publication is on the phenomenon of serious youth crime as committed by youth variously defined as having committed serious juvenile offenses. The papers in this volume are arranged by topic area. The first two papers raise the central themes which run throughout the remaining parts of the book. The next three papers deal with the treatment and control of the serious juvenile offender both within an institutional context and in the community. The subsequent four papers describe specific ways of intervening with serious juvenile offenders in different jurisdictions around the country. The final three papers address specific research, program, and statutory developments which directly bear upon the aims and practices of the juvenile justice system in relation to the serious offender.

AN OUTLINE OF THE PAPERS

The papers in this volume are concerned with serious youth crime--the extent, character, and interventions designed to deal with it. Collectively, these papers summarize a great deal of what we know, identify major gaps in our knowledge, and propose new directions for research and programs. The papers by Franklin Zimring and John Conrad provide an overview of the variety of issues involved in identifying and dealing with serious youth crime. Zimring's paper provides a context for defining the nature and size of serious youthful criminality, while Conrad frames the variety of issues associated with intervening with the juvenile offender and then proceeds to discuss major alternative responses for dealing with this population.

More specifically, Zimring deals with four major themes. First, in relation to the set of issues associated with defining a population of serious juvenile offenders, he suggests that any definition of "serious juvenile crime" is relative, and, in this sense, essentially arbitrary. Different methods of arriving at such a definition will produce different results. For Zimring's purposes, however, criminal activity which poses a threat to the physical security of the individual can be regarded as serious. Obviously, this definition is inclusive and subject to the victim's

definition of the criminal incident. Secondly, Zimring identifies the nature of the empirical information available on the incidence of youth crime and the variety of validity and reliability problems associated with it. In this connection, he notes that according to official statistics, the rate of serious youth crime in America increased substantially between 1960 and 1975 and was concentrated among urban, minority group males. Given the expected decline in the population of youth in American society over the next fifteen years and extrapolating from current youthful offender crime rates, a decline in such behavior can be expected. Likely to at least partially offset this expected decline, however, is the anticipated rise in the urban nonwhite, juvenile-aged population.

At the same time, however, Zimring notes that officially recorded criminal incident data must be regarded as highly suspect, and vulnerable to such validity and reliability problems as: 1) a changing sampling base over time; 2) the lack of adequate quality control procedures; 3) variable clearance rates for youth crime as compared to crimes committed by adults; and 4) the crude nature of the offense categories in use. As a consequence of such deficiencies, Zimring suggests that official statistics are essentially useless for either research or policy purposes. Finally, Zimring notes that more extensive basic research is needed, and identifies some specific research questions about the phenomenon of serious or violent youth crime.

The paper by John Conrad eloquently describes the changing nature of the juvenile justice system, especially in terms of the various demands placed upon it relative to dealing with serious youth crime. As Conrad sees it, the central issue in dealing with serious juvenile offenders is one of protecting the public while refraining from further damaging youth through state intervention. In this respect, Conrad identifies four major responses which either have been, or potentially could be, used in intervening with serious youth offenders: 1) binding-over into adult criminal court jurisdiction; 2) mandatory sentencing within the juvenile system; 3) the use of small, high security institutions for identified categories of serious youthful offenders; and 4) the more extensive use of purchase-of-service contracts with private programs. It is this latter approach which Conrad sees as holding the greatest promise because personnel practices can be more easily adjusted to the situational demands of the youth being served, flexibility for program intervention is increased, and political constraints are less confining.

The next three papers in this volume deal with approaches and methods of intervening with serious youthful offenders. The paper by Jerome Miller provides a context within which to view the more specific set of institution and community interventions identified in the subsequent papers by Donna Hamparian and Ray Tennyson.

Miller suggests that the diagnostic categories and intervention procedures used in labeling and dealing with law violators are a direct function of the cultural context in which they are applied. Accordingly, he argues that it is necessary to understand this context in order to begin to deal with the major issues associated with serious youth crime. Miller takes this point further in his discussion of the reciprocal relationship he sees as existing between the processes of diagnosis and treatment. Our diagnoses, he suggests, result from the set of intervention activities to be applied, and the converse is also the case. Miller argues that an underlying assumption of the systems which deal with youthful social deviants is that they are qualitatively different from the rest of the population. The specific sense in which they are seen as different--"sinner," "possessed," "psychopathic," or whatever--is, in turn, a function of the dominant ideologies of the larger culture. Finally, Miller suggests that our present attempts at dealing with the serious juvenile offender are doubly deficient--lacking an understanding of the problem to be addressed and using unimaginative and inadequate treatment technologies.

Among the other points raised by Miller are the small proportion of juvenile offenders in the population of state training schools who have been committed for the commission of serious offenses, the narrowness and rigidity of juvenile corrections programs, and the common requirement that youth adjust to the treatment being provided or risk being labeled a management problem and thus escalated by the system to more secure corrections programs. This point raises a central issue involved in developing and operating more intensively secure programs for a special category of serious youthful offenders: Do such programs inevitably begin to operate as "dumping grounds" for youth who fail to appropriately adjust in other parts of the corrections system? Recent experience in Minnesota lends weight to Miller's thesis. Implications of this for the ongoing viability of the secure treatment program are serious and potentially lead to the self-reinforcing effects of negative labeling. In this respect, Miller echoes Conrad's discussion of youth raised by the state in unlawful institutions.

The papers by Donna Hamparian and Ray Tennyson add further support to the points made by Conrad and Miller that our present ways of dealing with the serious juvenile offender--both within corrections institutions as well as in the community--are sadly deficient. We simply do not seem to know what to do with such youth. While Hamparian focusses her remarks specifically on current systems of incarcerating serious juvenile offenders, and Tennyson focusses his on programs designed to deal with this group of offenders in the community, both strongly suggest that the current status of such efforts are poor. At the same time, however, both writers offer some tentative directions for change. Among those suggested by Hamparian are the use of

determinate sentencing for juveniles; greater use of the public sector in the delivery of services; research directed at assessing the effects of statutory changes aimed at dealing with young people; and an improved community aftercare system.

Assuming that some type of control response by the community is necessary, Tennyson suggests a host of alternatives to our present practices of dealing with the serious juvenile offender within the community context. Among those suggested are pre-parole institutional contacts with parole officers and significant other people in the youth's life, parent groups, summer educational camps, and the use of financial incentives for refraining from committing delinquent acts.

An implicit assumption running throughout Tennyson's paper is the relative ineffectiveness of current transition and aftercare efforts in dealing with serious youthful offenders. Parole practices are not seen as providing either public protection or individual treatment. The explicit rationale for parole is viewed as essentially irrational. For example, questions can be raised about the logic of expecting that one relative stranger, defined and perceived to be an authority figure, holding significant power over the life situation of a parolee, and meeting with him/her for up to a few minutes a week, can be expected to have a significant impact on the attitudes and behaviors of the youth. The outcome evidence in this regard is fairly clear and seems to suggest either the termination or the radical re-definition of conventional parole supervision. [8] Given the growing dissatisfaction with parole supervision, some of the alternative forms of transition programs discussed by Tennyson may well play a more central role in the future.

The next four papers in the volume focus upon particular types of program responses to the serious juvenile offender. The first three papers are written by directors of state juvenile corrections agencies--Peter Edelman from New York State, Kenneth Schoen from Minnesota, Samuel Sublett from Illinois. The final paper by Shirley Goins presents the central framework of an intensive community treatment program for serious youthful offenders in Chicago.

A number of common themes run through these papers: perceptions of the growing public demand for the imposition of more severe penalties for the population of serious juvenile offenders; involvement of the private sector through purchase-of-service contracts with public agencies; and general support for the traditional juvenile justice precepts of individualized treatment.

All three administrators note the relatively small number of juveniles in their agencies who have been committed on the basis of violent or chronically repetitive

offenses. For example, Schoen notes that only sixty to seventy juveniles in Minnesota could be expected to meet the criteria established for a new program response to serious juvenile offenders. Edelman notes that largely as a result of New York legislation setting the upper age limit for juveniles at sixteen, the number of serious juvenile offenders in that state is relatively small. At the same time, however, both of these administrators describe the growing pressures to do something about more effectively controlling what is perceived by members of the community as a growing menace. As a consequence, correctional administrators appear to find themselves in the terrible position of attempting to at least partially meet public demands while remaining in the traditions of the juvenile court system. While these administrators place different emphases upon the need to retain central ingredients of the juvenile justice system, they do indicate a continued support for the role of individualized treatment provided according to the needs of the youth. Where they most obviously differ is in respect to how services should be structured and delivered. For example, Schoen is strongly against the notion of specialized secure institutional programs for juveniles, while Edelman supports such facilities in his state. Like Miller, Schoen sees such specialized programs as inevitably susceptible to corruption.

The use of purchase-of-service contracts with private agencies for the delivery of services to juveniles is strongly supported and is a central ingredient in the programs described by Schoen and Goins. Vendor relationships between public and private agencies are seen as one way to deliver more individualized services to the offender. This point is also made in the papers by Conrad, Hamparian, and Miller. A crucial problem with contracting for services, however, is the availability of the needed diversity of programs. Another is the question of the availability of needed services in proximity to the youth and the family. Goins notes that needed services have not always been available from established agencies in the Chicago area and that the development of new agencies has, therefore, been encouraged. Whether such services would be available on a statewide basis seems to be even more unlikely. Furthermore, the key assumption of such an approach (that we are able to "fit" specific types of treatments according to individual needs) would seem to be a rather dubious one. Both the evidence in support of such a practice as well as the inherently inequitable nature of individualized treatments, leaves it open to major questions.

As opposed to generally supporting the idea of individualized treatment, these writers take slightly different stands about some kind of determinate sentencing for serious youthful offenders. Both Edelman and Sublett are against flat sentencing, while Schoen seems to support the use of such a practice. In this connection, he suggests that some kind of just deserts approach will be an important ingredient of the Minnesota case management method for dealing with serious juvenile offenders.

Quite clearly, flat sentencing schemes go against the very foundation of the parens patriae doctrine of the juvenile court. As soon as a shift in emphasis is made from dealing with youth on the basis of individual needs to dealing with them on the basis of punishments related to the crime committed, the traditional system of juvenile justice is brought into major question.

The final portion of this volume contains papers by Barry Feld, John Monahan, and Marvin Wolfgang, each dealing with specific legal and research questions bearing upon the serious juvenile offender. Feld identifies major types of waiver procedures and discusses the variety of issues associated with transferring a juvenile for adult prosecution. Wolfgang's paper addresses the question of the extent to which serious delinquent activity is continued into adult criminal careers, while Monahan focusses upon the present state of making predictions--by whatever means--about the probability of individuals committing violent offenses.

The central question raised in different ways in each of these papers is: On what bases and with what procedures as used by what officials should we attempt to distinguish between the serious or "hard-core" and the non-serious juvenile offender? While each of these writers attack this set of questions from a different perspective, they tend to converge in a desire to limit the exercise of administrative discretion and to replace it with legislatively articulated procedures, criteria, and sanctions.

Feld's paper looks at existing judicial, prosecutorial, and legislative waiver mechanisms for transferring juvenile offenders into adult court. Problems endemic to each of the transfer mechanisms are identified, and Feld concludes by arguing for a "reference matrix" to be used in identifying those youth to be certified into adult court.

Monahan's paper deals with a key ingredient of the rehabilitative aims of the juvenile justice system--the prediction of future behavior. More specifically, Monahan reviews the present state of research on the prediction of violent behavior and proceeds to discuss some of the major implications of these findings for the juvenile justice system. Monahan's discussion of the two major types of predictions (clinical and actuarial) raises some disturbing points for the justice system: the danger of overpredicting violence; the need to make explicit the actuarial or clinical criteria in use; the questionable fairness of using relatively enduring characteristics of youth for predictive purposes. In place of the juvenile justice system's concern with predicting future behavior and individualizing treatments in relation to such estimates, Monahan argues for a system of just deserts. The effect of such a practice would essentially amount to dealing with offenders on the basis

of what they have done rather than on who they are. Clearly, such an approach does not necessarily imply that we should stop attempting to help young offenders change their behavior. Instead, it amounts to a recognition of the likely futility, and certain disrespect, associated with attempting to predict future behavior and coercively attempting to change it. Therapeutic procedures of a non-coercive type are not necessarily precluded from a model of just deserts.

The final paper by Marvin Wolfgang examines questions about the extent to which juvenile offenders continue criminal behavior into adulthood. On the basis of a more extensive follow-up of the cohort of males born in Philadelphia in 1945 and who lived in that city from at least their tenth to their eighteenth birthday, Wolfgang is able to present some detailed findings on the relationship between juvenile and adult criminal behavior. Among the major research findings reported by Wolfgang are the following:

- Most adult offenders had an arrest record as a juvenile; only a small proportion of the cohort group had an arrest record only as an adult.
- Most juvenile offenders--and especially white offenders with only one or two arrests--are not rearrested as adults.
- As the age of offenders increases up to thirty, the seriousness of offenses also increases.
- There is an extremely high probability that after a fourth offense, the offender will recidivate.
- Proportionately many more nonwhites than whites are involved in serious juvenile and adult criminal behavior.

While it is tempting to generalize the findings reported by Wolfgang to other times, locales, and populations, such extrapolations are not technically warranted. The circumstances unique to the cohort born in that place and at that time, by definition, distinguishes them from other youth. The crucial issue is the extent to which they differ, and only further replications of Wolfgang's research will begin to provide us with an answer.

A major policy implication of Wolfgang's research is the need to concentrate our juvenile justice resources on those juvenile offenders found to have committed multiple serious offenses. Because those juveniles adjudicated for three serious offenses had an extremely high probability of further delinquent or criminal involvement, it then follows that the greatest proportionate reduction in criminal activity can potentially be achieved by concentrating our limited resources on this group. The major problem with this approach, as Wolfgang is well aware, is the sad state of our interventions. At a minimum, however, Wolfgang suggests that a system of just

deserts, based upon a cumulative level of offense seriousness, is the direction in which to move.

FOOTNOTES

1. Dale Mann, Intervening With Convicted Serious Juvenile Offenders (Washington, D.C.: National Institute for Juvenile Justice and Delinquency Prevention, 1976).

2. Paul A. Strasburg, Violent Delinquents (New York: Vera Institute of Justice, 1977).

3. Governor's Panel on Juvenile Violence, "Report To The Governor From Kevin M. Cahill, M.D., Special Assistant To The Governor On Health Affairs," panel report (Albany, N.Y., 1976).

4. Marvin E. Wolfgang, Robert M. Figlio, and Thorsten Sellin, Delinquency In a Birth Cohort (Chicago: University of Chicago Press, 1972).

5. Supreme Court Juvenile Justice Study Commission, Report to the Minnesota Supreme Court (Minneapolis: University of Minnesota, 1976).

6. Children and Youth in Crisis Project, The Violent and Hard-Core Juvenile Offender in Hennepin County (Minneapolis, 1976).

7. Alternative Definitions of "Violent" or "Hard-Core" Juvenile Offenders: Some Empirical and Legal Implications (St. Paul: Governor's Commission on Crime Prevention and Control, 1977).

8. See, for example, some of the research conducted on different sized case loads or different amounts of parole supervision: James Robison et al., The San Francisco Project; Final Report, Research Report Number Fourteen, April, 1969; State of California, Special Intensive Parole Unit; Phase One, Thirty-Man Caseload Study, Division of Adult Paroles, December, 1958; Joan Havel, Special Intensive Parole Unit; Phase Four, The Parole Outcome Study, Research Report Number Thirteen, State of California, Research Division, Department of Corrections, September, 1965; Reed Adams and Harold J. Vetter, "Probation Caseloads Size and Recidivism Rate," The British Journal of Criminology, October, 1971; Stuart Adams, "Some Findings From Correctional Caseload Research," Federal Probation, December, 1967; Joe Hudson, An Experimental Study of the Differential Affects of Parole Supervision For a Group of Adolescent Boys and Girls; Summary Report (Washington, D.C.: Law Enforcement Assistance Administration, 1973).

2. THE SERIOUS JUVENILE OFFENDER: NOTES ON AN UNKNOWN QUANTITY

FRANKLIN E. ZIMRING

All societies fear their young, and all but the most successful traditional or totalitarian social orders have good reason to be afraid. In the United States, risk-taking, rebellion, and the conscious violation of social norms are part of the rites of passage for the adolescent. Some criminal activity on the part of the young is almost universal in the transition from adolescence to adulthood. Most adolescent crime is not serious, not repetitive, and not predictive of future persistent criminal careers. Some adolescent criminality is serious, repetitive, and predictive of future criminal activity. This paper explores the concept of "serious juvenile crime." The underlying theme is that definition in any precise terms is not possible, but whatever one's definition of "serious" or "juvenile," the serious youthful offender represents a small but increasing portion of the youth population. The serious young offender, whoever he or she may be, is a special problem, both because of the severity of the criminal harms inflicted and because of the special and tragic choices that serious youth criminality imposes on the legal structure.

The first section of this paper explores some definitional issues involved in the discussion of serious juvenile offenders. The second section discusses the limited information available on patterns and trends in serious youth criminality from official arrest statistics. The third section discusses the limits of official statistics on youth arrests as a basis for discussing serious juvenile crime. The fourth section suggests four critical issues that future research efforts must address before significant progress can be expected.

I. TOWARD A DEFINITION OF THE SERIOUS JUVENILE OFFENDER

Crime in the United States is primarily the province of the young. Males between the ages of thirteen and twenty-one comprise about 9% of the population, but over half of those arrested for serious property crimes and more than one third of those arrested, are classified by the police as "violent" crimes. [1] The proportion of young people involved in serious and violent crime has been growing because rates of offenses among the young have been growing faster than the youth population. [2]

Any discussion of the serious juvenile offender requires an investigation into what law and culture regard as "juvenile" crime, as well as some analysis of the thorny issue of how "seriousness" is to be measured.

Juvenile crime is not a species of behavior restricted to a particular age group, nor is it etiologically different from all other forms of crime; rather, it is the invention of the legislature in the fifty-one jurisdictions in the United States that create boundary ages between juvenile and adult courts. Crime is concentrated in the adolescent years--sixteen is the peak year of arrest for property crime such auto theft, larceny, and burglary, while eighteen is a less dramatic peak for arrests on charges of violent offenses such as rape and robbery. How many offenses and how many offenders are classified juvenile depends upon the age border between juvenile and criminal court jurisdiction adopted by particular jurisdictions. At present, the maximum age of juvenile court jurisdiction ranges from an offender's sixteenth birthday in New York and a few other states, to the nineteenth birthday in Wyoming; the majority of the states using the age of eighteen. When the jurisdictional vagaries of the juvenile court are matched up against patterns of criminality during adolescent years, it is clear that the serious juvenile offender is not far removed from the serious young offender in criminal courts. The decision to divide and age-segregate groups is a legislative one, largely arbitary in the states, and not the basis for an etiologically differentiated criminology based on the magic word "juvenile."

If the definition of juvenile criminality is largely arbitrary, the definition of serious crime invites the analyst to embark on a difficult and utlimately illusive search for an acceptable standard of severity. The theft of a bicycle or a dog is a relatively minor event in the ongoing business of an urban society--unless it's my child's bicycle or my family's dog. The burglary of a dwelling is a frequent event in American life, perhaps shrugged off by husbands, if the property loss is minor, but regarded more seriously by wives, if the security of the home setting is invaded. One notion of the seriousness of offenses is the degree to which the individuals involved feel a sense of loss as a result of the infliction of criminal harms. This is a totally subjective definition, necessarily imprecise, and incapable of being quantified into a scale that can mesh the victim's sense of the severity of crime with statistics on the incidence of crime and arrest in any aggregate measure.

In contrast, there is a somewhat more objective definition of seriousness available in the general social view of what people, in the abstract, regard as serious crime. This concept, animating several recent efforts to "scale" seriousness of criminality, [3] is both subjective and objective. It is subjective in that it takes the abstract conceptions of several different interest groups as the baseline for

measuring the severity of crime. Thus it depends upon the collective judgment--in a subjective form--of particular audiences to define the seriousness of crime in a particular cultural context. Yet it is objective in the sense that it involves a large segment of relevant publics--not simply victims of particular crimes--and thus can be seen to represent a cultural consensus about the seriousness of particular offenses. Such scaling efforts are useful in a general sense, to separate the serious from the trivial, but they cannot provide precise lines between serious and non-serious criminal acts, nor can they be relied upon to provide a precise cultural consensus on what constitutes serious crime. [4]

A third method of defining serious crime is the "value informed" selection of serious offenses. In my own view, offenses involving substantial threats to life or to a sense of personal safety and security are more serious than the burglary of unoccupied dwellings, most forms of vandalism, and the vast majority of all larcenies. In making that judgment, however, one must rely on one's own judgment about the relative severity of offenses. Such "value informed" choices ultimately involve the priorities of those who are discussing either serious offenses or serious offenders. Basically this is undemocratic because it does not rely on the social consensus involved in the scaling efforts derived from survey research that provide a mixed subjective and objective view. This process also leads to radically different definitions of seriousness, depending upon who is in charge of definition. Such an approach is, however, superior to scaling efforts in two respects. First, to the extent that official statistics can be utilized, a value informed choice of seriousness that concentrates on violent offenses is easier to translate from the aggregate pattern of arrests into a general portrait of the serious youthful offender. Second, concentration on life-threatening forms of violent crimes state an appropriate priority scheme for any system of sanctions, in juvenile or adult courts, that is designed to protect first things first. On present information, it cannot be argued that life-threatening attacks between blacks is accorded the kind of penal priority that I would wish it to have. [5] But it can be argued that criminal acts by the young that involve threats to the life of their victim are a special category of criminal activity that should be separately analyzed in the construction of social policy toward young offenders.

What then is serious? To the victim, anything with special impact on his/her life. To the general public, anything that sounds serious. For the purposes of this paper, the particular forms of adolescent criminal activity that involve serious threats to life or a sense of physical security of victims and potential victims of violent crime will be the focus of attention. If this pattern of value selection is imprecise, it can be defended because any definition of seriousness in the context of juvenile crime is equally imprecise. Imposing personal values on the search for a

standard of seriousness is no less arbitrary than imposing the values of various sub-publics in scaling exercises. It is also, in my view, superior to totally subjective judgments that rely upon victim perceptions.

II. PATTERNS, TRENDS, AND CONCENTRATIONS--A LOOK AT OFFICIAL STATISTICS

Any balanced analysis of serious crime among the young must conclude that it is concentrated in urban areas, concentrated among males, and concentrated among minorities. Table 1 below shows the concentration of F.B.I.-classified violent crime in urban areas.

TABLE 1

Serious Crime by City Size
United States, 1975 (Ages 15 - 20)

(Arrests per 100,000)

	250,000 City Size	All other areas	Ratio of City/Other
Homicide	21.3	6.7	3.2
Rape	55.5	19.9	2.8
Aggravated Assault	396.0	187.0	2.1
Robbery	678.0	110.0	6.2

Source: F.B.I. Uniform Crime Reports, 1975.

Table 2 shows the concentration among males.

TABLE 2

Arrest Rates for Persons Under 18* Years of Age
by Offense and Sex (excluding Rape), 1975

	Male	Female	Male/Female Ratio
Homicide	3.6	0.4	9.0
Robbery	111.7	9.3	12.0
Aggravated Assault	76.8	15.0	5.1

Source: F.B.I. Uniform Crime Reports, 1975.

* Data not available for 18-20 year-olds.

Table 3 shows, for crimes of violence, the extreme concentration among racial and ethnic minorities using as an example the ratio of black to white arrests per 100,000 young males in five American cities.

TABLE 3

Ratio of Black to White Arrest Rates, per 100,000 Youths, by Crime in Five Cities *
(Ages 15 - 20)

Homicide	7.2
Robbery	8.6

* Boston, Chicago, Cleveland, Dallas, Washington, D.C.

Source: Zimring, "Crime, Demography and Time in Five American Cities," (forthcoming).

Table 4 shows the increase in adolescent violent crimes as estimated using police arrest statistics between 1960 and 1975 reported in the Uniform Crime Reports.

TABLE 4

Arrests by Crime for Persons under 21, Adjusted for Changes in Clearance Rates.
1960-1975

	1960	1975	% Increase
Homicide	973	4,891	403%
Rape	3,064	11,500	275%
Robbery	15,141	106,806	605%
Aggravated Assault	12,342	77,968	532%

The 1975 arrest data was adjusted to reflect decreases in the clearance rates from 1960 to 1975 for the indicated offenses using the following formula:

$$\text{Adjusted Arrests}_{1975} = \frac{\text{1960 Clearance Rate}}{\text{1975 Clearance Rate}} \times \text{Arrests}_{1975}$$

The urban clearance rates for 1960 and 1975 are used in the formula since urban clearance rates closely reflect rural and suburban rates, and since urban arrests make up the vast majority of total arrests. Federal Bureau of Investigation, Uniform Crime Reports, 1960; Federal Bureau of Investigation, Uniform Crime Reports, 1975, Table 21.

To the extent that official statistics portray reality, violent youth crime has increased substantially, and the increase remains substantial when controlled for the increase in the general youth population and the changing racial mix of the American center city. These increases in rates of criminality have occurred during a period that also produced increases in the total youth population and an expansion of the youth population of urban nonwhite males.

If current trends are projected into the future, the forecast is both good and bad news. The good news is that the general youth population will decline over the next fifteen years. Those crimes that are democratically distributed among the youth population will therefore probably decline. Such offenses include vandalism, burglary, non-life-threatening assault, larceny, auto theft, and offenses against public morality and order. Only a sharp increase in the rate per hundred thousand of such youth offenses can offset the coming decline in the youth population. Dramatic increases in the rate of offenses per hundred thousand youth are not unthinkable. If the rate per hundred thousand of such youth offenses continued to accelerate at its 1962-75 pace, the volume of many of these offenses could actually increase. Such an acceleration is improbable. More likely is a leveling or a decline in youth crime.

The bad news would concern those violent crimes that are concentrated among minority populations in urban areas. The urban, nonwhite adolescent population in the United States will grow during the next few years, and then level off during the period between the mid-1980's and 1990's. [6] Rates of violent crime concentrated among minority populations cannot be expected to decline as a simple function of the decrease in the youth population most prominently at risk for these offenses. However, the volume of violent criminality are extremely rate sensitive. Whatever led to the apparent rise in the rate of violent crime could plausibly be a part of a cyclical pattern where crime rates decrease among a stable population. The large, unexplained, and still tentative decrease in violent crime which has occurred in many cities since 1974 may or may not be a hopeful augury for future rates of youth violence. [7]

Despite the problems associated with drawing inferences from official statistics, there is little doubt that the 1960-75 increases in the volume of violent youth crime and the rate of extremely serious youth crime are real. Independent studies of police offense reports, as opposed to aggregated police statistics, show dramatic increases in youth homicide and robbery where police statistics can be used as decent, if imperfect, measures of trends in youth criminality. With respect to homicide, conscientious attempts to control for the changing nature of the population, the tendency for police to make multiple arrests in cases of young offender violence, and the vagaries of age-specific arrest reporting by police departments reveal a residual increase in serious offenses by the young of compelling dimensions. [8] It is difficult to generalize from these studies of particular cities any specific estimate of how much of the apparent increase in serious youth crime nationally is genuine. The increases noted during the fifteen years from 1960 through 1975 and the spotty pattern of decrease first appearing in 1975 remain largely unexplained.

It is the thesis of this paper that continued reliance on police arrest statistics instead of on basic research would make the prospects of further enlightenment dim. To illustrate this point, Section III addresses some of the severe limitations of police statistics for interpreting trends in youth criminality. Section IV outlines some vital scientific and policy questions that must be addressed before the social science community can have a useful portrait of the violent young offender.

III. THE LIMITATIONS OF OFFICIAL STATISTICS

The most concrete demonstration of the weakness of depending on uniform crime reports as a data base on youth crime comes from asking a set of straightforward empirical questions about youth criminality which official statistics cannot answer. Any serious student of violent youth crime would wish to know:

a. How many intentional homicides were committed by offenders under eighteen in 1960, 1965, 1970, and 1975?

b. How many armed robberies are attributable to offenders under the age of eighteen over the same historical time series?

c. How many gun and knife assaults were committed by offenders under the age of eighteen last year or twenty years ago?

The remarkable thing about America's system of reporting crime statistics is none of these questions can be answered from available aggregate data. This is not simply a function of the historical inadequacy of the Uniform Crime Reports. None of the above data will be available when the next edition of the Uniform Crime Reports appears.

Some of the defects in using official age-specific arrest statistics are well known; others are less widely recognized. It is well known, for example, that estimating youth crime rates from arrest statistics is misleading, because young offenders are more often arrested in groups, and an extrapolation from arrest statistics to crime statistics would thus substantially overestimate the number of offenses committed by young offenders. It is also known that age-specific arrest statistics are based on a sample, rather than the total population of arrests in the United States. Less widely known is the fact that the sample of jurisdictions used to construct an age-specific profile is a shifting one, and in some instances year-to-year changes that appear to be dramatic indicators of shifts in youth crime are actually attributable to changes in the jurisdictions sampled. In recent years, a shift from yearly to monthly age-specific reporting produced an artifical emphasis on city arrest statistics in 1974 that inflated the trends attributable to 1973-74, and created a situation where 1974-75 trends may have been moderated by the changing nature of the sample. [9]

The well-known defects in official arrest statistics pale in comparison with less widely advertised flaws. Age-specific arrest statistics are unaudited data accepted by the F.B.I. rather than subjected to any kind of rigorous quality control. For example, age-specific arrest statistics for St. Louis, Missouri in 1960 reported adult arrest and crime rate approximating those of other major cities, but reported arrests of offenders under twenty for robbery and burglary that were, when controlled for population, roughly one-tenth those experienced in comparable jurisdictions. [10] By the time the error was dected, sixteen years later in an independent effort, it was too late to find out whether:

a. the St. Louis Police Department had simply missed a digit in reports for robbery and burglary arrests;

b. the Department had intentionally under-reported them; or

c. the Department had found a cure for youth criminality that eludes so many other major metropolitan areas.

Lack of auditing casts doubts on the veracity of age-specific arrest statistics not only in St. Louis, but also in many other cities reporting data that are poured into the aggregate sample reported by the Federal Bureau of Investigation each year.

A more subtle problem is estimating the detection or clearance rates for young offenders. In many cases, this rate may exceed those for older persons, and thus artificially inflate the role of young offenders in particular criminal acts. For example, sixteen year-olds are roughly five times as likely to be arrested for auto theft as twenty-one year-olds. To some extent, this is an indication of a higher crime rate among younger adolescents. But it also must be recognized that an inexperienced sixteen year-old driver is a far easier detection candidate than a twenty-one year-old who has more familiarity with the basic skills of driving and a greater ability to elude arrests for traffic offenses that frequently lead to the auto theft charge.

All of these problems are compounded by the fact that the publicly available data on age-specific arrests are aggregated samples of cities that experience widely different patterns and trends in youth arrests. The portrait presented of crime-specific arrests "by age" for cities is an amalgamation of many different cities with different trends; this national sample assumes that all cities combined on a weighted average basis are the appropriate unit for analysis and research on youth crime. There is no ovbious reason to believe that this assumption is correct.

Finally, age-specific arrest statistics are reported only by general categories of events. In the crucially important and high volume arrest categories of aggravated assault and robbery, there is no way to distinguish gun from knife from unarmed robbery, and no mechanism available in the aggregate statistical analyses to tell the difference between fist fights and shootings. [11] In these two categories of offenses against the person, the variance within crime categories is as important or more important to intelligent scientific research and policy planning than the variance between these offenses and other index crime. [12]

The impact of these deficiencies in official arrest statistics on their use as scientific tools is not accretive, it is cumulative. Lack of auditing alone would be sufficient reason for severe skeptism in the social science research community. The long, still incomplete list of statistical difficulties cited above is a devastating critique of the use of aggregated official age-specific statistics as a basis for scientific research on the profile of the serious juvenile offender.

Many of the difficulties listed above are curable through reform of the methods by

which age-specific arrest statistics are collected, audited, and reported. It is important that such cures to a serious disease be pursued with deliberate speed. Yet, the extraordinary unreliability of age-specific arrest statistics may be a blessing in disguise. No matter how much aggregate national statistics on arrest can be improved, they cannot be used as a primary research tool to answer vital scientific and policy questions about the extent and seriousness of youth criminality. The important questions are questions for research using official records and self-report studies, rather than the subject matter for sophisticated manipulation of highly suspect data. To some extent, this is rendered obvious by the flaws in our present official reporting system. However, the need for careful multi-method research is inherent in the nature of the questions that must be addressed about the serious juvenile offender. The sad state of official statistics only makes more obvious what is in any event imperative. Investment in basic research--a long, slow, and expensive process--is a necessary, if not sufficient, condition to comprehending the realities of serious youth crime in diverse American settings.

IV. IMPORTANT QUESTIONS WITHOUT ANSWERS

This section presents an incomplete but significant list of issues for research in the etiology, concentration, and control of serious youth criminality. The four issues highlighted here are by no means an exhaustive list of the questions that social and policy scientists should be addressing through careful, replicative, and expensive studies.

a. How concentrated is youth criminality?

b. What are the social, criminal justice, and age settings that predict multiple episodes of serious criminality?

c. What is the duration and intensity of careers in violent crime among different types of youth offenders?

d. What is the extent to which variations of social control responses to serious youth crime can be expected to effect:

1) the crime rate among young persons at risk, and

2) the general crime rate in the community?

Despite our capacity to orbit men in space, we in the United States know less about these issues than the Norwegians, the Danes, and the English. But the questions are more important in the American context, because rates of criminality are higher and the costs of serious youth crime, particularly in large cities, are incalculably greater in the United States than in any other western democracy.

A. THE CONCENTRATION OF CRIMINALITY

In strict logical terms, groups do not have crime rates. To speak of blacks, males, sixteen year-olds, or any other aggregate population that share a common demographic quality as having a "crime rate" is misleading. It is particularly misleading because the labels described above are an incomplete and dangerously misleading portrait of the actual distribution of serious youth criminality. A primary task of research on the concentration of serious youth crime is to disaggregate the macro-variables used in common discussion and to examine gross variations that exist within demographically similar groups with different rates of criminal activity.

In logical terms the search for the answer to the question, How concentrated are crime rates? would lead to the individual level. But in policy terms the key question is, How many young offenders and what proportion of the population within larger subgroups are responsible for how much reported serious youth criminality? It is clear that simply combining sex, age, race, and socio-economic status is a dangerously incomplete method for addressing the real concentration of youth crime. Any such limited approach both overstates the general propensity toward crime among the group under study, and understates the concentration of offensivity among particularized subgroups aggregated into this larger whole. At a minimum, geographic and more refined social status and achievement measures must be added to the creditable cohort studies initiated in Philadelphia. My suspicion is that intensive research will find the distribution of the most serious forms of criminal activity concentrated in areas or zones far smaller than the macro-demographic characteristics that have been used in crime research now indicate.

The heart of the matter is discovering whether and to what extent there is a criminal class in the United States, and exploring the social, geographic, educational, and peer-structure origins of the conditions which lead to high concentrations of violent criminality. These questions are more important now than at any time in this century. Yet most of the good research that would provide insight on this topic is dated. The Shaw and McKay studies pointed social science in the right direction almost fifty years ago.[13] The Philadelphia cohort study is also of great value in framing and answering questions relating to the concentration of criminal

activity within the youth population, yet even this most important modern study dealt with a sample of subjects who turned eighteen when rates of violent youth crime were less than half the current levels. [14]

B. BREEDING GROUNDS FOR CRIME

In a general sense, much is known of the correlates of violent juvenile and adult criminality. Poverty, minority status in the context of racial discrimination, the value orientations of particular youth cultures, and the institutions and values surrounding youth populations are importantly correlated with the propensity toward violent crime. [15] The difference between correlation and causation is, however, an important one. Moreover, the kind of general insights available in the present literature are too crude either to predict or to explain why some subgroups of the population have extremely high rates of violent youth crime. [19] If poverty alone breeds crime, particularly violent crime, one would expect that the violent crime rate, historically, would be much higher than official statistics indicate, and that violent crime rates would have decreased over the past decade. [16] If the relevant measure of poverty is relative rather than absolute, we must search for an appropriate measure of relative deprivation and find plausible ways of explaining why relative deprivation leads to violent crime among only a minority of the most deprived.

The search for correlates, predictors, and ultimate causes of serious youth offensivity is no less necessary because it is difficult and frustrating. If violent youth crime is extremely concentrated, it necessarily follows that the social, cultural, demographic, and geographic settings that differentially predict rates of serious crime are a combination of pathological ingredients that occur with relative rarity in the American city. The broader the distribution of violent criminality among urban populations, the more likely it is that a relatively short list of corollary conditions can explain variations in the rule of violent youth criminality.

Studies of the causes of crime and delinquency are frequent, and calls to intensify the search for the community and individual correlates of violent crime might strike the reader as banal repetition of a 1940's social science homily. Yet however long the list of contributions to understanding what contributes to different rates of crime and delinquency, the present research base is totally incapable of explaining the expansion of violent crime rates that has occurred over the past fifteen years, and would have been totally incapable of predicting such a course of events in 1960. [17] Predicting trends in youth criminality is dependent upon producing a plausible model of the conditions that foster crime that can explain to some extent

what has happened in American cities over the past fifteen years and why.

C. THE DURATION AND INTENSITY OF VIOLENT CRIMINAL CAREERS

Future criminal behavior is notoriously difficult to predict. At the same time, there is public policy emphasis on identifying (and incapacitating) "career criminals." Yet, suprisingly little is known about the duration and intensity of the careers in violent crime.[18] The questions are clear: When do adolescents turn to violent crime? Is there any pattern of specialization associated with a violent young offender or is there frequent crime "switching?" What is the frequency of commission of violent crime for those young offenders who commit such acts? How long do violent young offenders persist in committing offenses? A combination of self-report and cohort studies is needed to begin to answer these questions. One of the most important contributions of these studies will be a shift in focus from "the violent young offender" to the variety of different types of violent offender who may have importantly different criminal careers.

D. DOES SOCIAL CONTROL MAKE A DIFFERENCE?

After a long period of neglect, social and policy scientists have begun to address the issue of measuring the deterrent and incapacitative effects of punishment. To date, the scientific results have been mixed. Relatively fancy statistical and operations research modeling have been applied to relatively crude data. But the potential exists for meaningful explorations into the impact of general deterrence and of incapacitation on crime rates.

The rekindled interest in deterrence and incapacitation has so far been confined to the study of sanctions delivered by the criminal courts.[19] The impact of variations of social control strategy on juvenile offenders is a neglected area of research. Paradoxically, it may be possible to gain more insight about the marginal deterrent impact of sentence severity by studying variations in social response to youth crime. The fact that offenders age out of the juvenile system in New York on their sixteenth birthday but are retained until the age of eighteen in Pennsylvania is a natural research opportunity to discover: 1) whether juvenile and criminal courts deliver substantially different levels of punitive sactions, and 2) whether whatever difference is noted makes any difference in the pattern of serious youth criminality. The existence of waiver provisions may be seen as somewhat confounding this type of analysis, but recent research has shown that for an offense such as robbery, very few juvenile offenders are waived.[20]

If the sanctions delivered to young offenders make relatively little difference in

crime rates, the juvenile justice system can make decisions that balance retributive community needs with policies for avoiding stigma and facilitating chances for young offenders to develop within the community. If the crime preventive potential of variations in sanctions is high, policy toward serious youth crime faces harder choices. In such a setting, the juvenile justice system must balance the interests of potential victims against the interests of young offenders, where the state has a positive obligation to protect both groups. But whether or not social control policy variations make a large difference in crime rates, it is better to know this than to operate a juvenile justice system that is essentially in the dark. If hard choices are to be made, they should be made on reliable data rather than on conjecture.

* * *

This is a difficult but interesting period for those in the social sciences concerned with crime and delinquency. The received wisdom of years past has been overtaken by events. The upward trend in violent youth criminality remains largely unexplained even as we enter a period when the fever chart of reported youth criminality is moderating. There are no short-cuts to understanding violent youth crime in the 1970's. Much of the research proposed in this paper may be "dated" by the time it is completed if trends in youth crime remain as volatile as they have been. Still, one would hope that government and the social science community will show the necessary patience to provide a sustained and coordinated research program in an area of vital policy significance.

FOOTNOTES

1. U.S. Department of Commerce, Bureau of the Census, U.S. Census of Population: General Population Characteristics (Washington, D.C.: U.S. Government Printing Office, 1971), Table 50; Federal Bureau of Investigation, U.S. Department of Justice, Uniform Crime Reports--1975 (Washington, D.C.: U. S. Government Printing Office, 1976), Tables 37-38.

2. It is possible, of course, that the same proportion of the youth population is simply "working harder," but expansion of offenses such as homicide and the size of the increase suggest some expansion of the proportion of young persons involved in serious criminality. See Table 4, infra, at p. 19.

3. Marvin E. Wolfgang and Thorsten Sellin, The Measurement of Delinquency (New York: John Wiley and Sons, 1964); Alfred Blumstein, "Seriousness Weights in an Index of Crime" (Paper prepared for Urban Systems Institute, 1974).

4. Zimring, Eigen, and O'Malley, Punishing Homicide in Philadelphia: Perspectives on the Death Penalty, 43 University of Chicago L. Rev. 232-233 (1976).

5. Ibid., Table IV.

6. Franklin E. Zimring, "Dealing With Youth Crime: National Needs and Federal Priorities" (Report to the Coordinating Council of the Institute for Juvenile Justice and Delinquency Prevention, 1975), p. 38.

7. Federal Bureau of Investigation, Department of Justice, Uniform Crime Report--1974 (Washington, D.C.: U.S. Government Printing Office, 1975), Table 39; Federal Bureau of Investigation, Department of Justice, Uniform Crime Report--1975 (Washington, D.C.: U.S. Government Printing Office, 1976), Table 41. See Section 3, infra.

8. Richard Block and Franklin E. Zimring, "Homicide in Chicago, 1967-1970," Journal of Research in Crime and Delinquency 10 (1973): 1-12; Franklin E. Zimring, "Crime, Demography and Time in Five American Cities" (Paper prepared for the Hudson Institute Project on Criminal Justice Futures, 1976).

9. The change in reporting procedures in 1974 produced a decrease in the base population and the number of agencies reporting age-specific arrest data in 1974. Criminal justice agencies retooled their reporting methods quickly and both the base population and the number of agencies reporting greatly increased in 1975.

	1973	1974	1975
Base population	154,995,000	134,082,000	179,191,000
Number of agencies reporting	6,004	5,298	8,051

The age-specific arrest rates produced from this data show dramatic increases in youth crime from 1973 to 1974 and less dramatic, but significant, decreases in 1975 for all ages surveyed (15-23). The severity of the increases in 1974 suggest that the altered reported mechanism produced an urban bias in 1974. A complete analysis of this phenomenon requires a detailed breakdown of the reporting agencies, not only into a city-suburban-rural classification, but by city size, as well. The inclusion or exclusion of New York City, for example, could influence age-specific crime rates greatly.

10. The defects in the St. Louis data take on ironic significance in light of the fact that St. Louis was commended by the President's Commission on Law Enforcement and the Administration of Justice for the implementation of controls over the quality of its police reporting in 1959. The 1959 Annual Report of the St. Louis Metropolitan Police was quoted, as follows:

"To assure, insofar as possible, that reports are being made of all crime, when and where it happens, the Board of Police Commissioners is utilizing the services of the St. Louis Governmental Research Institute to conduct periodic audits of reports submitted by the police. These audits, made by a sampling technique, are designed to determine not only whether police officers who have responded to calls from citizens for police service are reporting crimes against the citizens' person or property, but also whether the officers are properly reporting these crimes." President's Commission on Law Enforcement and Administration of Justice, Crime and Its Impact--An Assessment (Washington, D.C.: U.S. Government Printing Office, 1967), p. 24, footnote 90.

Arrests Rates per 100,000 for Males Ages 20-29,
Robbery and Burglary, Six Cities, 1960

	Population 20-29	# Arrests	Rate per 100,000
ROBBERY			
St. Louis	44,117	14	32
Cleveland	55,762	328	588
Boston	51,116	151	295
Dallas	42,108	93	221
Chicago	215,782	907	420
Washington	56,835	383	674
BURGLARY			
St. Louis	44,117	23	52
Cleveland	55,762	306	549
Boston	51,116	209	409
Dallas	42,108	216	513
Chicago	215,782	951	441
Washington	56,835	637	1121

Zimring, "Crime, Demography, and Time in Five American Cities," Table III, p. 13.

11. Although data on arrests for aggravated assault and robbery by age are published in the Uniform Crime Reports, there is no age-specific information on weapon use by age for either offense. "Aggravated assault is defined as an unlawful attack by one person upon another for the purpose of inflicting severe bodily injury usually accompanied by the use of a weapon or other means likely to produce death or serious bodily harm. Attempts are included..." FBI, Uniform Crime Reports--1975, p. 20.

12. Franklin E. Zimring, "Determinants of the Death Rate for Robbery: A Detroit Time-Study," in Journal of Legal Studies (forthcoming, 1977).

13. Clifford R. Shaw and Henry D. McKay, Juvenile Delinquency and Urban Areas, revised edition (Chicago: University of Chicago Press, 1972).

14. Marvin E. Wolfgang, Robert M. Figlio, and Thorsten Sellin, Delinquency in a Birth Cohort (Chicago: University of Chicago Press, 1972). The cohort of Philadelphia boys followed in the study was born in 1945: they were 18 years old in 1963.

15. Donald J. Mulvinhill and Melvin M. Tumin, with Lynn A. Curtis, Crimes of Violence: A Staff Report to the National Commission on the Causes and Prevention of Violence (Washington, D.C.: U. S. Government Printing Office, 1969); Task Force on Juvenile Delinquency, President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Juvenile Delinquency and Youth Crime (Washington, D.C.: U. S. Government Printing Office, 1967).

16. James Q. Wilson, Thinking About Crime (New York: Basic Books, 1975).

17. Ibid.; Richard A. Cloward and Lloyd E. Ohlin, Delinquency and Opportunity (Glencoe, Illinois: Free Press, 1960).

18. National Academy of Science, Report of the Panel on Deterrence and Incapacitation (Washington, D.C.: U. S. Government Printing Office, forthcoming).

19. Ibid.; Franklin E. Zimring and Gordon J. Hawkins, Deterrence (Chicago: University of Chicago Press, 1973).

20. Joel Eigen, Untitled (Ph.D. dissertation in preparation, University of Pennsylvania, 1977).

* Ellen Fredel, a second year student at the University of Chicago Law School, provided valuable research support in the preparation of this paper.

** Professor of Law and Director, Center for Studies in Criminal Justice, University of Chicago.

3. WHEN THE STATE IS THE TEACHER

JOHN P. CONRAD

If official behavior and public policies are reliable guides to our collective attitudes, Americans do not like other people's children, especially the children of the poor. We begrudge them support at a standard of living above mere survival. We educate them in generally old and dilapidated schools, and we prefer that poor children be kept separate from those who are born to more affluent families. The truth is that we are afraid of poor children, particularly those of other races. Like children of all classes, these children from time to time confirm our fears and our dislike of them by committing atrocious and frightening crimes.

The problem is old, but a new response is emerging. It is a hard line which justifies punishment as the only method for teaching good conduct to those children who do not learn virtue at home. Thus Ernest van den Haag, a leading exponent of the value severity:

> After the age of thirteen, juveniles should be treated as adults for indictment, trial, and sentencing purposes. Once they are in penal institutions or in confinement, they may be held separately and treated differently...To be sure, most juvenile offenders come from particularly trying backgrounds and home situations. However, there is no evidence that such home situations have become worse compared with what they were twenty years ago. Yet there are more offenders among juveniles. They are the product of the leniency of the law--of the privilege granted them--as much as anything else. [1]

Although I am not venturing here on a critique of this author, I cannot refrain from calling attention to the magnificent sample of *post hoc ergo propter hoc* reasoning embedded here in a paragraph written by a savant so widely extolled for the rigor of his logic. Many social changes have occurred in the past twenty years, among which the increased leniency of the courts which van den Haag presumes is only one. The inference of cause from effect is a frail structure for the support of new social policy. Elsewhere van den Haag carries this line a little farther:

> ...many offenders are classified as juvenile delinquents to be "reformed" rather than punished, and others--far too many--are excused as mentally incompetent. "Reform"--custody for juveniles have not been shown to be more effective than simple imprisonment. Incompetents referred to psychiatric institutions may be kept for

> life or for a few months, depending on utterly capricious psychiatric judgments. [2]

The essence of these quotations is the message of severity first. Like so many less articulate contemporaries, van den Haag truly believes that increasing severity will decrease crime like the operation of a pulley. The speculative quality of this conclusion does not deter him. He has heard from the statisticians that the rehabilitation of offenders has been tried and does not "work." [3] It takes a tough mind to face futility, and van den Haag, along with many others in the juvenile justice system itself, has decided that it is a futile effort to improve the behavior of delinquents by measures other than punitive intimidation. Concern about our inability to help the serious juvenile offender may be dismissed as the sentimentality of the incorrigible optimist. In van den Haag's world, realism is the recognition of the value of punishment without proving it.

The hard line has not yet prevailed everywhere, but its reception by ordinarily thoughtful reviewers shows how seriously it must be taken. Its implications are ominous for the future management of children in the most serious kind of trouble. The view of human nature on which it rests does not reassure the optimist about the direction of the change of moral values in the society in which these children and law-abiding citizens confront each other.

The jeremiad which I have just delivered is a prelude to another. The conventional administration of juvenile justice against which van den Haag has inveighed has little cause for self-congratulation, particularly when we consider the problem of the serious juvenile offender with which we are concerned in this seminar. Because of the fragmentary nature of the data, a conclusive assessment of the system is impossible. Like the critics of whom I have been so critical, I must argue from a mostly non-empirical brief.

There are, however, some data, and I shall do what I can with them. Let us begin with the Uniform Crime Reports as a benchmark. In the 1975 edition of that annual compilation, we find that persons under eighteen were arrested for a total of 72,867 violent offenses--murder, forcible rape, robbery, and aggravated assault. That was an increase of 54.0% over the same figure for 1970. It was 24.5% of all the violent crimes for which arrests were made in 1975. [4] The F.B.I. cautions that these figures measure law enforcement activity, not necessarily numbers of offenders. Two or more persons may be arrested for the same offense, and some individuals may be arrested more than once during a year. Still, there is some reason to think that violent crime committed by juveniles is a large share, perhaps a quarter of all the violent crime committed in our turbulent society.

But the same table also shows that juveniles committed 663,440 "index" offenses, of which the crimes against the person constituted only 11%. This fraction would diminish toward a vanishing point if all the non-index and status offenses chargeable against juveniles could be added into the sum.

We can see that the imposing total of crimes against the person committed by juveniles becomes numerically trivial when compared with the total load of juvenile delinquency. But the F.B.I. data cannot tell us how many serious juvenile offenders find their way into court, nor can we say how many of those who are brought to adjudication are placed under official control. These are difficult questions to answer, as my colleagues and I have been discovering in a study of violent juveniles conducted as a part of the Dangerous Offender Project.

Using police records of Columbus, our home town, as our source, we have traced the official fragments of the delinquent careers of 811 persons born in the years 1956-58 who were arrested in Columbus for the commission of a violent offense before reaching the age of eighteen. This is a total cohort comprising all persons born in those years who were arrested for crime against the person. These 811 persons were arrested for 987 offenses which were classified as violent. They were also arrested for 2,386 non-violent offenses in the course of their juvenile careers. Review of the records suggested that not all of the 987 violent offenses were really serious. Many of the assault and battery arrests were the results of trivial fights in which no damage was done. Limiting the definition of violent crime to those offenses which are index crimes against the person, as defined in the Uniform Crime Reports, we had 449 arrests which resulted in the disposition reflected in Table 1, shown on the following page.

I do not know whether this response is as severe as Dr. van den Haag and like-minded critics would like. I cannot compare these data with those of any other city. My colleagues and I think that the juvenile justice system in Columbus is reasonably efficient. When nearly half of the juveniles who are found guilty of violent offenses receive a custodial disposition, something serious happens to a large number of serious violent offenders in our city. Indeed, if we can disregard the purse snatchers as no more than quasi-violent, the number of guilty individuals in this table who find their way into custody rise to 53%. We have not yet been able to compare the consequences of these dispositions; we shall not be surprised if recidivism rates are rather high across the board, and in this respect we believe Ohio will be found to be like most other states with large urban populations.

TABLE 1. DISPOSITION OF 449 ARRESTS FOR INDEX CRIMES AGAINST THE PERSON CHARGED AGAINST A COHORT OF 811 PERSONS BORN IN 1956-58 WHO WERE ARRESTED ONCE OR MORE FOR VIOLENT OFFENSES COMMITTED IN COLUMBUS, OHIO, BEFORE THE AGE OF EIGHTEEN*

	Offense													
	Homicide		Aggravated Assault		Forcible Rape		Aggravated Robbery		Unarmed Robbery		Purse Snatching		Totals	
Disposition	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
State Institution	4	27	15	17	7	17.5	38	52.8	22	17.9	21	19.3	107	23.8
Detention/Jail	1	7	10	11	4	10.0	1	1.4	19	15.4	19	17.4	54	12.0
Other Placement	0	0	1	1	1	2.5	0	0	2	1.6	1	0.9	5	1.1
Probation	0	0	11	12	3	7.5	3	4.2	23	18.7	12	11.0	52	11.6
Reprimand & Release	0	0	25	28	4	10.0	1	1.4	16	13.0	9	8.3	55	12.2
Disposition Incomplete	4	27	4	4	4	10.0	13	18.1	9	7.3	15	13.8	62	13.8
Not Guilty	5	33	22	24	16	40.0	15	20.8	31	25.2	28	25.7	104	23.2
Unknown	1	7	2	2	1	2.5	1	1.4	1	0.8	4	3.7	10	2.2
TOTALS	15	101	90	99	40	100	72	100.1	123	99.9	109	100.1	449	99.9

* Table excludes all charges for violent crimes which were not index offenses.

Newspaper reports insistently convey the message that the situation is out of control in the largest cities. We are told that the courts are so burdened that due consideration of cases is impossible and that vicious young thugs are able to "get away with murder," because nobody really knows what is going on. Although I do not doubt the veracity of at least some of these reports, data are insufficient to give us a clear picture of the discrepancies between serious delinquency and its disposition. If the conditions in the family and juvenile courts of our largest cities are as bad as they are said to be, it is unlikely that any amount of data could be assembled to make this sort of assessment. Chaos is by definition unmeasurable, but it must be expected when the volume of work to be done far exceeds the numbers and skills of personnel available to do it.

We must take note of disorganization at a catastrophic level as a significant distortion of the state's response to the serious juvenile offender. It is important that the disorganization should be described and that remedies should be indicated. Attempts to apply the statistical quantification of social science should be sparingly made: where accurate records have not been kept, there is nothing to be gained by statistical analysis.

But even if the workload is not as unmanageable as it is represented to be, even if we could be sure that in every city most serious juvenile offenders are picked up by the police and promptly placed under the court's control, the fundamental problem would remain. It is not an organizational problem to be solved by the improved training of the police or the selection of more and better juvenile court personnel. It is a conceptual problem of deciding on a constructive and effective response to the serious juvenile offender. In this respect, I contend that we are virtually bankrupt. Our ideas are threadbare and our programs are worse; all too often they continue the production of the "State-Raised Youth" so well described by John Irwin.

Irwin identifies four themes in the world of the state-raised youth. First, violence is the proper mode of settling an argument, and a man must be ready to inflict it and face it. Second, membership in cliques commands loyalties and defines values. Third, homosexuality defines an exploitative and often violent caste system, whereby sexual conduct is based on the ability to exercise force and the complementary deprivation of masculinity which results from subjugation. Fourth, is the fantasy of the "streets" as a temporary sojourn for orgiastic pleasures, a place for holidays from the real world of the institution. Irwin sums up this product of the youth corrections system:

> The world view of these youths is distorted, stunted, or incoherent. ...the youth prison is their only world, and

> they think almost entirely in the categories of this world. They tend not to be able to see beyond the walls. They do conceive of the streets, but only from the perspective of the prison. Furthermore, in prison it is a dog-eat-dog world where force or threat of force prevails. If one is willing to fight, to resort to assault with weapons...he succeeds in this world. [6]

No one wants to raise youths like this. Indeed, legislators, judges, and correctional officials will be unanimous that this is precisely the kind of result that they do not want to get. But this is a kind of young man that reform schools have been raising for many decades. Such young men are still being raised, mainly because the state is not sure what else to do with them once it gets them.

II.

The absence of ideas and the inappropriateness of programs for the management of the serious juvenile offender as a separate class is a familiar state of affairs. The inadequacies of youth correctional facilities are staple items for reformist rhetoric. The traditional reform school has been denounced, and roundly, for many decades. Modifications of architecture, program activities, and staff orientation have indeed taken place. But the more it changes, the more it is the same. The hideous old battlements, which our nineteenth century forebearers built with the apparent intention of scaring kids into better behavior, have been demolished or at least remodeled. The occasional survival of this legacy of oppression is unanimously deplored and its use justified on account of the absence of funds to replace it. Discipline by "cadet officers" which was once the mainstay of order in the reformatory has gone for good, and so has the unsightly and humiliating lockstep. The vestiges of military programming which remain are the harmless elements of a noxious tradition. Generally, it is accepted that such facilities should be quite small, and that staff should be qualified to administer a resocializing program.

The new dilemmas confronting state agencies in planning residential treatment for youth have only recently become matters of general recognition. The title of our seminar, "The Serious Juvenile Offender," is novel. We have not been accustomed to differentiating this or any other class in the workload of juvenile delinquency. For years, enlightened judges and probation officers have operated on the principle that it is desirable to limit the penetration of the juvenile corrections system so far as possible in considering the disposition of any delinquent boy or girl. Therefore, some kids went on probation, and only those who seemed to be unmanageable in the community went into training schools. The nature of the offense obviously had something to do with the disposition, but the ideology prevailed, and still does,

that the nature of the child's difficulty rather than the nature of his/her offense should determine his/her treatment. The population mixture in the institutions includes delinquents of an extremely serious order and others whose infractions of the law have been close to insignificant. But once arrived at the institution, treatment tends to be undifferentiated except as to its duration. Its content depends on present behavior rather than on the events which brought the youth into the custody of the state. Considering our uncertainty about measures which can be expected to prepare people in custody for a return to the community, this lack of differentiation is entirely understandable. So far, our experiments in differential treatment have been inconclusive for the formulation of new policy.

The need for change is in the air. Perhaps we may attribute its recognition to Professor Wolfgang and his colleagues, who first called attention to the momentous potential for harm contained in a small group within the Philadelphia Birth Cohort designated as chronic offenders. [7] Perhaps it was the alarm of a number of juvenile court judges who have been critical of the ineffectiveness of youth corrections but have not had any alternative disposition available. Certainly the fascination of the media for the youthful mugger and rapist has put the entire juvenile justice system on the defensive. Whatever the sources, we now have a consensus that there is a Serious Juvenile Offender, and that the state's response to him/her is inadequate for the protection of the public.

As I have already noted, this order of classification is new and inconsistent with the traditional suppositions of the juvenile court in the years before Gault. During that long period in which our ideas about youth crime and its treatment took form, became standardized for practice, and eventually came under such fundamental challenge that they could not survive as constituting a paradigm controlling further development, the presumptions about delinquency were simple. The juvenile delinquent was by definition a child in trouble--a far different matter from a determination of guilt for an offense, as Gault [8] was to show. It then became the task of the court and the correctional system to remedy the trouble. The nature of the offense was not the determinant of the decision. Rather, the child was to be seen as a whole person, and the magnitude of his offense was not necessarily the measure of the intervention needed. No practice is as simple as the elegant theory which prescribes it, and, of course, steps were taken to assure that such an exceptional person as the teenage-murderer would be kept under control for a longer period of time than a peer whose offense was less grave, even if the lesser offender's social or psychological problems might be more severe. The post-Gault court has discarded some of these assumptions. The parental role will undoubtedly be further dismantled. The juvenile court in this country will no longer rely on the concept of parens patriae but will become a specialized criminal court for small

adults. The primary difference between the juvenile court and the criminal court will be found in the limits on sentencing procedures. The way is clear for a new and more rigorous disposition of the serious juvenile offender.

It is at this point, I think, that we encounter the root issue which justifies this seminar. I believe we can maintain that it is the most serious problem--among so many other serious problems--now confronting American jurisprudence. We are here to discuss the changes which legislators and judges must bring about in the administration of juvenile justice if severely damaged children are not to be further damaged by the actions of the state. The circular misery in which the Wolfgangian chronic delinquent is entangled is both personal and social. The ruin of his/her lifetime begins early and menaces everyone around him/her.

It should be a primary consideration in the administration of justice that the court shall do no harm. The prospect ahead is that harm may well be routine. In this seminar, we must concern ourselves with the modification of that prospect; we wish to minimize the damage done to children under the protracted control of the state. As for the larger world of creative jurisprudence, I ask, In what other domain of action must judges and lawyers confront the probability that decisions they make and actions they take will not redress wrongs done, but rather will initiate new and even more grievous wrongs?

III.

At this point, we need to consider the directions in which our thought about the Serious Juvenile Offender is taking us. It certainly cannot be said that our anxieties about him/her have propelled us far into the realms of innovation. Public discourse seems to be limited to four major themes for the modification of the official response to the problem of violent crime when committed by children. I think it will be useful to discuss these options as specifically as I can because each of them illustrates the obstacles to constructive change.

First, there is the response of the juvenile court to the exceptionally serious offense, ordinarily committed by a minor whose maturity in criminal behavior is all too apparent to everyone in contact with him/her. Such a case can be, and often is, declared inappropriate for adjudication in the juvenile court and is "bound over" for regular criminal proceedings in an adult court. It would be interesting to know how many cases are handled this way, of what types, and with what consequences. Unfortunately, the statistical picture is murky. The Uniform Crime Reports have for many years published a table entitled, "Juvenile Offenders taken into custody,

by type of disposition and size of place." Inspection of the column headed, "Referred to criminal or adult court" for the years 1972-75 reveals that for the country as a whole, in 1972 there were 16,439 such referrals, accounting for 1.3% of the total dispositions. In 1973, the corresponding figures were 18,767 and 1.5%. But in 1974, the total number of reporting agencies doubled and the number of bind-overs increased to 63,527 or 3.7% of all dispositions. In 1975, the total number of reporting agencies increased from 8,649 to 9,684 covering a population coverage which increased from 160,000,000 to 180,000,000. Yet, the number of bind-overs decreased from 63,527 in 1974 to 38,958 in 1975, representing 2.3% of all dispositions.[9] I have gone into this detail because I have not thought of a way to account for the apparent reversal of this trend, except to charge it off as an artifact of criminal justice bookkeeping. I think it is an obligation of the social scientist who makes discoveries of this kind to call them to public attention in the interest of reminding a credulous world of the difficulties inherent in making sense out of official statistics. We can only say that in the universe of juvenile dispositions the referral to an adult court occupies an inconspicuous space. Whether they amount to 40,000 or 60,000, they are not proportionately a large part of the solution to juvenile delinquency. We are unable to say what fraction of the universe of serious juvenile offenders is bound over for the supposedly sterner adult procedures. The population bases in the Uniform Crime Reports vary so widely from table to table that it is impossible to go into one table with data from an adjoining table to make such estimates with any confidence at all. I ask you to keep this example in mind because it illustrates the statistical confusion which the nation faces in defining and understanding juvenile justice policy problems after all these years of the Uniform Crime Reports and the earnest efforts of the Law Enforcement Assistance Administration to create a usable data base for criminal justice policy-makers.

In our cohort of 811, there were thirteen boys bound over to the adult court for a total of fifteen offenses. Two were sixteen; the rest were well past their seventeenth birthday. Except for two burglaries, the offenses were extremely serious crimes against the person, including three murders. It is impossible to say how typical of other cities these data are, but certainly recourse to the bind-over has so far been minimal in the data now available to us.

Still, we have no firm data on the number of bind-overs which occur or even whether there is a trend to use this option more frequently. That says nothing of the types of cases bound over, the actions taken by the adult criminal court, or the consequences of those actions for the individual, for the correctional system to which he is committed, or to the community at large for the supposed protection of which the juvenile is converted into an adult. We shall have to wait patiently until some future year for data which can facilitate an informed discussion of these issues.

Although we cannot measure, we can inspect the logic of the waiver of juvenile court jurisdiction and consider where it will lead us. In the days of the pre-Gault court (which, we must remind ourselves, still prevails in philosophy if not in some procedures), the rationale is logical. The custodial facilities which the juvenile court can command are juvenile institutions. Jurisdiction over any ward is limited to the duration of his/her minority--with some adjustments in the law of some states. If the court has to consider the case of a seventeen year-old chronic recidivist charged with a heinous crime, it is understandable that it would wish to assure control beyond the maximum of four years to which its jurisdiction is limited.

The commitment of an experienced young violent offender with previous commitments to juvenile institutions to yet another such facility is difficult to defend, as in either the boy's interests or in society's. The institution for older delinquents is balanced on an opposition between a staff culture and a criminal culture which is easily tipped. The contribution of the boy to the criminal culture is likely to outweigh the positive benefits he may gain from the commitment. The court has every reason to ask, Why on earth continue the pretense that this young thug is a child in trouble? Why should he not be counted as a young adult in the prison system rather than an old child in the youth corrections system?

The answer to these questions is anything but obvious. For the boy himself, the advantage of yet another youth commitment is less time to serve--although in states which are experimenting with mandatory sentences for juveniles, the advantage will be narrower than it used to be. For the state, the value of more time served by an adult commitment is increased incapacitation of a young man of whom the community is afraid. There is also the popular belief that an adult commitment will be more effective in achieving the goals of general deterrence and intimidation. This belief has yet to be convincingly verified, but skeptical critics of the system have not yet shaken it with data. Whatever the truth may be about these issues, the chances that the offender himself will be better for the experience of incarceration in either system are negligible. The bind-over will accomplish a longer incapacitation and a more vigorous expression of community outrage. These are negative accomplishments, and their value is impossible to verify.

The bind-over is an option available to the juvenile court, and it is exercised in different ways by different judges. Indeed, we hear that in some communities minors ask to be bound over, evidently believing that the chances for leniency are greater in adult than in the juvenile courts. But the uncertainty about the propriety of the bind-over hides a conceptual vacuum. We don't know what to do with this apparently dangerous youth, so we put him away for as long as we can. The most we can hope for is that the experience will be so unpleasant that he will do whatever

he can to avoid its repetition.

I do not know of any evidence on the effectiveness of incarceration in the intimidation of any offenders from the commission of further crime. The data on recidivism available to me appear to show that a majority of the people released from prison--perhaps as many as 60%--do not recidivate.[10] I doubt that they have been rehabilitated, so I will tentatively conclude that intimidation has motivated them to keep out of trouble. But we are talking about a Serious Juvenile Offender. He is usually a chronic recidivist for whom incarceration holds few unacceptable terrors. Even if intimidation is effective for many prisoners, it is least effective for him.

Is this all we can do? Is it reasonable to concede so much to the prevailing pessism? The worse aspect of the consensus that "nothing works" is the corollary to which it leads: nothing can work. As logical as the bind-over seems to the judge and the public, the consignment of the young aggressive recidivist to prison is an admission of defeat. The record of youth training facilities with such young men is discouraging, but the structural and programmatic faults in most of them glare at us so obviously that it is clear that improvements must be possible if we have the will to undertake them. To excuse the juvenile justice system from the effort on the ground that "nothing works" is to admit that society is indifferent about results. Against the occasional bind-over of the truly exceptional delinquent as an individual case I will not complain. But to define a class of offenders who may be bound over is to create a policy which closes out the prospect of change. There must be continuing pressure on administrators, clinicians, and researchers to generate a better solution for this troublesome fraction of the delinquent population than the Deep Six to which the tough-minded "realists" are willing to consign them.

The reverse of the bind-over strategy is the mandatory sentence for the Serious Juvenile Offender. Instead of sending him/her off to an adult prison, he/she is to be kept in the juvenile justice system two to three years. I do not hear from advocates of this policy any suggested activities to fill up those years. That would not matter if the professionals who are responsible for the design of programs appeared to have any treatment innovations in mind. They don't. We are asked to make the same act of faith in the usefulness of a mixture of incapacitation and intimidation implied by advocates of more bind-overs.

The emerging solution--as the category of the Serious Juvenile Offender takes form as a class for which there are criteria for selection--is the secure facility, usually rather small, usually well-provided with staff positions, and usually quite expensive to operate. If dollars were the only measure of our concern, it would be

clear that despite my jeremiads, our society has not given up on these young people. But again, we have a conceptual vacuum.

Two examples will illustrate the point. The publication last year of Juvenile Victimization by my diligent colleagues, Bartollas, Miller, and Dinitz, provides us with an account of how things go in a well-designed, fairly new (1961), and generously staffed (145 staff for 192 residents) facility for aggressive older boys in Ohio. [11] Although most of the problems in maintaining control are recognized by the staff, the culture is exploitative and criminal. Many of the staff are so fearful of their charges that they hide in the security of their offices. A constant testing of the courage and resourcefulness of the others seems to go on. When residents are out of the sight of staff, there is considerable violence and sexual imposition, following, as if by prescription, the theoretical analysis which I have quoted from Irwin. In the air is a climate of intimidation with all the roles which result from that kind of interaction. The program itself consists of the usual mixture of counseling, remedial education, and vocational training. It is supported in the institutional program statements by such language as:

> [Our goals are] to promote positive attitudinal and behavioral change within an atmosphere of mutual respect and personal dignity; to provide a resident with opportunities to gain an increased understanding of himself, others, and his environment; and to learn to meet his needs in socially acceptable ways. [12]

The institution which is described in the Bartollas-Miller-Dinitz study is not atypical, except that the discrepancies between intentions and performance have been documented with painful thoroughness. This is a situation in which the staff still has the last word, but the dominant boys among the residents enjoy most of the control. Those familiar with the literature of youth training schools or who have had access to oral accounts of how things have been for the last half-century will recognize this facility as the legitimate heir of an old and disgusting tradition. One can account for the persistence of the tradition: staff idealism erodes in the incessant backwash of unrealized expectations, training is insufficient to prepare recruits for the interactions ahead, leadership by seniors is perfunctory and rhetorical--the list can go on. To my mind, the primary failing to which this dismal list of failings is attributable is the compromise with residents over lawful conduct. Once that compromise has been made and unlawfulness has been overlooked, the hope for creating a civic culture is gone. As the authors of this powerful book put it:

> ...instead of modeling themselves after other professional staff, the professional staff is subverted and adopts the

> style and values of the residents...[A]s long as personnel are in the institution, they must react and respond in resident terms. The turf belongs to the inmates... [13]

These failings of the conventional youth corrections facility are well known, and an understanding of them is certainly not my special preserve. Because the youth correctional facilities of Massachusetts shared most of these unpromising characteristics, along with some special handicaps peculiar to a bureaucracy too long entrenched, Commissioner Miller initiated his celebrated experiment with deinstitutionalization. It has been described so frequently that one hardly knows which account to cite, but I will call attention to the most recent one, that of Ohlin, Miller, and Coates. [14] Massachusetts has never been able to deinstitutionalize its youth corrections program in the strictist sense of the word. There are still Secure Care Units for the management of extremely aggressive youth in units of a dozen, with a staff almost as large. Although data are hard to come by--these are not the programs on which Miller and his disciples wish to rest their case--the usual length of stay seems to be less than a year, and the administrative pressure on the staff is to get kids out rather than to keep them in.

My own observation of this part of the Massachusetts program was brief, quite possibly unrepresentative, but provocative. The facility was at some distance from downtown Boston, an enclave of delinquents on the grounds of a mental hospital. It was in the charge of a pleasant young man whose commitment to the cause shone through his realistic estimate of the prospects for success as it is usually understood in activities of this kind. He noted that most of his twelve youths were without families that were interested in them, most had been committed for extremely serious crimes of violence, and most had educatinal and social handicaps of massive dimensions wholly apart from the handicap of a record of frequent and grievous delinquency. In his words, "Most of these guys have been moving so fast through life that they decide what they should do after they have done it. All we can do is to slow them down." He gave us as an example of the process of deceleration an incident that had occurred that morning, before my arrival. Pointing to a small stereo speaker on the floor opposite his desk, he said, "One of the boys threw that at me this morning because I had turned him down on a home visit--he wasn't ready for the privilege. I asked him why he did it, and he said it was because he was so mad at me. Then after thinking it over for a minute, he went on to say, 'I guess I wasn't as mad as I would have been a month ago. I wouldn't have missed you then.'"

The program consists of remedial education, some athletics, and some group counseling. Except for the lack of vocational training programs, the very small size of

the population and its undiluted composition--everybody's tough--the program has a family likeness to the program in the much larger Ohio institution. I would suppose the Massachusetts people would subscribe to the official Ohio objectives as I transcribed them earlier in this paper. But slowing violent delinquents down--the realistic stated goal of the Massachusetts program manager--does not seem to me to be a sufficient objective. It is a step ahead of the treatment which such boys receive in most states. It may be that its success will be more apparent than its staff expect. After all, the history of corrections is strewn with blasted expectations, and the wise manager will mute his hopes with modesty. But when experience with this kind of offender is considered as a frame of reference for assessment of the Massachusetts adventure and its underlying concepts, I do not see much reason to expect a greatly improved performance. The Harvard report to which I have referred found that recidivism from secure care units was in the order of 60%, much higher than any of the other residential or non-residential placements. An interesting additional finding is made: there seems to be less recidivism among those who began in secure care and ended there when compared with those who were transferred from a less secure program to secure care. In a system like this, the impact of program failure has its own special significance.[15] A possible interpretation of such a finding is that where the system is as eager for success as is the case in Massachusetts, the client's failure within the system adds a confirmation to his expectation of failure in the conventional world.

Massachusetts is not the only state with experimental work under way to discover a more effective way to hold and help the Serious Juvenile Offender in spite of him/herself. The very small living unit which is characteristic of the Massachusetts program may well be an essential feature of the system of the future; at least it offers the most likely laboratory for the development of whatever successful approach may be feasible. It is too early to say what we can expect, but at least it is probable that many of the repulsive effects described by Bartollas and his colleagues can be entirely avoided. I suspect that the Massachusetts planners believe that there is a way to be found for improved control and treatment which will not require the maintenance of even the tiny Secure Care Units which now seem necessary. If our seminar is re-convened five years hence, we may be much more definitive in our recommendations to states wishing to undertake an optimal program.

I said that there seems to be four approaches to the problem of the Serious Juvenile Offender. Binding over the older ones converts them into adults. To require a mandatory sentence of two or three years is tantamount to changing part of the juvenile justice system into an essentially adult system in which incapacitation is the primary goal. To modify the existing system by developing specialized secure units constitutes an act of continuing faith in the state as a vehicle for treatment.

Each approach calls for the state to continue raising youth.

These three propositions contain within them the foundations of doubt. As to the first two, we back down on our national commitment to a fair start for children. Perhaps we can give up on the adult offenders, or some of them, as too scarred, too damaged to be accessible to help. I do not think we are yet willing to give up on the sixteen or seventeen year-old kid who has foundered in delinquency because of the mismanagement of his/her early years by the adults in his/her life. As to the third proposition, the placement of these minors in small state institutions, we have only too much reason to believe that state agencies for the extension of help to people needing help will become bureaucratized, impersonal, and preoccupied with procedures. There are many things that only the state can do well, but the management of human relationships is not one of them.

So the fourth policy option is the regeneration of the private sector. In a sense, this choice has always been available. Children of the upper classes who get out of control have for many years been sent away to military academies or similar residential schools for attention and discipline which they could not get at home. Some of these facilities may be well managed; some are certainly frauds against distracted parents. We don't really know much that is objective about these places, but there are suspicions that in keeping the bad rich boy out of a reform school, his parents may not be getting a much better bargain from the boarding school which is willing to take him in.

The state as <u>parens patriae</u> has money to spend, too. Nobody really knows anything definite about the traffic in difficult children--often across state lines--which gets them out of institutions in which they are unmanageable and places them into group homes, camps, or private institutional situations which are willing to manage them for a price and which are able to make a profit from that price. Obviously, there should be much more known about this situation, and it may well be that it is one of those many entrepreneurial activities of modern times which needs a federal regulatory agency to assure the maintenance of standards.

All that is by way of recognition is that the private sector is not necessarily an avenue toward the conversion of the Serious Juvenile Offender into an inoffensive but productive citizen. Nevertheless, I think there are a number of reasons for supposing that most of the future progress to be made in improving the state's response to this figure of our concern may lie in this direction. I would like to wind up my contribution to this discussion by outlining my reasons for believing that enlightened policy should go as far as it can in the encouragement of the private sector to care for these kids and to create programs for their socialization.

First, as I have indicated earlier, the state is not well adapted to the helping role. I think that is as it should be. The state should prevent avoidable misery, but it has no business making individuals happy or morally better. Its tools are those of management and order; its procedures are bureacratic; its agents cannot express the state's love or concern because the state is not an entity capable of love and concern. Impersonality, fairness, and rationality are what we expect from the state. It is not to take risks, and although it may and does experiment, the experiments it conducts are directed at the improvement of state services, which sets a special boundary to the possibilities for improvement.

Second, the kinds of services which Serious Juvenile Offenders need do not lend themselves to the kinds of careers for which civil servants are recruited and around which they build their lives. The pattern of thirty or so years in the same service, with promotion by seniority, civil service and union rules about hours, duties, privileges, rights, and training is workable for a fire department or for highway construction and maintenance. It is much less appropriate when the work to be done is in the influencing of others by example, counseling, and control. It is even less appropriate for the special tasks which those assigned to the Serious Juvenile Offender must carry out.

All of us know in our bones what the problem is. The best of intentions and the highest of motivations will erode with emotional fatigue. It is a rare man or woman who can confront hostility professionally and constructively for the duration of a normal civil service career. Some day, some salty young resident will sling a stereo speaker at the staff member and the response will be inappropriate, not because the counselor is new and untrained, but rather because he/she is too experienced and burnt out. I suggest that ways have to be found to enlist energetic and well disposed young people to work for a few years only in facilities of this kind. I don't think that such a way can be found in the civil service.

The third problem is one of leadership. It has been my observation that the best programs revolve around the personality of a manager or director who possesses that atrribute which we call, for want of a better word, charisma. Examples come readily to my mind, and probably to the mind of anyone else who has watched schools, counseling services, group therapy, and even prisons, and I won't labor my examples now. We should make it easier for people of this kind to build programs that fit their potential contributions. I don't think that conventional state procedures lend themselves to the kind of voluntarism which the charismatic leader requires for scope, happy accidents to the contrary not withstanding.

Fourth, a private employee is much more easily hired or fired than a civil servant. Although it is untrue that civil servants cannot be fired (I have seen it done) the difficulties will daunt all but the most determined manager and will certainly detain him/her from more profitable uses of his/her energies.

Finally, as Dr. Miller has frequently pointed out, it is a lot easier to get rid of an unsatisfactory program which is on a service contract to the state than it is to phase out a budgeted state program. In either case, the Commissioner of Corrections, or whoever is in charge, does not have an easy task. Other arrangements have to be made for service, pressures to continue the program in spite of poor performance will usually be heavy, and the Commissioner is in the politically undesirable position of making a considerable number of enemies and few, if any, friends. But it is easier to refuse a new contract than to close down a bad state program, and failure is a contingency for which provision must be made.

I cannot prove that the private sector is the best hope in this unpromising challenge to the state's competence. Obviously, if we are to choose this route, we cannot expect an overnight transformation. Legions of young men and women are not out there eagerly waiting for their chance to show what they can do with these troubled and sometimes frightening young offenders. Nor is there an obvious category of people-serving organizations who can channel their energies into constructive service.

And even more obviously, once we have state funds transferred to private organizations for the provision of services, there will be abuses and shortcomings and failures which could have been prevented had adequate precautions been taken. The state will still have standards to set and practices to regulate. It will, however, be out of the business of regulating itself, but it will still be the teacher.

Many years ago, Mr. Justice Brandeis wrote:

> Our government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by example. Crime is contagious. If the government becomes a law breaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy.

He was not writing about the operation of facilities for the management of the Serious Juvenile Offender, but his point extends to our problem. What the state finds itself doing in even fairly well run juvenile facilities is condoning unlawful conduct by allowing a criminal culture to control the turf. This is exactly the example which cannot be permitted in residential facilities. It may be possible

to avoid it in a state facility, but I suggest that we will all be a little safer if we turn the task over to the concerned entrepreneur who is willing to comply with the state's guidelines and to do as the state requires, but not as the state itself has so commonly done in the past.

What do we want the state to teach? I think that whatever else is taught--from welding to the primal scream--the lessons have to take place in a lawful community, one in which violations of the criminal law do not occur, or, if they do, they result in immediate adverse consequences. Obviously, life outside is not like that. The Serious Juvenile Offender usually comes from a nearly lawless society and will return to it. That cannot excuse the state from its duty to assure that while he/she is in custody, he/she is safe and prevented from unlawful conduct. We don't know what good observance of this principle will do, but we know all too well what harm will be done by not observing it.

FOOTNOTES

1. Ernest van den Haag, Punishing Criminals; Concerning a Very Old and Painful Question (New York: Basic Books, 1975), p. 249.

2. Ibid., p. 164.

3. Uniform Crime Reports, 1974, Table 31, p. 183.

4. Robert Martinson, "What Works?--Questions and Answers About Prison Reform," in The Public Interest 36 (Spring 1974): pp. 22-54.

5. Nicholas Pileggi, "Inside the Juvenile-Justice System: How Fifteen Year-Olds Get Away With Murder," New York Magazine, vol. 10, no. 24 (June 13, 1977), pp. 36-44.

6. John Irwin, The Felon (Englewood Cliffs, New Jersey: Prentice-Hall, 1970), pp. 26-29. See also for another and confirming account, Malcolm Braly, False Starts (Boston: Little Brown, 1976), pp. 36-60.

7. Marvin E. Wolfgang, Robert Figlio, and Thorsten Sellin, Delinquency in a Birth Cohort (Chicago: University of Chicago Press, 1972).

8. In the Matter of the Application of Paul L. Gault and Marjorie Gault, Father and Mother of Gerald Francis Gault, a Minor, Applicants, U. S. Supreme Court, October Term 1966, 1 Crim. Law Reporter 3031-3054.

9. Uniform Crime Reports, 1972, Table 21, p. 116; 1973, Table 21, p. 119; 1974, Table 25, p. 177; 1975, Table 25, p. 177.

10. See Uniform Parole Reports, December, 1976, published by the National Council on Crime and Delinquency, for the most optimistic estimate of prison recidivism.

11. Clemens Bartollas, Stuart J. Miller, Simon Dinitz, Juvenile Victimization, The Institutional Paradox (New York: The Halsted Press, 1976).

12. Ibid., p. 31.

13. Ibid., p. 273.

14. Lloyd E. Ohlin, Alden D. Miller, Robert B. Coates, Juvenile Correctional Reform in Massachusetts (Washington, D.C.: U. S. Government Printing Office, 1977).

15. Ibid., pp. 77-78.

4. SYSTEMS OF CONTROL AND THE SERIOUS JUVENILE OFFENDER

JEROME G. MILLER

The title of this paper, in a sense, speaks to the paradox and indeed the dilemma which confronts those who would understand or deal effectively with the problem of violent offenses committed by juveniles. Most public concern, media comment, and, unfortunately, most scientific research, relate only to one or the other side of the dichotomy. More often than not, we focus on either the systems of control (training schools, new treatment modalities, ideologies of deterrence, etc.) or on the description of the serious juvenile offender (new diagnostic criteria, actuarial or psychological profiles, life histories of potentially or actually dangerous juvenile offenders, etc.). In our constant search on the one hand for the most effective system of control, and our seeking of the most valid diagnostic or labeling process for the serious juvenile offender on the other, we may be redoing the wheel every decade or so to fit current professional ideology or public hysteria about youth, without addressing in any meaningful sense the issues which underly the dialectic. As a result, we are caught up in a dilemma of either prematurely over-defining and overpredicting violence in juvenile offenders, or of overpromising the capacity of our so-called systems of control (or treatment) to deliver effective results.

I propose to examine some of the reasons for this pattern and to make tentative recommendations as to how we might break out of the self-defeating, self-fulfilling cycle in which we are presently caught.

The search for the "answer" in understanding the social deviant, be he/she "violent" or not, is hardly a new one. From the diagnostic indicators outlined in the medieval "Witches Hammer," to Lombrosian theory, to the psychoanalytic approaches of Lindner or Cleckley, to the latest round of "Aha" diagnosis of Yochelson, the futile search continues. Taking an historical perspective, however, one cannot but marvel at how closely the particular diagnoses, labels, and descriptions of behavior coincide with particular public concerns or political ideologies of the day. Denis Chapman, the British writer, has commented, for example, that Lombrosian theory of criminality coincided neatly with the prison regimens of the Victorian times. He notes, for instance, that D. L. Howard, the British criminologist, asserted that the punitive English practice in penal institutions of the late 19th century found a felicitous ally in Lombrosian theory.

> The DuCane Regime (named after a British prison administrator), far from following public opinion was successful in directing it to some extent. Men and women went into prison as people. They came out as Lombrosian animals shorn and cropped, hollow-cheeked and frequently as a result of dietary deficiencies and lack of sunlight, seriously ill with tuberculosis. They came out mentally numbed and some of them insane; they became the creatures, ugly and brutish in appearance, and stupid and resentful in behavior, unemployable and emotionally unstable which the Victorian middle classes came to visualize whenever they thought of prisoners. Much of the prejudice against prisoners which remains today may be due to this conception of them not as the common place, rather weak people the majority of them really are, but as a composite caricature of the distorted personalities produced by DuCane's machine.
> [1]

Chapman notes that, "the theories of Lombroso and others on criminal types, and Victorian stereotype of the criminal were identical. Prison produced the criminal type, scientific theory identified him even to the pallor of his skin and the public recognized him; the whole system was logical, water tight, and socially functional." [2] Chapman believes that the same process exists today in a modified form. The situation is more complex since one part of the public wishes to modify or to abolish the prison and training school systems, while many others believe in punishment and social isolation. He notes that in such a contemporary system, "the change in prison conditions proceeds at a rate rapid enough to satisfy the pressures of reformers while continuing to produce the stereotyped 'old lage', the 'abnormal', the 'psychologically motivated', the 'inner-directed delinquent' whose maladjustment is 'deep-seated' and often 'intransigent to treatment' and who, in his turn becomes the scapegoat needed by society and the data for the latter day Lombrosos whose social function is to provide the 'scientific' explanation required by the culture." [3]

In this context, the diagnosis relieves the strain on the social system by diverting attention from its inadequacies, and focussing attention upon the individual deviant or class of deviants who, paradoxically, are largely a product of the inconsistencies inherent in the system. With this as background, the diagnosis of the serious juvenile offender may tell us as much about the culture, quality, and types of controls or treatment options existing in that culture as it does about any scientific or pseudo-scientific entity or characteristic intrinsic to the offender or class of offenders. By stressing primarily the identification and labeling of the serious offender, we may further confuse the possibilities for understanding the greater issue involving the dynamic existing between the diagnostic process and the treatment process (social control). The two are complementary rather than discrete. The labeling of the offender stands opposite the systems of control which already exist and which call for "appropriate" labels. This is not to suggest that there

is no need to understand violent behavior among juveniles or that we cannot do something about those juveniles who engage in such behavior, but rather to question the current one-dimensional approaches to multi-dimensional problems.

Although there appears to be some increase in violence among juveniles in the past years, there is also evidence that this pattern has tended to slow down or decline in the past two or three years. It is questionable that this is the first time in our history that juvenile crime has been of major interest. It is also questionable whether the serious and violent juvenile offender of today is an anamoly not seen before in our own society. The current concern with gang behavior in New York, for instance, effectively forgets and neglects the relatively recent experience in that city with violent gangs of the late 1950's. With such a short memory for historical fact, one would be advised to take a short breath before rushing off to further define current problems surrounding the identification and control of the serious or violent juvenile offender.

Looking at the other side of the dichotomy, the so-called "systems of control," one finds further problems. Functional relationships exist within the helping professions' rehabilitative and treatment settings, from the most closed to the most open. Such settings reflect larger social systems and are at least partially related to social control. Therefore, when one approaches the systems of control necessary to deal with the serious juvenile offender, one again sees how culturally bound such systems are. It matters very little to the person defined as a serious or violent juvenile offender, whether that definition is as the "sinner" of the 17th century; the "possessed" of the 18th century; the "moral imbecile" of the 19th century; the "constitutional psychopathic inferior" of the early 20th century; the "psychopath" of the 1940's; the "sociopath" of the 1950's; the "person unresponsive to verbal conditioning" of the 1960's; or the "criminal personality" or "career criminal" of the 1970's--the treatment is basically the same, a series of variations on a familiar theme of incarceration, isolation, and exile. The systems seem to be designed to prove that we must define and treat this human being as qualitatively different from the rest of us and therefore in need of methods of control or manipulation which we would reserve only for violent strangers, never for violent friends or relatives, and that of course, is the core of the problem. In such a system, "cure" approximates the definition given by the anthropologist, Edmund Leach, in speaking of the treatment regimens in British "approved schools." He says, "cure is the imposition of discipline by force; it is the maintenance of the values of the existing order against threats which arise from its own internal contradictions." [4]

Our systems for labeling and diagnosing serious juvenile offenders therefore call

for certain systems of social control. In a circular way, those very treatment or control systems encapsulate and constrict the potential of the diagnostic process itself. As diagnoses are what Ronald Laing calls "social prescriptions," so existing treatment and control systems constrict and narrow the diagnoses themselves, one ever narrowing and negatively reinforcing the other. Thus, we find ourselves in the current dilemma of a fantastic lack of social control innovations or treatment options on one side, with even less originality in our perception and understanding of the dangerous or violent offender on the other.

This issue is further compounded by the growth and accumulating power of the "helping professions" and the consequent bureaucracies engendered. Many of us, for example, have long bemoaned the inability of the mental health profession to provide helpful diagnostic categories or effective treatment modalities for the violent juvenile offender. However, when one sees the involvement of this profession, for example in applying the medical model to correctional settings, one often sees more maltreatment and disregard of human rights than in many more traditional correctional institutions, penitentiaries, and jails. It has been a personal impression, for example, that medically run facilities for the criminally insane have characteristically the worse tradition of brutal and dehumanizing institutional treatment. One need not look further than the recent history of such facilities as Lima State Hospital in Ohio, Mattawan Hospital in New York, Farview Hospital in Pennsylvania, Camarillo State Hospital in California, or Bridgewater State Hospital in Massachusetts. In the latter situation of "Titicut Follies" fame, one sees the issue distilled in the pleadings of a "patient" to be allowed once again to become a "prisoner," and to be returned to Walpole State Penitentiary (hardly a benign institution) since "treatment" at Bridgewater was driving him insane.

We have often maintained a naive view, taught us in some graduate schools, that the diagnosis of the serious juvenile offender is scientific and the treatment following therefrom is a consequent scientific exercise. In fact, the diagnosis is often a political problem which culminates in a bureaucratic process called treatment. This is not to suggest that there may not be a way to better understand and control violent offenders. It is simply to point out that most of the persons, structures, and systems which are ostensibly set up to do that are in fact doing something quite different; what they are doing muddies the scientific waters so much that the problem is further compounded. As a result, any scientist who steps into this arena is quickly politicized, whether he/she means to be or not. Similarly, his/her data, if drawn from this field, cannot be taken at face value because data collected from this system are often compiled, named, and outlined for purposes other than those given. As a result, "objective" labels usch as "assaultive" are skewed in terms of the needs of the various juvenile justice, diagnostic, and treatment bureaucracies, and it is often impossible to know clearly what the "assaultive" behavior is or was.

It seems to me that those who prepared the so-called "Cahill Report" [5] on serious juvenile offenders in New York implicitly recognized this problem. They attempted to define violent behavior in very specific behavioral terms, understanding the propensity of the juvenile justice bureaucracies to overpredict violence and to overdefine potential dangerousness. Using strict definitions of proven violence--murder, rape, forcible sodomy, assault with a weapon, etc.--they limited the potential for overpredicting or overdiagnosing violence in a particular juvenile. They thereby limited the use of psychiatric or social work jargon as the fainthearted bureaucrats' means of avoiding accountable decisions or potentially embarassing incidents which might follow from those decisions.

Despite a current popular misconception, as outlined in New York Magazine and TIME magazine articles made available by Professor Cohen, the juvenile justice system is hardly a mollycoddling system. What masquerades as permissiveness or bleeding-heartism, is more often than not a matter of neglect or bureaucratic chaos. When we are told that everything has been tried in the case of a particular serious juvenile offender, a closer look will very often reveal that one or two things have been tried a number of times (i.e., probation with warning, detention, commitment to a training school, or referral to agencies which should be "appropriate" but are not, such as childcare group homes or state departments of mental health) culminating in the extrusion of the offender from the agency as "unmotivated," a "character disorder," etc., all of which again point up the intimate relationship between diagnosis and treatment options. In this case, the client must somehow adjust himself/herself to the treatment option as well as the relative comfort of the treatment staff, or he/she will be rather quickly and effectively diagnosed and labeled as "inappropriate" for their treatment. This should be sufficient cause for a mild depression, but the problem does not end there. Rather, it plays on, further compounding the destructive scenario. If labeling theory has any validity, it cannot be helpful to see the juvenile bounced from setting to setting, with escalating diagnosis as a rationalization for rejection by the agency. The youngster becomes more "violent" or "potentially violent" as the threats for conformity to programs increase. The process is set in motion not so much by the "dangerous" juvenile as by the ineffective or fainthearted "treatment" or social control programs which, in turn, up the ante for violence upon the juvenile, which is likely to be returned by him/her later, in kind.

I can think of no other reason for the standard and common practice of filling maximum security or "intensive treatment" units with large numbers and percentages of youngsters who have committed no violence on the streets, but have become management problems once they are caught-up in the treatment system. I keep hearing of the large numbers of newly violent, unsocialized juveniles who would as easily kill you

as look at you. However, I find very few who could be viewed this way in our state training schools, secure units, or "intensive treatment" programs. This experience has been borne out in varying states in which I have had some administrative authority over programs for adjudicated, detained, or committed delinquent youth. While my own experience gives lie to the popular mythology surrounding the numbers of violent juveniles abroad in the land, it clearly points again to the relationship between our labels and our treatment options. One has the impression with many of these youngsters that the definition of dangerousness has more to do with professional frustration or bureaucratic discomfort than it does with any documented history of violent street behavior. If this were an exceptional or unusual phenomenon, I would not mention it here, but it is my impression that it is indeed the rule, rather than the exception. It may seem presumptous, but, once again, it is my experience that the average judge or probation officer is as much taken as the media with war stories, horror stories, and the drama of handling difficult cases involving violent juvenile offenders. They are, therefore, not about to downplay, dismiss, or shunt off the juvenile who has murdered, raped, sodomized, mugged, or assaulted with a weapon. One must assume, for a host of reasons, that juveniles arrested, convicted, and sentenced for such offenses receive a good deal of attention and, more often than not, find themselves committed to state juvenile correctional facilities, unless they are "bound over" for adult trial and sentencing. However, when one looks for juveniles convicted and sentenced for such crimes in the average state juvenile system, one finds relatively few such dangerous offenders. Mr. Edelman notes in his paper presented at this conference that, with qualification, the New York law relative to serious juvenile offenders has identified a rather small number (fifty) and has incarcerated only half of those in secure settings in the first six months of the new law. This experience is consonant with what I know personally in other states.

For example, if one used New York criteria for defining the violent or dangerous juvenile offender in Massachusetts, one would find considerably less than fifty such juveniles in the whole state system of juvenile corrections--this in a state where the juvenile age is a year higher than in New York, and where there is very limited use of the adult courts or correctional system for juveniles "bound over," even in cases of murder. Similarly, in Pennsylvania, where the juvenile age is eighteen, we found more than 400 juveniles sentenced by juvenile courts to an adult prison because they had been defined as dangerous. Yet less than one in four were there on crimes against persons, and again, were the New York criteria applied, one would find less than seventy-five such juveniles in the whole state juvenile system for a population of twelve million plus. Despite this, five times that number of juveniles could be found locked in secure settings within the state (including jails, detention centers, and "secure units" on training school grounds) labeled as

"dangerous." What is really meant here is not a "dangerous" or "violent" juvenile, but rather a juvenile who is a "pain in the ass" to the court or agencies; one who repeatedly engages in minor delinquencies and does not stay were he/she is told. The diagnosis of dangerousness is therefore being applied somewhat indiscriminately to those youngsters who are troublesome to programs or are a frustration to the courts, and is unrelated to any history of, or propensity for, violence. This attitude is best spoken by a juvenile judge in Pennsylvania who wrote me a critical letter for pointing out that among the "dangerous" juveniles sentenced to the Pennsylvania adult prison mentioned above, was one teenager convicted of "turning over gravestones." The judge commented that "any youngster who is capable of turning over tombstones is capable of pushing his grandmother off a cliff." So much for the diagnosis of the "potentially violent."

We learned in the Camp Hill Prison experience in Pennsylvania (resulting in the removal of over 400 juveniles from that facility) that the diagnosis of "dangerous" was closely related to the ineffectiveness, inappropriateness, or lack of non-incarcerative social control or treatment models. When alternative programs to state training schools did not exist, or when youngsters bombed-out of such programs, or when those same programs rejected them as "inappropriate," then the diagnosis of "dangerousness" or "potentially violent" was escalated as a rationale for program rejection. Program failure is thereby salvaged with a new diagnosis. The diagnosis, in this case, insures that failure is made to rest on the head of the victim, and success is worn as a halo by the helper. In these cases, the diagnosis and labeling of the offender as dangerous validates ineffective social control or treatment programs, and that process, in turn, narrows the potential of the juvenile's being seen in any other terms. To do so would be to question the competence or altruism of those who offered the original diagnosis or treatment program. That is bad form in professions and bureaucracies. The process of "winding down" the diagnosis for "dangerous" to "less dangerous" or, God forbid, to "not dangerous or violent," is as difficult as terminating a governmental agency or cutting-back a bureaucracy. This is because it is the selfsame problem, and has little to do with scientific or consistent criteria. As a result, we have a system which overpredicts violence and which overincarcerates those it has labeled. We have redone, at the systems level, that familiar pattern of ineffective institutions whereby the degree to which an institution is brutal, ineffective, or inhumane determines the degree in which the inmate population of that institution is defined in even more extreme terms as "brutal," "ineffective," or "inhumane"--usually spiced-up a bit with war stories of particularly bizarre incidents affecting an inmate or two. Once again, the poor diagnosis becomes a social prescription for the maltreatment of inmates, and the maltreatment reinforces inmate behavior patterns which, in turn, confirm the originally faulty diagnosis. Paradoxically, the diagnosis becomes more plausible the

longer the offender is subjected to the treatment.

It is not only the poor institution and programs which overly diagnose "dangerousness" in inmates as a means for rationalizing inadequate or poor treatment. Unfortunately, for other reasons, productive or successful programs tend to do the same thing. This is because the system of care for apprehended offenders (captives) is based on a series of disincentives whereby there is little or no pressure from the clientele upon the service-giver to produce results. Good programs will therefore do even better with clientele who are less risky, but who guarantee the state or county per diem coming to the agency. A natural and understandable process of "creaming" sets in whereby the "most likely to succeed" are admitted to programs and kept inordinately long, thereby guaranteeing program peace and financial stability. It is at this point that the diagnostic games ensue, whereby less difficult offenders are seen as potentially more dangerous and in need of the program, while juveniles with histories of violence are rejected as inappropriate. Theoretically, governmental regulatory agencies and funding sources should be able to keep pressure on these better social control and treatment programs to insure that they continue to deal with the "deep end" more difficult juvenile. However, the record of most state agencies in this regard is dismal, since it is not the row to hoe if one wishes to maintain stasis in the political or bureaucratic system by keeping peace with contractors, vendors to institutions, patronage considerations, state employee unions, or Boards of private agencies (often tied to major religious groups, and thereby carrying considerable political influence).

In summary, it is the contention of this paper that we cannot know or understand either the "serious juvenile offender" (his/her characteristics, numbers, intensity, etc.) or the "systems of control" (treatment, secure programs, deterrence, etc.), until we look more closely at the backdrop against which these issues and concerns are defined, developed, and implemented (i.e., the juvenile justice and "helping professions" bureaucracies). To attempt to either define or treat the serious juvenile offender without due consideration for the arena in which the problem is considered is to invite further frustration and failure. I have attempted to point out some of the considerations and issues in this paper. The solutions are, of course, more difficult and, in a sense, it is contradictory to suggest that solutions are possible in this confused system. However, directions might be plotted and for that, to paraphrase Robert Theobald, we need a compass rather than a map. This paper has been an attempt to provide some of those bearings. As one maps the uncharted territory, there are a few suggestions which might be helpful in keeping our directions straight.

As we seek an understanding of the serious juvenile offender and the systems of control which we set up to deal with him/her, we must stress the following--although in the present juvenile justice system context, some of the suggestions might appear absurd. Perhaps it is time to send in the clowns, and perhaps, they might help us keep our bearings. The following must take place:

1. Accountability to the client (in this case, the invalidated, captive "serious" juvenile offender) must be stressed. He/she remains the best judge of the effectiveness and appropriateness of our diagnosis and treatment.

2. The diagnosticians must be changed constantly, and must be from outside the juvenile justice system.

3. Research on the problem of serious juvenile crime must focus on the political and bureaucratic characteristics of the juvenile justice system, while attempting to understand the serious offenders.

4. There must be constant movement of clientele and staff to new roles between, among, and within diagnostic and treatment settings. The movement must be vertical as well as lateral, to the degree to which program consistency and public safety allow.

5. We must build systems whereby there is constant pressure to limit, proscribe, and de-escalate the diagnosis of serious or violent offenders as a means of counteracting the natural bureaucratic process of overusing and overdefining dangerousness as a rationale for social control.

6. We must increase the possibility of choice of treatment, even for those clearly violent and dangerous juveniles who are caught up in the juvenile correctional system. For example, if they have to be in a locked and secure setting, they might be given some choice as to which facility they feel best meets their needs, given a State voucher, and be allowed to "shop" a bit. They also might be allowed to leave an unsatisfactory locked unit for another locked unit, and to take the State's money with them.

FOOTNOTES

1. D. L. Howard, The English Prisons (London: Methuen, 1960).

2. Denis Chapman, Sociology and the Stereotype of the Criminal (London: Tavistock Publications, 1968), p. 237.

3. Ibid.

4. Edmund Leach, A Runaway World, BBC Reith Lectures, 1967 (New York: Oxford University Press, 1968).

5. Governor's Panel on Juvenile Violence, "Report To the Governor From Kevin M. Cahill, M.D., Special Assistant to the Governor on Health Affairs," panel report (Albany, N.Y., 1976).

5. WHO'S COMING TO THE PICNIC?

DONNA HAMPARIAN

For my title and text, I draw from the public statements of Edward M. Davis, Chief of Police of the City of Los Angeles and sitting president of the International Association of Chiefs of Police, who recently warned us as follows:

> ...as the juvenile justice system continues to operate under present constraints, we know that it is building an army of criminals who will prey on our communities. The benign neglect that we have shown--has made children with special problems into adult monsters that will be with us forever. If improvement to this system does not come, it will insure a generation of criminals who will make the current batch look like kids on a Sunday School picnic.[1]

Although I do not share Chief Davis' alarming vision, I will certainly agree that the juvenile justice system is in urgent need of improvement. While I am not as sure as I once was--and as some still are--what the system should be like, I am here to indicate some of its parameters from recent research which my colleagues and I have been doing, some of the range of possibilities drawn from my observations of prevailing practice, and some tentative conclusions about the future of incarceration as an intervention in the lives of Serious Juvenile Offenders.

THE DIMENSIONS OF THE PROBLEM

Our problem is, What shall we do with the Serious Juvenile Offender? The beginning of a solution must be found in a determination of how many such young people there are. To begin with, youths under eighteen account for almost half of the serious crimes committed in the United States. Since 1960, crimes committed by juveniles have increased in number at twice the rate of crimes committed by adults.[2]

The Uniform Crime Reports for 1975 show that youths under eighteen account for about a quarter of all arrests (about 2,000,000 of a total of 8,000,000); 23.1% of all arrests for violent crime, and 43.1% of all arrests for index crime. Between 1970 and 1975, there was a 54% increase in the numbers of youth arrested for violent crimes, as compared with a 38.3% increase of those over eighteen. The only Part I offense that showed a decreased rate for juveniles during the period 1970-75 was auto

theft, which declined by almost 18%. Table 1 shows the total number of arrests for serious crimes by juveniles in 1975. [3]

TABLE 1. 1975 ARRESTS FOR SERIOUS CRIMES

Offense	Number Under 18	Percent Under 18	Total
Murder	1,573	9.5	16,485
Manslaughter	368	12.1	3,041
Forcible Rape	3,863	17.6	21,963
Robbery	44,470	34.3	129,788
Aggravated Assault	35,512	17.6	202,217
Burglary	236,192	52.6	449,155
Larceny	432,019	45.1	958,938
Motor Vehicle Theft	65,564	54.5	120,224
Total Violent [a]	85,418	23.1	370,453
Property [b]	733,775	48.0	1,528,317
Total Index Crimes	819,561	43.1	1,901,811

[a] Murder and manslaughter, forcible rape, robbery, aggravated assault.

[b] Burglary, larceny, motor vehicle theft.

Whether this increase reflects an actual increase in juvenile violence or a higher rate of police apprehension, the public, the mass media, and most policy-makers are persuaded that the streets are unsafe because they are studded with dangerous juveniles. Demands for a more stringent juvenile justice system in line with the recommendations of Chief Davis, have been reflected in the proliferation of bills and new statutes in many states. I am not sure that the new legislation in New York, which provides for mandatory sentences of three to five years for a considerable range of juvenile offenders, presages the future in other industrial states, but it certainly reflects the current public impatience with the juvenile justice system we have.

At one end of the spectrum of juvenile troubles, the status offenders are being removed from the jurisdiction of the juvenile court; at the other, the dangerous juveniles are being shunted by bind-over into the hands of the adult courts. For these young people, the future of incarceration is to be found in the adult prisons. We are chipping away at the jurisdiction of the juvenile court without benefit of systematically gathered information or an attempt to formulate a rationale for a new system. Most policy-makers have absorbed the principle that if status offenders are to be removed from the jurisdiction of the juvenile court, appropriate services must be provided for them. Similarly, if the serious juvenile offender is to be better managed, the state must have a more coherent solution than a change of jurisdiction. A beginning in the journey to coherence must come from measurement of the extent and nature of juvenile violence. Data of this kind are in scarce supply. In spite of the rhetoric of the advocates of severity, I have seen no data at all that show that society will be better served or better protected when a juvenile is tried as an adult and sentenced to an adult prison. If the problem is to be solved, we have to think harder and longer than that, and we must have the wherewithal for serious planning.

In the interest of putting some information together to see what it looks like and what the problems are in getting it and interpreting it, the Dangerous Offender Project has engaged in a retrospective study of violent juvenile crime in Columbus. Although John Conrad has mentioned this study in his contribution to this Symposium, I shall recapitulate our methods and objectives before relating some of our preliminary findings. We had access to the police records of all juveniles born in 1956-60, of both sexes, who had been arrested once or more for a violent crime. These data were supplemented by data extracted from the files of the Ohio Youth Commission on the number and length of institutional commitments. We have five violent arrest cohorts, consisting of 1,138 youths. In the data to be presented here, we are drawing from findings for the first three cohorts, those born in 1956, 1957, and 1958. These cohorts totaled 811 juveniles, all of whom have "graduated"

from the juvenile justice system, and thus, we have their completed juvenile arrest histories to examine.

Many of the sample under study had only one arrest, a crime against the person, but the majority had two or more arrests for a wide range of offenses. The maximum number of arrests was twenty-three. Because the data analysis is still far from complete, all I can offer you now is a battery of preliminary findings which I hope to relate to policy recommendations. Some of our findings will come as no surprise to experienced professionals and researchers; others seem novel to me, at least. Let me run through the major trends and indices.

1. SEX: As expected, female juveniles are not as violent or as chronically delinquent as their male counterparts. Some of the particulars:

   a. Females had a lower number of arrests per individual: they averaged 2.5 per individual as compared with 4.5 for males.
   b. 94.5% of the females committed only one violent offense, as compared with 81.9% for males.
   c. Females used weapons less often (18.5%) in the commission of violent offenses than did males (27.8%).
   d. Most of the female arrests were for assaults: 73.2% for assault and battery and 7.8% for aggravated assault, as compared with a total of 42% for males.

2. RACE: The majority of youths in the three cohorts were black (54.6%) whereas the population of Columbus is about 20% black.

3. SOCIO-ECONOMIC STATUS: Most of the arrestees were from poor families; 86% lived in census tracts in which the median income was below the city-wide median.

4. ARREST RECORDS: So far we have not discerned any defined patterns in the arrest histories. However, some suggestive data have emerged which deserve our attention:

   a. The instant violent offense was the only arrest for about a third of our consolidated cohorts. Forty-eight percent of the females and 26% of the males had no other arrests. I cannot tell you yet how many of these one-arrest-only individuals received a punitive disposition from the court in the shape of a commitment to the Ohio Youth Commission or probation.
   b. In our cohort of 811, 368 or about 45% were first arrested for a non-violent offense; the first offense for the remaining 443 was violent.

Of these 443--only twenty-five or about 6% were committed to the Ohio Youth Commission. Only two of the non-violent first offenses were committed. Ninety of the 811 were placed on probation on their initial court appearance, of which fifty-four were violent and thirty-six non-violent.

c. The mean age at the time of arrest for the first violent offense increased with the seriousness of the charge:

Assault and battery:	14.2 years
Purse snatching:	14.5 years
Armed or aggravated robbery:	15.5 years
Murder or manslaughter:	16.4 years

d. Over one-quarter of the three cohorts served at least one sentence in a juvenile correctional facility.

e. At first, when violent offenders are committed, it is on the violent offense itself, not on the record. But as the record lengthens, it becomes the basis for the commitment rather than the nature of the offense. From the fifth offense on, commitments for property and other types of offenses increase. (See Table 3 on the following page.) In general, the greater the number of prior offenses, the less serious is the offense which results in commitment.

TABLE 2. NUMBER AND PERCENTAGE OF CASES COMMITTED TO OHIO YOUTH COMMISSION BASED ON NUMBER OF TOTAL ARRESTS

ARREST NUMBER	NUMBER OF CASES	TOTAL NUMBER COMMITTED	PERCENT COMMITTED
1	811	29	3.6
2	572	38	6.6
3	441	33	7.5
4	358	84	23.0
5	272	33	12.0
6	215	31	14.0
7	181	55	30.0
8	143	34	23.8
9	102	30	29.0
10	75	8	10.7

TABLE 3. NUMBER AND PERCENTAGE OF CASES COMMITTED TO THE OHIO YOUTH COMMISSION BY TYPE AND NUMBER OF ARRESTS

ARREST NUMBER	TOTAL NUMBER OF COMMITMENTS	VIOLENT		ASSAULT & BATTERY		OTHER OFFENSES	
		No.	%	No.	%	No.	%
1	29	25	86.0	2	12.0	2	12.0
2	38	22	57.8	4	10.5	12	31.6
3	33	11	33.0	0	0	22	67.0
4	84	48	57.0	2	2.4	34	40.0
5	33	7	21.0	2	6.0	24	73.0
6	31	6	19.0	0	0	25	81.0
7	55	10	18.0	1	1.8	44	80.0
8	34	9	26.0	2	5.9	23	67.0
9	30	3	10.0	2	6.7	25	63.0
10	8	0	0	1	12.5	7	87.5

TABLE 4. NUMBER OF COMMITMENTS TO THE OHIO YOUTH COMMISSION BY OFFENSE

OFFENSE	NUMBER COMMITTED
Violent Offense	
Murder	4
Rape	7
Molesting, Sexual Imposition and Sodomy	6
Unarmed Robbery	22
Purse Snatch	21
Assault and Battery	21
Armed Robbery	49
Aggravated Assault	15
Other Violent Offenses	23
Subtotal	168
Property Offense	
Breaking and Entering	25
Larceny	7
Auto Theft	43
Grand Theft	9
Breaking and Entering	61
Petit Theft	8
Other Property Offenses	20
Subtotal	173
Public Order	28
Status Offenses	28
Drug Offenses	5
Intoxicants	13
Parole Violation, AWOL	21
TOTAL ALL OFFENSES	436

What can we conclude from these findings? As I said, I haven't surprised you. We are dealing with a population of minors who are overwhelmingly poor, predominately black, and predominately male. A substantial number of them have only one arrest, and that for violence. As their appearances in court become more frequent, they seem to be identified in the mind of the court as bad news, kids who need as stern a lesson as the state can teach them. Sometimes the court gives the boy or girl a break on a serious crime on the first time up, only to lower the boom later on for a much less serious incident. Some of our impressionable subjects must conclude that there is a great inconsistency here: "I got away with mugging last time but this time he's racking me up for shoplifting...." I have no way of knowing how many of our sample made this conclusion--or if any did--but consistency is certainly the hobgoblin of delinquent minds, especially when considering their treatment by persons professing moral superiority over them.

However unfair that sentencing policy may be, it is plausible and probably universal. It suggests that the population of juveniles who have committed assaultive offenses become subjects of the court's severity. Unless research can supply juvenile jurisprudence with a good reason for doing otherwise, such youths will be sent to state correctional facilities, there to appear on the statistics as non-violent offenders. At the other end of the continuum represented in this cohort there are youngsters whose offenses may be violent enough but whose subsequent conduct indicates that severe intervention is unnecessary. As we learn more about these two classes of offenders, differentiations will become possible which will shed light on middle bands of the spectrum. This kind of analysis leads to conclusions about the varieties of disposition which should be available for the serious juvenile offender. I am glad to say that as our interpretation of the Columbus juvenile arrest data continues we can expect that some of these answers will emerge.

JUVENILE INCARCERATION AS THE DISPOSITION OF CHOICE

For many years, the literature of juvenile justice reform has leaned heavily on a horseback truism. We are told by those who would revise the present system that those who know best the residents of our youth training facilities will affirm that the majority of those confined in them do not require secure custodial containment. As the Vera Institute of Justice report stated, "the number of delinquents, violent or otherwise, who must be isolated in closed institutions is smaller than current policies and practices would suggest. Research on this issue...is far from adequate." [4] So far as I am concerned, it is still inadequate for the purposes of intelligent policy change. Some believe that about 50% of the

present population of closed juvenile institutions could be harmlessly released. Others, far more optimistic, will set the figure much higher, perhaps as high as 95%. Whatever the percentage may be, they are candidates for the various options available in principle to juvenile justice even now. They would be better cared for in open residential facilities or in community-based day programs if a sufficient number of such programs could be developed.

But as matters now stand, despite the pessimistic evaluations of state training facilities, 25,424 adolescents were housed in such facilities in 1974.[5] If we cannot say for sure how many of these young people could be safely turned loose, we can at least suggest reasons for this very considerable figure:

1. Clinical prediction of the need for secure placement is at best an inexact art. Whatever clinicians can predict, the uncertainty is such that the inclination to err on the safe side, in favor of incarceration, is natural and consistent with a policy-value that the safety of the community commands the highest priority.

2. Even if an alternative to incarceration is seen as a safe recommendation, the appropriate alternative may not be available.

3. Even if the clinician is willing to make an alternative recommendation and even if there is a suitable facility available, judges and administrators are too often unwilling to experiment with innovative programming within community settings. Although this reluctance is understandable enough, the risks sometimes being what they are, the consequences add up to a stagnant treatment policy for serious juvenile offenders.

4. Even if all agree on the desirability of community programming for a serious juvenile offender--or a whole class of such offenders--decision-makers have to consider the balance between the increased probability of success with some serious juvenile offenders against the contingency that the anticipated results will not ensue and another violent incident will take place.

If this analysis is correct, conjectural though it is in part, we will not see the end of juvenile incarceration in this century. What seems more likely is that custodial facilities will be occupied predominately by minors who are clearly identified as seriously delinquent. We don't know how many such offenders will be so confined or how the determination will be made of their eligibility for secure care because of violence potential. As non-violent delinquents are increasingly managed in community-based services, the state juvenile correctional facility will become more and more homogeneously dangerous.

There is evidence to support this prediction. As noted by Vinter, Downs, and Hall, "there is reason to believe that the California Youth Authority, with its extensive system of 'probation subsidies' to local governments, handles a greater proportion of serious offenders than do most state agencies." [6] The stringent criteria governing the placement of juveniles in secure treatment in Massachusetts [7] or in similar treatment control in such New York facilities as Goshen Center or Brookwood [8] limits the population of secure facilities in these states to those who are thought to be most dangerous. Another example is the Green Oak Center in Michigan, which accounts for 100 of the 130 secure placements in the state; about 80% of the population was committed for homicide, forcible rape, aggravated robbery, or aggravated assault. [9]

In most states, the distillation of the juvenile offender population to arrive at a concentration of verifiably violent youth has not gone so far. Traditional facilities are characteristic of the dispositions available at the end of the line in juvenile justice. In his paper, John Conrad has described one of them most familiar to both of us Ohioans--the Training Institution Central Ohio (TICO). I shall not recapitulate his description here. I do want to comment, though, that although we tend now to see it as a traditional institution, with much to deplore in its performance and much to question in its operating philosophy, it would have been seen as an advanced example of enlightened practice if presented to an informed audience as recently as fifteen years ago--perhaps even more recently than that. In Ohio and throughout at least the more affluent parts of the country, the message of treatment has been delivered. So far the public is unstinting in its support and uncritical of its results. The criticisms of the juvenile justice system may be and in many respects certainly are vociferous and severe, but no one is seriously advocating the dismantling of treatment, even for the most unfavorable prospects for successful intervention.

BETTER THINGS TO COME?

I wish I could report that on the horizon there can be seen the outlines of much better systems of intervention. What I can tell you about consists of the observations of several programs which offer some prospect of at least marginal improvements. My presentation will be necessarily superficial, but I intend to aim my reports toward generalizations which will support specific recommendations for improvement in the traditional systems.

GREEN OAK CENTER is a 100-bed maximum security unit operated by the Michigan Department of Social Services. It is located at Whitmore Lake, not far from Ann Arbor. Most of the boys sent to this facility have been found guilty of one or more of the

index crimes against the person and have been in serious trouble from an early age. The admission criteria require that boys assigned to this facility must have been found guilty of felony charges in juvenile court and must also pose a threat to the safety of the community, to other inmates, or to themselves. [10]

The program centerpiece is Guided Group Interaction. Peer pressure is mobilized to induce residents to show concern for others and for themselves. Although the age range runs from twelve to nineteen, the program emphasis seems to be on severely disturbed older boys requiring institutional care. Group pressure on the individual is unremitting; the whole group loses privileges when a member commits a serious infraction; one boy absent without leave results in serious consequences for the entire group. It is interesting to note that although the groups at Green Oak Center are permitted some decision-making autonomy, they are not allowed to decide--or even to recommend--negative sanctions for any member. The staff has long since found what seems to be generally true that when inmates do have such latitude they tend to be excessively punitive in deciding the suitability of sanctions. Nevertheless, staff members are expected to avoid authoritarian postures so that the inmate peer culture can work effectively as a treatment tool. At the same time, staff members have to accept responsibility for making those decisions which cannot be delegated to the groups. [11]

Most of the boys committed to the Center have long histories of contact with the court, going back to complaints of child neglect against their parents. Many of them have been held in private treatment facilities or open correctional placements; others have been placed in mental health facilities with diagnoses as "borderline psychotic." Their educational level is far below average performance for their ages; some are six years below average test score. Despite the severe problems which virtually all of them manifest, the average length of stay is about ten months. A recent study showed that about a third of the releases were rearrested within six months; a fairly impressive performance considering the nature of the population.

GOSHEN CENTER is a self-contained maximum security facility in New York with a capacity of seventy-five, held in individual, locked cells. In November 1976, when I visited it, there were forty residents with almost as many staff. Most of them were recidivist violent offenders; the majority of them had used knives and guns in the perpetration of their offenses. Most of them were members of street gangs. Under the provisions of New York's Juvenile Justice Reform Act of 1976, such offenders, if fourteen or fifteen and therefore still under the jurisdiction of the juvenile court, may be held for six to twelve months in custody and retained under supervision for thirty to forty-eight months, depending on the nature of the offense.

There is a heavy emphasis on academic education. Because functional illiteracy and learning disabilities are the rules rather than the exceptions, most of the educational effort is remedial with class schedules timed for typically short attention spans, interspersed with physical education. The goal is to bring each student up to fifth grade reading level, as required for high school admission in New York.

There is little formal psychological treatment; the staff seems primarily interested in creating a supportive milieu. There is considerable attention given to interaction with the surrounding community. Residents are taken to town for shopping expeditions, athletic contests, and other events. Visits with parents are facilitated; several home visits are required before the youth is considered ready for parole.

There is no question about the custodial nature of this facility; the boys are there because the community will not tolerate their criminal behavior. The staff is realistic in its expectations. Obviously, they hope for positive results, but there is no talk of "rehabilitation" in the sense of drastic modification of behavior in the six to twelve months during which a youth is under their control. This period is recognized to be an interlude between the years of accumulating anti-social behavior patterns and the attitudes that go with them, and the succeeding years after release when the youth will return to the old neighborhood and the old gangs.

It is still too early to say what the outcome of this effort will be. The statutory change which made it necessary went into effect in January 1977, and I visited it when it was still in a transitional phase. Obviously, an evaluation at this time would be premature.[12]

THE BRONX STATE HOSPITAL UNIT is a joint project of the New York Division for Youth and the Department of Mental Hygiene. It was created in 1976 to provide treatment for male adjudicated delinquents who were determined to be both violent and mentally ill. The project consists of two units. One is a ten-bed ward to provide short-term diagnostic, stabilizing, and emergency services to be delivered by the Department of Mental Hygiene. The other is a twenty-bed unit for long-term treatment for those youth determined to require that level of care, and is operated by the Division for Youth.

To be admitted to the program, a juvenile must have displayed significantly violent behavior and his evaluation must have been judged to be sufficiently disordered to require psychiatric treatment. It is planned that the long-term treatment program can last for eighteen months, after which, if necessary, he may be transferred to other facilities operated by either the Department of Mental Hygiene or the Division

for Youth.

Serious problems have become manifest in the first year of operation. To quote from an early report, "despite the assumption that all juveniles who commit violent acts must be mentally ill and despite the manifestation of this assumption in the demand by the public, by the media, and by the policy-makers for more and more psychiatric services, the data from this project would suggest that there are, in fact, very few juveniles who can successfully be shown to be both violent and mentally ill if these terms are defined strictly." [13] In addition to the difficulty of finding clients, there have been philosphical questions about the propriety of drug therapy for these young people. For how many are controlling drugs appropriate and for how long? Nevertheless, in spite of these difficulties, the Bronx State Hospital represents an experimental initiative from which much can be learned in the development of effective treatment for the assaultive juvenile.

PRIVATE ENTERPRISE TO THE RESCUE?

ELAN. Situated in Poland Springs, Maine, Elan is a residential psychiatric center for disturbed adolescents from fourteen to twenty-five. As of July 1977, it housed about 250 residents in four rather widely separated facilities. Receiving patients from a number of states on commitment, it also accepts private admissions on a fee basis. Elan does receive some extremely serious juvenile offenders--a girl who brutally murders a child, a boy on a sniper spree, some extremely assaultive adolescents accustomed to getting their way by intimidation. The mugger and the street hoodlum is less likely to arrive, although such cases are acceptable within Elan's general admission policy aimed at the difficult youth with a penchant for violence. This policy tends to pull in the institutional misfit. The chronic delinquent tends to learn how easy time is done and to do it; he fits in all too well.

The Elan approach draws some techniques from Synanon and Daytop, the addiction self-help treatment centers developed in California and New York. There is much group treatment which is directed primarily at the here-and-now issues of everyday living. The claim is made that the social structure is designed to reinforce desired conduct by giving absolute support while attitudes and behavior change.

Much stress is placed on maintaining a lawful community. Illegal behavior is punished immediately. Three primary rules of conduct are enforced by peer pressure and staff authority: no narcotics, no violence, no sex.

While leadership is shared between a psychiatrist and a program director, this is

primarily a program operated by para-professionals--many of them former residents. There is a rigid hierarchial structure in each of the houses, with promotion accorded by meritorious performance on the job. New admissions have the status of workers, from which they can and do move to become "ramrods," department heads, coordinator trainees, and coordinators. Each house has six departments: business, communications, maintenance, kitchen service, medical, and expeditors, the last being the house police force. Few residents successfully "elope;" they are watched and checked at least every ten minutes by an expeditor.

He who rises in this organization must justify his elevation by performance or be "shot down." Most of the discipline meted out is in the form of the "haircut" in which erring conduct and its significance are pointed out on the spot by higher ranking residents. In addition, the program provides for a full assortment of fashionable group treatment techniques--from sensitivity sessions to the primal scream.

The program has been criticized by some observers for abusive and occasionally violent measures of behavior control. Some observers find it objectionable that individuals using violence for intimidation are required to enter the boxing ring against the "champion of the house" there to battle it out until he is soundly drubbed. Although this approach to the control of violent behavior is unusual in the contemporary institution for the juvenile offender, it appears to have the merit of assuring that the community is in control of itself rather than in the control of its most lawless elements. [14]

THE JUST COMMUNITY is founded on a developmental view of individual growth. Drawing on the work of Lawrence Kohlberg, the Metropolitan Social Services Department in Louisville has built a probation program applying the concept of moral development to juvenile offenders. The ruling paradigm defines six stages of moral development, thereby providing a theoretical attribution of delinquency to developmental arrest. Children are seen as having a logical and social perspective appropriate to their ages rather than a less mature or incomplete version of adult moral responses. The Just Community approach aims at developing among its participants the ability to cope with social and moral problems in a consistent and responsible manner.

In the Louisville program all decisions are jointly made by probationers and probation officers. Problems and conflicts are resolved by all group members, each assisting any one member encountering a crisis. It is claimed that this approach "promotes moral character development and responsibility (a) through participation in moral discussions and exposure to new and different points of view, (b) through living in an atmosphere of fairness and developing relations of loyalty and trust

and (c) by taking responsibility for making and enforcing rules on oneself and other members of the group." [15] Concepts which can truly be regarded as innovative are hard to come by in this field. Although this approach has not, to my knowledge, been tried with the Serious Juvenile Offender, its potentiality deserves attention from program planners.

CONTINUOUS CASE MANAGEMENT PROGRAMMING, an approach proposed by the Vera Institute of Justice, would put into effect a sort of consistency in service long advocated by the social work community but seldom achieved because of its obvious practical difficulties and probable cost. [16] Briefly, Vera suggests that repetively violent juvenile offenders should be reintegrated by planning services and assuring that they are carried out from the time of sentencing to a point where services are demonstrably no longer needed. The argument here is that by the fragmentation of social services many offenders who could be helped do not get what everyone agrees they need. Clearly such a program, if adopted for a significant enough population of serious offenders, could have much research value, even though some of the stubbornly adverse influences of community, peers, unemployment, and low morale are unlikely to be offset by positive programming. Nevertheless, it seems clear that the present deployment of services could be greatly improved upon by this kind of programming; certainly if not all the offenders at whom it is aimed can be helped, more of the reachable will be reached successfully.

SUMMARY AND CONCLUSIONS

Where does this review of the present practice in the control of serious juvenile offenders lead us? I think the following points must be kept in mind as we consider the limited policy options confronting us:

1. The preponderance of the statistics indicates that juvenile violent crime is increasing at a more rapid rate than adult violence.

2. There appears to be a general inclination to increase the severity with which violent juveniles are treated. With the means at society's disposal, increased severity will probably mean more juveniles sentenced to custodial facilities for longer terms. There can be little question but that secure facilities will be required for this sector of the delinquent population for the indefinite future. However, in most states, the violent juvenile is a small fraction of the confined population, not more than 15%.

3. Although the increase in juvenile violence is marked, a very large number of

minors arrested for such offenses do not commit any further offenses. There is no reliable method remotely in sight for predicting violence.

4. Treatment in conventional correctional institutions is adequately supported but poorly executed.

5. Innovations in treatment for this group are primarily limited to modifications of organizational structure using very familiar modalities. With a few untested exceptions, new concepts in treatment are not in evidence.

This is hardly an encouraging picture. My consideration of the present position leads me to recommendations about which I am uneasy; they run counter to the juvenile court tradition and philosophy. None of them are adequately tested. However, in the face of a system that is ineffective and losing public confidence, these are logical, if not sure-fire remedies:

1. If successful treatment cannot be a reliable criterion for release, fairness seems to require us to abandon the indeterminate sentence structure. I lean to a counterpart of the flat term sentencing now in vogue in the reconstruction of adult sentencing. The seriousness of the offense and the length of the individual record should be the basis for a decision to hold in custody.

2. Because repetitively violent juvenile offenders constitute so small a fraction of the delinquent population, plans for their care should allow for services and institutional structures not easily provided by the state. For this reason, I agree with John Conrad that provision should be made for contracting for service with private agencies rather than continuing the counter-productive effort to hold them in state-operated facilities. This change is already under way in Massachusetts as part of the drastic revision of the juvenile correctional system of that state. Other models exist, and undoubtedly the possibilities are far from exhausted. The state will have an important role in stimulating organizations to proceed with the development of programs, and the responsibility for monitoring and assuring the maintenance of standards cannot be delegated.

3. Although control may often have to take precedence over treatment, there must be recognition that treatment in custody will seldom if ever be sufficient for successful reintegration. A system of aftercare, adequately coordinated with institutional programming, is absolutely necessary and should be based on whatever access is needed to community services.

4. The resort to waivers of juvenile jurisdiction must be studied to determine the

extent to which they are used and the consequences. So far, the evidence is inconclusive and fragmentary. A change in the maximum age of juvenile jurisdiction and increased use of bind-overs by the juvenile court should await evidence that these measures increase the protection of the public without increased damage to the youthful offender.

5. Where incarceration must be used, it must be part of a long-range plan for a severely damaged youth. The following elements are requisites to a successful program, whether publicly or privately operated:

a. Close ties to the community to which the youth will return.
b. A flexible, youthful staff, probably including some ex-offenders as role models.
c. Strict enforcement of necessary rules; assurance that the facility is law-abiding.
d. A significant reward structure allowing for tangible incentives for realistically attainable goals.
e. Staff-intensive security programming with minimum use of jail hardware.
f. Helping roles for residents; full use of positive peer cultures.
g. To the fullest extent possible within the constraints, a maximization of choice and decision-making by individuals with consequences fully and clearly related to choices made.
h. Credible training and remedial education programs.

I suggest that a survey of existing secure treatment facilities would uncover very few that met all these criteria.

No correctional system that I can conceive of will truly correct. The damage done by years of early bad experience cannot be offset by the most lavishly provided institutional program. Everyone knows this in his bones, and we all know something about the resilience of youth and the marvelous capability for change which so many young people possess, even the kinds we are considering in these proceedings. An institution can help such youth, though modestly, and at least it can allow the restorative processes of nature to have their way during a respite from the streets. We shall continue to need confinement for some such youth. Neither hospitals nor warehouses, they must be seen as interruptions in a delinquent's career during which some remedies will be provided for the most obvious damage, and the best preparations possible will be made for a successful restoration to the community.

I cannot promise Chief Davis that my prescription will lead to a Sunday School picnic, but I think we can use these means to avoid the apocalyptic culture of

violence, which he so gloomily forecasts. There is a way up from the present state of affairs, but it will require ideas and concern in even larger amounts than money.

FOOTNOTES

1. Edward M. Davis, "Juvenile Justice Since Gault Decision," The Police Chief (July, 1977): 8.
2. Federal Bureau of Investigation, U.S. Department of Justice, Uniform Crime Reports--1975 (Washington, D.C.: U.S. Government Printing Office, 1976), Table 30, p. 182.
3. Ibid., Table 36, p. 188.
4. Paul A. Strasburg, Violent Delinquents (New York: Vera Institute of Justice, 1977), p. 186.
5. Robert D. Vinter, George Downs, and John Hall, Juvenile Corrections in the States: Residential Programs and Deinstitutionalization (National Assessment of Juvenile Corrections, November, 1975), p. 13.
6. Ibid., p. 74.
7. Commonwealth of Massachusetts Department of Youth Services, "Secure Treatment Policy Manual" (1976).
8. New York Division for Youth, "Master Plan for the Implementation of the Juvenile Justice Reform Act of 1976."
9. Information obtained from an oral communication, Wolfgang Eggers, Director of the Green Oak Center, August, 1977.
10. Ibid.
11. Don Ball, "Green Oak Houses Violent Offenders," Detroit News, 1977.
12. Observations from visit and discussion with the staff of Goshen Center, November, 1976.
13. Joseph J. Cocozza and Jeraldine Braff, "The Diversion of Violent Juveniles into the Mental Health System: Why?" (Prepared for presentation at the 1976 Annual Meeting of the American Society of Criminology, Tucson, Arizona), p. 9.
14. Personal observation, discussions with Gerald E. Davidson, M.D., Medical Director and Joseph Ricci, Therapeutic Director and other staff and published and unpublished materials describing the Elan program.
15. Personal communication from Jack Freckman, Director of Probation, Metropolitan Social Services Department, August 4, 1977.
16. Strasburg, Violent Delinquents, pp. 285-306.

6. AFTERCARE AND THE SERIOUS DELINQUENT: ALTERNATIVE STRATEGIES

RAY A. TENNYSON

The problem for this afternoon's session simply stated is, What form should aftercare take on a continuim of one of no control to one of intensive supervision of the serious delinquent? What shall be done here first is to present a selective review of the salient issues, and then, secondly, to discuss programs which appear to offer promise, but which either have limited or no program application, or have had considerable program application with an apparent limited measure of success.

It seems understood that two classes of program options exist. The first class is that suggested by the "leave them alone school," an argument most strongly developed by Schur. [1] Restraint in intervention into the lives of delinquents was urged by these social scientists because of ethical or moral limits contained in the intervention strategies, i.e., what is judged "right" for the serious delinquent may be only "right" for those making the judgment. (Don't we also know that adult judgments of juveniles are in flux and that such judgments of youth change with important and vital physical changes such as those which have recently occurred where there was a lengthening of hair and a change in the style of dress.)

Restraint in intervention also appears reasonable, especially if one takes Martinson and collegues' work seriously. [2] For if nothing works on experimental groups any better than it does for control groups who have ostensibly "been left alone," the argument to leave them alone seems supported. Of course, we all know of programs which work, we have seen them in operation, and their results are clearer to us than to Martinson. What is unclear in most research evaluations, however, is whether a rate of success for a program is appropriate if it happens fifty times out of one hundred times or two times out of one hundred. Most of us have seen the two times out of one hundred success rate, which is really not a bad rate if one considers the rarity of programs actually tried on the variety of delinquents observed. What is being referred to here is the fact that delinquent acts, when taken in the context in which they have happened in real life situations, may indeed be rare or nearly unique acts. If there are 50,000 delinquents in U.S. institutions, as some have guessed, one would expect that 6,000 serious delinquents would be found in the fifty states. Some states probably never see a juvenile arsonist, while others have two or three. Some states may hold five juvenile armed robbers who have held up stores, while others may have fifty such cases. What I'm trying to point out here is that:

1) some programs may not appear to work because the places for testing them have held too heterogeneous a population to permit adequate testing; and 2) retests of the same program can produce different outcomes.

Another argument for leaving them alone appears in research reported on parole caseloads. [3] Certainly a caseload of ten would be a low load. Dividing ten into forty hours, an expected parole agent's weekly hours for work, we can see that four hours per week of what some dare to call "intensive parole supervision" is nothing short of leaving them alone. After all, a caseload of ten leaves only one hundred forty-four hours more a week for a parolee to get into trouble again! No wonder then that caseload per se has little effect on recidivism rate, for if current parole practices aren't the same as "leaving 'em alone" they're awfully close to it.

Perhaps the strongest argument for leaving delinquents alone may be found in those positions which urge that individuals must be allowed to contain themselves insofar as possible through self-directed, self-contained, personal restraint. The social-psychological literature suggests that voluntary actions are likely to result in long-term changes in attitudes, if not behavior, and that behavior change is more likely to result from voluntary actions than when forced or controlled by actions of others. [4]

At this point you may wonder if I don't advocate stopping the conference, doing away with parole, and prohibiting any form of intervention with serious delinquents, since I have given some rather adequate arguments for leaving them alone. Obviously, this is a control conference. Those of you who came here expecting otherwise may wish to leave at this point. The rest of us, myself included, will continue to advocate control of the serious delinquent. It's not that we wouldn't allow free will to exist, it's that continued serious, predatory, assaultive behavior by anyone, whether juvenile or adult, left unchecked, may become normative (if it has not already) and will destroy those freedoms (to say nothing of the health) of those who do not wish such imposition. Clearly, I am a control advocate. The question for me is what form that control should take. Let's examine some of the forms and speculate about some applications.

First, let me express the belief that the U.S. is not likely to do away with juvenile institutions, the Massachusetts experiment notwithstanding. For example, can you imagine Texas accepting anything from Massachusetts? Regional differences in attitudes toward law and juveniles virtually insure continued incarceration of youth, but that's not the main reason we won't do away with juvenile institutions. It is because of the current trend for youngsters, both male and female, to commit the more serious crimes. Boys and girls of twelve are now going on twenty-five when it

comes to commission of some serious felonies. Social protection from these young criminals means they will be caught, held, and released under supervision, whether in traditional institutions or not.

Given this, it seems most appropriate to advocate a suggestion made by William Arnold in his 1970 work, Juveniles on Parole. [5] I recommend that you read it again if you have not already done so. Arnold holds the view that success on parole would be enhanced by bringing parole agents into juvenile institutions for intensive pre-parole contact as early as six months or more before release from the institution. Such visits would provide for familiarization with personality types, outlining of parole expectations, and the development of personal bonds between the two at the earliest possible time. A kind of social contract assumption is made by Arnold that parole agents will develop bonds with the juvenile by assisting in the transition to "real" life.

Arnold also points out the importance of peers in the control and the success or failure of juveniles on parole. They are "significant others" [6] as are uncles, aunts, parents, brothers, sisters, and other people to whom the juvenile will relate. Expanding Arnold, I would identify the help of each serious delinquent with those whom he considers to be "significant others" and I would bring them to the institutions six months or more before release, if necessary, to facilitate the re-entry of the juvenile into the community. Why allow the delinquent to choose his/her significant others? Because ultimately only he/she can make such a decision. Furthermore, significant others are precisely significant because they are perceived as important and hence have influence upon the serious delinquent. This informal influence or control, if you will, should become a formal part of any well thought out supervision program. The inclusion and assistance of informal control agents in aftercare programs for serious delinquents is essential, if they are to be successful. Therefore, significant others should be involved as early and as extensively as possible with the juvenile while he/she is institutionalized, as well as during the transition period. Involvement with informal control agents on a continuing basis until maturation has occurred may require programs which function for more than a decade. May I ask, Where have you seen such programs?

We know that most institutionalized serious delinquents are minorities from urban slums who were gang affiliated. It also appears that juveniles are disproportionately incarcerated--that is, the rate of incarcetation per 100,000 population is greater--in southern states than elsewhere. Probably these facts should direct the bulk of aftercare programs. That is, most effort should be undertaken with minority, urban, slum gang youth. Parenthically, the spin-off on programs directed toward this group would appear considerable, since serious delinquents are thought more

likely to recidivate and appear as adult criminals. Effective work with these juveniles might reduce not only the quantity of delinquent acts but also the number of persons entering adult institutions, two major feats indeed.

The groundwork for such intervention has been laid for many years. It was developed in Boston, New York, and Chicago in the late 50's and early 60's, and was tested and found fiscally sound in Los Angeles until the late 60's (see especially Adams, Spergel, Klein) [7] when gangs appeared to disappear, for lack of those federal funds so vitally needed to keep interest alive in this continuing phenomenon. Surely group process and serious delinquency is too well established a phenomenon to be ignored. Certainly a review would be timely of informal control strategies which street workers have used in affecting informal leaders informally controlling serious delinquents after prison release. Much of that knowledge is as useful today as similar knowledge was twenty years ago. [8]

Variations in street work themes could also be adapted by parole agencies who advocate intensive parole supervision practices. In the open community, serious delinquents may require twenty-four hour, seven day a week scrutiny (a procedure which parallels current institutional practice). How intensive that supervision can realistically be is an unknown. Alden Miller has related in conversation that a Massachusetts intensive supervision program is so tension-producing for both the juveniles and control agents alike that it indicates severe limits probably exist in both the length and intensity of such supervision.

Frequent scrutiny and early availability of services to paroled delinquents may be programmatically the best one can expect short of intensive use of informal significant others (unless one uses part-day confinement in a home, halfway house, etc. as a substitute for institutional confinement).

OTHER CONTROL ACTIVITIES

It is well understood that youth have similar needs, and serious delinquents are no exception. Every delinquent has physical needs which must be met. These include a place to live, food, health care, and psychological support. Nurturant requirements have traditionally (especially for young delinquents) included a return to the delinquent's own home, or to foster home care. The bulk of delinquents in the twelve to seventeen age bracket return to their urban environments and slums, from families characterized as female based and/or dominated (especially true for minority urban youth), and/or to a family situation which is less than supportive. Most families are unable or unwilling to exercise control over their child, a major reason for

repetitive delinquency. We boldy suggest at this point a variety of programs which may strengthen family control over the chronic delinquent:

1. Perhaps an innovative social welfare agency might locate parents and bring them together in a mutual delinquency prevention activity. Any effort undertaken which would help parents to cope with the problems they face with their delinquent sons or daughters seems appropriate.

2. A similar effort might involve contact, exchange, and support between the delinquent's parents and the parents of a delinquent's peers who would then participate in a joint effort designed to support the delinquent's parent(s). Although peer influence is considerable and probably much stronger than parental influence in the urban environment, an effort of this type should be directed toward strengthening parental influence.

3. Nurturance (psychological as well as physical) is frequently given by other relatives or "significant others" with whom a delinquent might be placed. That is, families of peers or other people with whom the juvenile has had substantial personal contact, and whom he/she holds in high esteem, should be regarded as alternate sources for care. Such "significant others" might include relatives, friends (including peers), and others who have not been traditionally acceptable as parole families, but who, nevertheless, have informal social control over the juvenile.

4. Social welfare agency approved homes in which youth live as unsupervised residents seem to be used seldom. Agencies such as the YMCA, YWCA, Salvation Army, Catholic Aid, and other social agencies which have housing capacity should be considered as residences for selected youth, probably chosen to demonstrate programs featuring an exercise in high individual self-control. Such agencies have functioned as "halfway houses" but only rarely as juvenile "halfway houses," since most halfway houses serve adult populations only. Innovative kinds of halfway houses need demonstration and evaluation.

5. Virtually all released juveniles, because of legal requirements or educational deficiency, must return to school. Educational difficulties are many (discussed later) and a vacuum appears to exist where great potential is possible, i.e., in the housing and supervision (twenty-four hour care) of delinquents by the schools. Such programs might start with or include summer camp education as a transition program to bring delinquents from the institution to the community. In our example, the summer camp would be a public Board of Education program, followed by fall residence in homes maintained again by the same Board of Education. Innovative, school-directed programs are especially important, not only because of the impact

schools have upon delinquents, but also because of the impact upon delinquent peers and others (not excluding the reshaping of educator thinking and practice).

6. We know of no neighborhood homes run by "neighbors." Efforts should be attempted to facilitate a demonstration of serious delinquent control projects run by neighbors in their own homes, as opposed to the usual social worker run neighborhood homes.

EDUCATION

Virtually all twelve to seventeen year-old delinquents are affected by legal education requirements, and the need to learn those things necessary for life enhancement. Especially appropriate might be twenty-four hour a day schools including adult education, vocational education, school-work options, and other programs such as evening school, or a summer camp experience which provides educational enhancement.

Clearly, school plays an important role in the success or failure of youth. [9] The research literature is full of such implications, some directly related to the severe delinquent. An extreme position argues that no effort should be directed toward school involvement because of their high failure rates. [10] The fact that schools do produce failures is, we believe, sufficient reason to suggest that considerably revised educational approaches must continue to be undertaken to cope with problem youth. Support for highly innovative and promising programs which regard crime and delinquency as an educational problem is recommended. Innovation might take several forms:

1. Programs which attempt to provide support (control) during the late afternoon and evening hours when youth are out of school "doing time" and are involved with peers in social activities which produce and promote trouble. The suggestion here is that school programs might be developed to maintain nurturance and support for seriously delinquent youngsters in schools (seven days a week if necessary, but especially during off school hours).

2. The integration of high school peers and/or youth groups to assist in the control of serious delinquents. High school peers and youth groups might contract for specific project support. Both junior and senior high schools have service clubs which help with the physically or emotionally handicapped. Such organizations might be encouraged to contract a service function with serious delinquents. They could work with them during school and evening hours, hopefully achieving the same success as they have with the mentally and physically handicapped. The development of new peer relations, important for returning delinquents, would be an important function of

the groups, as would their "buffer" role with teachers.

3. Changes in the practices of schools which would facilitate development of "buffer" jobs in the bureaucracy (e.g., a staff of teachers paid as ombudsmen in support of the serious delinquent--Note: We're not specifying counseling here!).

4. Adult education and/or work option funding given directly to employers who would provide total care (seven days a week) commitments and which would include work training. We speculate that juveniles who have had recurrent property crime patterns may especially benefit from adequate work training, with education provided by employers who function independently of traditional educational systems. Total care of this type has not been demonstrated outside of institutions.

FINANCIAL SUPPORT

Young people need money and are known to do those things adults do to get it, including work or stealing. Most appear to acquire legal funds through families, relatives, or significant others. Funds are also received from social welfare agencies which provide nominal income support. Part-time jobs are generally rare, unrewarding, and probably not competitive with the returns garnered from stealing. It seems very important that financial support be established and maintained on a sustained basis after the juvenile's release. Several innovations come to mind:

1. Formal contracts could be established (as has been done with adults) [11] with selected juveniles. Juveniles might be contracted to stay out of trouble at a flat salary rate, probably offset by savings fron non-return to crime (property not stolen or damaged, and savings in terms of police, court, and incarceration expenses). The specification of a reasonable salary for which the individual would be assured as long as he/she remained trouble-free and met criteria such as education or work training progress, would not seem unreasonable. Paying someone to stay out of trouble might turn out, in the long run, to be one of the cheaper ways to establish control and would be consistent with the interests of capitalism and democracy. It would seem that efforts should concentrate on property offenders who depend upon such crimes for sustenance.

2. Innovative kinds of programs, such as gang or peer contract to maintain control of serious delinquents with whom they affiliate for purposes of keeping them out of trouble, seem appropriate. Modified attempts at this were generated in the 1960 Chicago gangs' project when the street workers paid consultant fees to members of street gangs who were in leadership positions, ostensibly for the purpose of

assisting in the control of gang delinquents. These jobs were not specifically directed toward the reduction of crime (although they sometimes served that purpose) but were regarded as a job placement for gang leaders. It appeared that subsequent failures resulted from a lack of supervision of the contractural obligation and the short-term nature of the support.

We have used the term "contract" generously because it allows for the development of formal understandings with the juvenile. [12] However, contractural obligations will probably require some considerable supervision such as overview by schools, parents, police, parole, or other social agents to ensure the meeting of contractural obligations. All contractural parties should have input and the right to grievance. However, contractural review should be given the juvenile, since he/she is the one who will suffer the most if contractural obligations are not met.

It is abundantly clear that virtually nothing has been undertaken programmatically for the serious female delinquent when she is released. Programs specifically tailored for females, containing attributes similar to those just suggested should be given high priority. Such programs appear especially important and timely since rapid growth in female crime rates has been projected.

Clearly there is much potential controversy in what has been suggested. There is also much more that could be proposed which would be even more controversial than some of the suggested programs.

FOOTNOTES

1. Edwin Schur, Radical Non-Intervention (Prentice Hall, 1973).

2. Douglas Lipton, Robert Martinson, and Judith Wilks, The Effectiveness of Correctional Treatment (Praeger, 1975).

3. Stuart Adams, "Correctional and Caseload Research," Federal Probation (December, 1967): 48-57.

4. Herbert M. Lefcourt, Locus of Control (Wiley, 1976).

5. William R. Arnold, Juveniles on Parole (Random House, 1970).

6. A comprehensive review of literature compiled with research is found in Michael Schwartz and Sheldon Stryker, Deviance, Selves and Others, Monograph Series (Washington, D.C.: American Sociological Association).

7. Stuart Adams, Roger E. Rice, and Borden Oliver, "A Cost Analysis of the Effectiveness of the Group Guidance Program," Los Angeles County Probation Department, Memo 65.3 (1965); Irwin Spergel, Street Gang Work (Addison Wesly, 1966); Malcolm Klein, Street Gangs and Street Workers (Prentice Hall, 1971).

8. See Walter B. Miller, "American Youth Gangs, Past and Present," in Current Perspectives on Criminal Behavior, ed. A. S. Blumberg (Knopf, 1974); and Leonard Savitz, Michael Lalli, and Lawrence Rosen, "City Life and Delinquency-Victimization, Fear of Crime, and Gang Membership," National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention, L.E.A.A., U.S. Department of Justice, 1977.

9. Kenneth Polk, "Schools and the Delinquency Experience," Criminal Justice and Behavior 2 (December, 1975): 4.

10. Arnold Schuchter, "Schools and Delinquency Prevention Strategies," Criminal Justice and Behavior 2 (December, 1975): 4.

11. Rubin Epstein et al., The Legal Aspects of Contract Parole (American Correctional Association, 1976).

12. James F. Short, Jr. and Fred Strodtbeck, Group Process and Gang Delinquency (Chicago: University of Chicago Press, 1965), p. 267.

* A "must" for readers should be Dale Mann, "Intervening With Convicted Serious Juvenile Offenders," Prepared under a grant from the National Institute for Juvenile Justice and Delinquency Prevention, L.E.A.A., U.S. Department of Justice (Rand Corp., 1976).

7. A NEW YORK PERSPECTIVE ON THE PROBLEM OF THE SERIOUS JUVENILE OFFENDER

PETER B. EDELMAN

I. INTRODUCTION

The key fact to bear in mind in judging the merits of strident demands for harsher punishment in New York State is that youth in New York are already subject to adult criminal responsibility at the age of sixteen. [1] All crimes allegedly committed by persons sixteen and over are tried in the adult courts in New York State. Youth between the ages of sixteen and nineteen are eligible for "youthful offender" status which involves an indeterminate sentence of up to four years imposed at the discretion of the judge and available for all but the most serious crimes. [2] But, the judge can also use the adult framework in sentencing anyone over sixteen, and must do so in relation to crimes like murder and first degree arson and kidnapping. Even so, the age distribution of criminality is not much different in New York from that in other states. If the criminal justice system can be expected to deter, prevent, or otherwise affect crime, the problem in New York on the "adult" side is clearly not one arising from the sentencing structure, but, if anything, relates to the effectiveness of law enforcement and the judicial system.

Using the word "juvenile" then, as a term of art, the "juvenile" crime problem in New York State is much smaller than in other states. In 1976, there were only forty-three arrests of juveniles for homicide in New York State, and this number has been dropping steadily for the past three years. [3] The peak ages for arrests for rape and aggravated assault are nineteen and eighteen respectively, which is not dissimilar to patterns in the rest of the country. The difference is that these crimes are firmly in the "adult" sphere in New York. [4] There are certainly significant, even disturbing, numbers of robberies and aggravated assaults committed by fourteen and fifteen year-olds, especially in New York City. But, the numbers of juveniles arrested are a distinct minority of total arrests for such crimes, [5] as opposed to the fact that fifteen and sixteen, respectively, are the peak ages for such crimes in vandalism and larceny. [6] Moreover, the incidence of violent crime as a whole in New York State, as elsewhere, has apparently peaked and has been declining somewhat for the past year or more.

I would divide the issue of systems responses to serious juvenile crime into two major areas--sentencing structure and treatment programs--although I would stress

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

II. SENTENCING STRUCTURE

The sentencing structure in New York State in 1975 had for some years been one of an indeterminate eighteen month placement, with one year extensions available until the youngster's eighteenth birthday. [7] The agency with which the youngster was placed, which would ordinarily be the State Division for Youth in the case of a serious juvenile offender, could release or discharge the youngster at any time within the eighteen month period, or could seek an extension of placement. Average length of stay in State training schools (cottage-type facilities) and secure centers was approximately seven to eight months, and there was very little differentiation in the length of stay with reference to the nature of the delinquency. It was not uncommon for delinquents to be released from facilities because beds were needed for new population influxes.

In these circumstances, it was not surprising that there were calls for greater stringency with reference to serious juvenile offenders.

In June 1975, Governor Carey, having been in office five months, appointed a blue ribbon panel chaired by his health advisor, Dr. Kevin Cahill, consisting of judges, attorneys representing both sides, health and social welfare professionals, and academics to review issues regarding serious juvenile crime and to suggest solutions. [8] In early 1976, the Governor submitted a bill patterned closely on the panel's recommendations to the Legislature, and after some amendment and alteration of an important but not fundamental nature, the Legislature enacted it and the Governor signed it into law. [9] It became effective February 1, 1977.

The philosophical underpinning of the new Juvenile Justice Reform Act, as it is called, is that it is appropriate to differentiate among categories of juvenile offenders within the juvenile system by reference to the degree of seriousness of their act. That this was something of a novel proposition helps to explain the degree of outside criticism to which the juvenile system has been subjected. People had found it difficult to understand the previous propositions that what the

juvenile did to get himself/herself into the system was totally irrelevant, and that the amount of time he/she would spend in the system would have nothing to with what was done to get involved in it in the first place.

Several even more fundamental propositions underlying the new statute were that the juvenile justice system should be preserved as a separate entity, that juveniles should be tried in juvenile courts regardless of their crime, and that they should be served in juvenile facilities regardless of their crime. When considering the merits of this second proposition underlying the new law in New York State, one should recall, again, that all youth are subject to the adult courts in New York State when they become sixteen.

The Juvenile Justice Reform Act covers acts committed at the ages of fourteen and fifteen. For murder 1 and 2, arson 1, and kidnapping 1, it gives the family court judge discretion to impose a restrictive placement or to choose the pre-existing eighteen month placement. The restrictive placement is a five-year placement which can be renewed annually after the five years until the youngster is twenty-one. The youngster must be held in a secure facility for at least the first year, and in another residential facility for at least a second year. The time spent in any facility can be lengthened at the discretion of the incarcerating agency which is the State Division for Youth. For a larger category of crimes including robbery 1, assault 1, rape 1, arson 2, manslaughter 1, kidnapping 2, and sodomy 1, the restrictive placement which the judge may choose is for an overall total of three years which, again, is renewable annually until the youngster reaches the age of twenty-one. If the restrictive placement is chosen, the judge must then fix a period of six to twelve months which the youngster must spend in a secure facility, and an ensuing period of six to twelve months which the youngster must spend in another residential facility. Again, the time in the secure or other residential setting may be extended administratively.

How will this new law work? It is too early to say. Our family courts, especially in New York City, are terribly overburdened. Like their adult counterparts, they are necessarily prone to plea bargaining approaches. Thus, especially in New York City, what we see occurring is that charges like robbery 1 and assault 1 are reduced so that a full fact-finding does not have to take place. The judge then imposes the "standard" eighteen month placement for a charge of robbery 2 or assault 2, or perhaps for possession of a dangerous weapon. Thus, during the first six months of the applicability of the new law, we have seen about fifty youngsters in the whole state adjudicated for the designated felonies mentioned in the act, and only about half that number placed restrictively for those felonies. The pace of use of the law seems to be picking up, however, and the numbers may well increase as judges

and others get used to utilizing it.

I strongly support this new approach. There are naturally many in our state who think it is not stringent enough, as well as a few who think it is too severe. Properly and consistently enforced, I believe it can be an effective law enforcement tool. It leaves it to the judges' discretion to take individual circumstances into account without having to resort to the kind of subterfuge that is often necessary to ameliorate the harsh effects of a more rigid, mandatory sentencing approach. At the same time, it enables the judges to ensure that youth will not be released prematurely as a consequence of administrative discretion.

We at the Division for Youth have taken concomitant administrative steps to tighten our handling of the serious juvenile offender. Thus, even before the new law was passed, I promulgated a "classified case" policy which assumes that serious offenders will be housed in our secure centers and training schools for at least a year, with very tight restrictions placed on home visits and release decisions. With the new law, I have kept that policy in effect, so that even when youngsters who have committed "designated felonies" are not placed under the restrictive provisions of the new law, we have an administrative presumption that they will be placed in either a training school or a secure facility and that they will stay there for at least a year. The average length of stay for serious offenders has increased substantially in their facility of initial placement, and total residential stay has increased even more, because we have pursued the idea of a secondary, or "halfway house" type of placement for significant numbers of serious offenders in order to help reintegrate them into the community.

I might add that while I strongly favor differentiating the sentencing response to serious juvenile offenders so that it is clear that they will have to accept a greater measure of responsibility for their acts and that they will be treated more stringently than minor delinquents, I am, at the same time, opposed to efforts to create a "mini-adult" sentencing structure for all juveniles. Beyond the most serious and violent offenses, it is our experience at the Division for Youth that individualization of response to the youngster can and should remain the most important factor in determining the length of time spent. I would impose very limited and strong overall time frames within which administrative discretion as to release can be exercised, but I would not favor fixed sentences of a year or any other period of time for property offenses. Thus, I strongly believe that our structure in New York State of an eighteen month placement for all but the most serious crimes--within which we at the Division for Youth then determine the type of facility to which the youngster will be assigned and the amount of time he or she will spend in that facility--is the wisest approach.

III. PROGRAMMATIC RESPONSES

Let me turn now to the content of service that is offered to serious juvenile offenders once they are placed under whatever sentencing structure is operative.

One significant departure in New York which has occurred within the past two years is a joint project operated by the Division for Youth and the Department of Mental Hygiene, located on the grounds of the Bronx State Hospital, and designed to serve ten youth in a diagnostic unit operated by Mental Hygiene and twenty youth in a long-term treatment unit operated by the Division for Youth. The project is limited to male juvenile delinquents who have been adjudicated for violent acts or who have otherwise exhibited violent acts even when such was not the nature of their delinquency. It requires that a youth have serious mental problems as well. An initial psychiatric screening and due process hearing are conducted before a youngster is even admitted for diagnosis. Following the diagnostic period, which can be up to ninety days, youngsters are either placed elsewhere in the Department of Mental Hygiene, elsewhere in the Division for Youth, or most often, in the long-term treatment unit operated by the Division for Youth.

The treatment modality utilized in the long-term treatment is not especially startling or bizarre. It consists of a heavy emphasis on individual therapy, group therapy, highly individualized education, and recreation. Major emphasis is placed on working with the families of the youngsters as well. The idea, as in any treatment program, is to get the youngsters to confront what they have done and take responsibility for it, to help them get control over their emotions and especially their rage, and to help them think better of themselves so that they may be able to function in the outside society.

The program has been in existence for a little over a year, but there are some four residents approaching release who seem to have improved considerably under the intensive care which has been provided. In addition, their educational attainments have improved markedly. Their "aftercare" supervision will be conducted by specialists attached to the project, with a small intensive caseload, confined exclusively to "graduates" of the project.

The cooperative relationship with the Department of Mental Hygiene has not always been smooth, but it has constantly improved through the life of the project. The modality itself, while not innovative in any of its particular elements, is innovative in its combination and intensity, and certainly deserves examination by people from other jurisdictions. I had discouraged visits during earlier stages of the project because I did not think we were ready to demonstrate anything in the

way of outcome, but I do think the project is worth looking at now. [10]

If I am encouraged about our cooperative relationship with the Department of Mental Hygiene at Bronx State Hospital, I am by equal turns discouraged by the apparent unwillingness, or at least the demonstrated incapacity, of the Department of Mental Hygiene in our State to provide services to seriously disturbed delinquents, and for that matter status offenders, whether they are violent or not. I could list literally dozens of anecdotes--and these are only the ones that I know of personally--where the Division for Youth has referred youngsters with serious psychiatric problems to the Department of Mental Hygiene, only to have them sent back very quickly having been pronounced sane, sometimes having been filled with thorazine, and even worse, sometimes having been released to the community rather than sent back to us.

What disturbs me about the current fashion of saying "rehabilitation" has "failed" is that I know there are a significant number of youngsters with histories of serious delinquency who can be reached and helped. Clearly, the success rate will be lower than it is for youngsters who have not engaged in extremely anti-social acts, or who have not penetrated the system so deeply and so repetively. Nonetheless, I think we should clearly state--to the public and to the media and to our elected officials--that the concept of a "new breed" of "remorseless, cold-eyed" youth who do violence to the old and the weak without a second thought and who are therefore unreachable, is a vast overstatement. That there are youth committing serious acts which hurt others is obvious. That many of these youth say they do not care or offer excuses which seem outrageous is also obvious. That the pathology of the inner city is now so malignant as to produce very hard cases--especially in an era when there is little political hope in contrast to the rising expectations of the sixties--is probably also an operative fact.

Nonetheless, when youngsters are confronted by strong, caring, active, able staff in an atmosphere of strong supervision and intensive attention to individualized response, breakthroughs can occur. Sometimes the breakthrough is started by a new set of teeth, or plastic surgery to fix an ugly scar. Sometimes the feelings are unlocked via educational efforts, when a spurt in reading achievement or math achievement makes the youngster feel like he/she is worth something. And sometimes the key is what I call "professional love," a skilled person letting the youngster know someone truly does care what happens to him/her, and indeed, that someone cares enough to set limits on the youngster's behavior as well as to care about what ultimately happens to that youngster.

There is no question that the kind of service I am talking about is intensive and therefore expensive. It is tragic that any youngster should be a victim of urban

life for so long that the costs of even attempting rehabilitation become so incredibly high. Thus, as I stated at the outset, preventive efforts are absolutely essential. And, it should also be emphasized that we must not return to a period of over-institutionalization, or concomitantly, to loosely use the scarce resources of intensive service programs for youngsters who can be served appropriately in other, non-institutional settings. Nonetheless, the investment in intensive programs should be made for those who need them most.

Consonant with the above, we have moved away from undifferentiated large institutions in New York and have closed some 500 training school type beds in the last two years. We have moved toward both far greater service to youth in the community and the development of a network of specialized beds and services.

We, of course, have our secure facilities for serious delinquents, and we have tried to intensify service in those facilities. The Bronx State project is a new departure of a specialized nature, and we have a new 20-bed program for youngsters with learning disabilities (which is obviously for more than just serious delinquents), and we have funding for two 10-bed enriched residential centers (as we call them) for disturbed youngsters whose problems manifest themselves in their inability to be part of a group process even though they may not exhibit serious violence.[11]

I have no magic solutions to offer from a service point of view. I think small programs are better than large programs. I think an eclectic approach to modality is essential--emphasizing therapy, education, physical health, recreation, and family relationships--coupled with the recognition that there may be different key steps for different youngsters in terms of what will accomplish a breakthrough. Money alone is surely not the answer, but the case must be made for adequate funds in order to be in a position to make a serious effort. And, it must be understood that, even with all the efforts, the "failures" may well outnumber the "successes."

Our choices, however, can really not be otherwise. If we fall prey to the accusations and calls of those who now demand a wholly punitive approach--with its attendant warehousing and incarcerating quality--we will surely end up as a nation of prisons, perhaps at greater cost financially than our present cost and effort, and certainly at the cost of bankruptcy of our national soul.

FOOTNOTES

1. N. Y. Penal Law Section 30.00; N. Y. Fam. Ct. Act Sections 712, 713.

2. N. Y. Crim. Proc. Law Art. 720.

3. From figures compiled by New York State Division of Criminal Justice Services.

4. Crime and Justice in New York State, Annual Report, 1975, Division of Criminal Justice Services, pp. 96-99.

5. Ibid. The proportions of juveniles arrested for robbery and aggravated assault in 1975 out of the total number arrested for these crimes were 25.0% and 9.9% respectively.

6. Ibid.

7. N. Y. Fam. Ct. Act Section 756.

8. Governor's Panel on Juvenile Violence, "Report to the Governor from Kevin M. Cahill, M.D., Special Assistant to the Governor on Health Affairs," panel report (Albany, N.Y., 1976).

9. 1976 N. Y. Laws, Chapter 878.

10. New York State Department of Mental Hygiene, Special Projects Research Unit, "The Bronx Court Related Unit: Evaluation and Recommendations," evaluation of program effectiveness (1977); New York State Division for Youth, "Grant Application for Second Year Funding, Project for Aggressive Disturbed Adolescents," refunding application (1977).

11. New York State Division for Youth, "Enriched Residential Center Program Description" (1977).

8. INSTEAD OF A CHILDREN'S PRISON

KENNETH F. SCHOEN

There are few who would compare Minnesota to New York, using any basis of comparison. The life styles are very different, the pace is markedly variant, the environments are unrelated. Yet, somehow, when the subject of crime--particularly juvenile crime--is broached by the average citizen, the crisis in New York becomes the crisis in Minnesota.

Juvenile delinquency, or better stated, serious crimes committed by juveniles, is far greater in New York than it is in Minnesota. Using 1976 Part One arrest reports as the basis of comparison, in New York, over 60% were juveniles; in Minnesota, 43% were juveniles.

Yet the rhetoric one hears in Minnesota about this subject patterns the recent TIME magazine article about the problems in New York. "A pattern of crime has emerged that is both perplexing and appalling," states TIME, "...many youngsters appear to be robbing and maiming as casually as they go to a movie, or join a pick-up baseball game."

"The people," says TIME, are afraid. "They have retreated with broken limbs and emotional scars behind triple locked doors." And although the numbers in Minnesota are far less, the fear seems to be, for a large segment of the population, just as great. Those who fear call for strong measures to stem this outrageous behavior; the cries of "lock 'em up" are just as loud in Minnesota as they are on the East Coast.

Recently, a position paper was advanced by the Minnesota Metropolitan Senior Federation supporting this notion. Advocating the establishment of a prison for kids, the paper stated, "We measure the value of a security facility in the knowledge that while a wanton, violent offender is incarcerated in a proper facility, that individual will not be bashing in skulls or breaking the limbs of victims or assaulting and/or robbing them on the streets or in their homes."

Historically, the "lock 'em up" notion has been limited with respect to juveniles. The entire basis for the separate juvenile court, and the removal of the juvenile offender from the statutes of the adult criminal code, was centered around the

parens patriae notion. The state, through its juvenile court and correctional systems, was to treat the child, not punish him/her.

It seems that the current call for strict incarcerative measures is in opposition to that treatment mode. Yet, as is the case in a number of criminal justice policy areas at the present time, those who hold differing philosophies do on occasion come together and offer the same solution to a problem. Sometimes, the same person poses one solution to what some would perceive as two totally different problems. The best example on this subject of violent juvenile crime comes from a statement made by a Minnesota juvenile court judge and quoted in a paper of the Metropolitan Senior Federation which stated that "the (lack) of juvenile security facilities is not just a serious handicap; it has literally destroyed our juvenile justice capacities. We need security facilities desperately for two major reasons: 1) We need to have the capacity to isolate certain hard core offenders often for substantial periods of time and for the protection of society, and 2) We need the 'threat' of a security facility in order to make our community's resources work." The Minnesota Department of Corrections disagrees.

Our position in the Department of Corrections has been--and continues to be--the following: We will not support a children's prison to be operated within the juvenile justice system. We are of this persuasion because there is no evidence indicating that such a facility will do anything except incapacitate, and if that is the purpose, it is in conflict with the precepts of the juvenile law. A juvenile whose behavior is so horrendous that his/her welfare is quite secondary to the assurance that the criminal behavior will assuredly stop, should be certified to the adult system. In Minnesota we have two adult institutions--the Reformatory at St. Cloud and the Lino Lakes facility--which are both secure and humane.

There are, however, juveniles for whom incarceration in the adult institutions would be too strong a measure. For these juveniles we wish to provide control, with some type of reintegration into the community, yet we also wish to keep them in the juvenile system. In short, we believe that they are treatable. It is for this group that the options are scarce. Yet forcing this group to accept only one model--the "lock 'em up" model--is in my judgment a poor solution, and one quite frankly, that we know is high in cost and low in success.

The issue is not an easy one to consider. In Minnesota, several recent study groups and task forces have dealt with this problem. Among these have been the Supreme Court of Minnesota, the Governor's Commission on Crime Prevention and Control, the Hennepin County Youth in Crisis Task Force, and a task force appointed by the Commissioner of Corrections.

In all of these studies, there is general agreement that the number of these people is small. They are almost entirely male; minorities, especially blacks, are disproportionately represented. They are poor and are usually concentrated in dense urban neighborhoods. Their intellectual and academic functioning level is below the average of less chronic delinquents. Unless we assume genetic differences, we must conclude that environmental factors have put these adolescents in a disadvantaged condition.

There has been no substantial agreement by any of the Minnesota experts or, for that matter, by any nationally known figures about the appropriate response to such serious-offending juveniles. What has emerged out of the two major national studies (the Rand Corporation and the Vera Institute) is that what is most needed is experimentation, utilizing a wide variety of possible program approaches. No experimentation has yet been done anywhere with respect to programs specifically designed for serious juvenile offenders.

Consequently, our Department has sought and obtained funds for such an experimental program. Using existing juvenile institutional resources, which will be coupled with intensive community supervision after institutionalization, this program intends to attempt to provide an effective response to a narrowly defined group of serious juvenile offenders.

The program is intentionally called experimental. We seek a resolution for a complex problem. The fact that professionals argue about even its definition makes it absurd to suggest that we have designed a program that is "the answer." The liklihood of this single program solving the serious juvenile crime problem is as great as the liklihood of finding a cure for cancer--yet with it, as with that disease, we must try options.

In a sense, it is easier to describe what the program is <u>not</u> than what it <u>is</u>.

It is not a program of pure incapacitation. The program still looks on the offender as a juvenile, amenable to treatment. Its purpose is not to "put away" the adolescent whose behavior has become so intolerable that punishment, not treatment, becomes the single goal.

Likewise, because the program is designed for juveniles (who do not fall under the adult criminal code), it is not a program designed solely for general deterrence, with the primary goal of warning juvenile offenders that there are serious consequences for their behavior.

Finally, it is not simply a program that takes a series of oft-tried, but seldom succeeding, prior efforts and puts them together in a new package. Because Minnesota has never operated a program solely for serious juvenile offenders (who have been classified as such based on their offense record, and not on their disruptive or escape behavior while institutionalized), this program cannot be simply dismissed as a rehash of current or prior unsuccessful program elements. What then, are the characteristics of this new effort? The program focusses on a target population of sixteen to seventeen year-olds, adjudicated on these bases:

1. A current adjudication for: murder in any degree, aggravated arson, criminal sexual conduct in the first or second degree, manslaughter in the first or second degree, aggravated assault, or aggravated robbery with a previous adjudication, within the preceding twenty-four months, for an offense which would be a felony if committed by an adult; or

2. A current adjudication for burglary with three previous adjudications within the preceding twenty-four months for an offense which would be a felony if committed by an adult.

Approximately sixty to seventy juveniles per year are expected to meet these criteria with approximately fifty to sixty expected to be committed to the Commissioner of Corrections, and approximately ten to twenty probably maintained under county jurisdiction. Those juveniles meeting the criteria who are committed to the Commissioner of Corrections in the course of one year will be randomly assigned to either an experimental or control group.

The experimental group will participate in the full proposed program described below; the control group will be assigned to the normal institution program followed by regular parole. A portion of the full program (case management services only) will be offered to juvenile judges for use with the group of offenders described above who are maintained under county jurisdiction and not committed to the Commissioner of Corrections.

A small "core" staff, referred to as a "case management team" will, upon commitment or at the request of the juvenile court judge, assume overall program responsibility for the defined serious juvenile offender.

The case management team will provide few direct services to offenders; instead, they will develop offender behavioral contracts, organize and coordinate necessary institutional and/or community services to be provided to the offender, and establish and maintain liaison with significant members of the offender's home community.

INSTITUTIONAL USE

While the plan calls for institutional stay for most of the participants, locating them in a single building designed as a place for violent juveniles will be avoided. Experience has taught us that these kinds of operations degenerate into failure and despair, possess exaggerated management problems, and generally contain a counter-productive culture. In those programs that have been tried, bureaucratic imperatives supersede avowed intentions; if not immediately, this happens eventually. In our own state, the St. Cloud Reformatory was established by the Legislature as an intermediate correctional institution between the training school and the State Prison, "the object being to provide a place for young men and boys from 16 to 30 years of age never before convicted of a crime, where they might, under as favorable circumstances as possible, by discipline and education best adapted to that end, form such habits and character as would prevent them from continuing in crime." It now houses eighteen to twenty-five year old felons, many of whom are multiple felons, and for whom the chances of being prevented from continuing in crime are not 100%.

The experiences of the Reformatory's change of direction make clear the futility of the "reformatory" goal. Not only is the centralized "secure treatment" facility an acronism, its concept is inconsistent with the desire to hold the community and its resources in the central position where each case and community can be treated individually.

In the Minnesota experiment, we will not, then, have a single strong box. Rather, the institutional phase of this experiment will use those facilities and programs already existent which can provide appropriate levels of security (presently there are 150 secure beds operating in the state) and which can address the shortcomings of these youth; it will, of course, also need to be a program in which the youth himself is willing to participate.

One obvious advantage of this experiment is the cost savings. At $10,000 per bed (or more), building an institution is not cheap!

Minnesota has not dreamed up this experiment out of an ivory tower vision. The Vera Institute report has made some good points about the rationale for the case management type approach:

1. Serious juvenile offenders have probably experienced nearly every possible disposition available in the juvenile justice system, including many of the elements contained in this program. What has been missing is a single locus of responsibility for management of the correctional and post-correctional response on an individual

case basis.

2. The goals of case management are the integration and expedition of each step in the correctional process, and avoidance of contradictory decisions and discontinuities.

3. Although one phase of the program resembles an intensive parole process (similar to some other things that have been done for juveniles in this state), the continuous and intensive management of the case begins before, rather than after, correctional intervention, helping to ensure that decisions made throughout the entire correctional and post-correctional process all relate to the needs of the juvenile.

4. Generally, serious juvenile offenders are discriminated against in terms of opportunity for placement in specialized community programs (i.e., no one wants to take a proven failure). Since this program has a substantial sum of money set aside for purchased services, it is hoped that not only will existing resources be used for these youth, but also that some incentives will be created for the development of new resources for this offender population.

5. The study reiterates the results of several other studies which show that increases in the number of juveniles securely incarcerated and/or length of secure incarcerations, can have little, if any, effect in terms of reduction in the number of crimes or enhancement of individual deterrence.

The "full" program in the Minnesota experiment will consist of up to one year in a state institution, followed by halfway house residence and/or intensive one-to-one community supervision by appropriate individuals contracted to perform this service on a part-time basis. The total program length could be up to two years; the average length per juvenile will likely be closer to one year.

The length of time in the program will be established via criteria linked to the crime committed. The phenomena of commensurate punishment with predictable length of stay in confinement established proactively will be difficult to achieve, but is an important ingredient of the program.

In order to provide a year of programming for twenty-five juveniles entering the program at staggered intervals, it will be necessary to operate the program as an experiment for at least twenty-two months. Special characteristics of the program will be:

- High flexibility and availability in application of resources;
- Highly individualized programming on a case by case basis;

- Heavy surveillance both in and out of institutional setting;
- Three-party contracts, between the Department, the juvenile, and the judge, indicating specific time frames and goals to be accomplished; and
- Payment of restitution, both in the form of money and community work orders.

Because of the experimental nature of the program, its more specific characteristics are yet to be developed by the director in conjunction with an advisory panel. This is felt to be a wise approach, since there is no model. The program received general legislative sanction and an appropriation to match this grant.

In making the concluding remarks, I want to cite an important guideline. A major problem with alternatives and specialized programs which have developed in the last several years is that unless the candidates for a program are narrowly and specifically defined, there is a tendency to expand the nets of social control for a variety of well-intended reasons. The criteria for this program are specific; we intend to guard against making exceptions.

I am convinced that what we have done in the past has not been satisfactory. Likewise, I am convinced that those who claim we must "lock 'em up" are seeing only a small part of the problem, and have, if any, only a small part of the solution.

The Minnesota program has been designed, and will be operated, as an experiment. I will not say that we have the answer now; I hope I may be able to say that we have found a part of the answer when it has been operational for some time.

The question is a perplexing one, but to sit and ponder its definition, the description of this type of juvenile offender, or the number of them that exist, will do nothing more than give us better data. In my mind, if we wish to address the problem, we must do so head on--recognizing that further study is needed, but trying, at least, by establishing an experimental program, to give all of us something more to study than our past failures or a replicated model of them.

9. AN ILLINOIS PERSPECTIVE ON THE PROBLEM OF THE SERIOUS JUVENILE OFFENDER

SAMUEL SUBLETT, JR.

The "serious juvenile offender" or the "violent juvenile" is a current issue of major concern for juvenile justice professionals. It is also an issue of considerable public concern, the intensity of which threatens the basic structure of the juvenile justice system.

The "serious juvenile offender" defined as "repetitive, hard-core and violent" has been portrayed by media [1] as characteristic of a subculture growing in number and threatening community life in a manner heretofore not known in American history. Heinous crimes--crimes against the elderly, crimes involving weapons, crimes in groups (gangs), crimes related to intoxication (alcohol and other drugs)--are viewed and portrayed as being so deviant as to warrant drastic action by the government in order to effect control. This "tyranny of youth" spectre is the forefront of an apparent anti-youth syndrome generally equated with the breakdown of the traditional family and family discipline. Implied is an assumption that the traditional family is characterized by strong parental control over youth and that deviant criminality is not an aspect of behavior of such family members. The recent history of media depiction in this area is reminiscent of the "muck-raking yellow journalism" of another era.

A critical consequence of the nature of the information transmitted to the public is the polarization of political thought and expression into two diverse camps--left-wing do-good coddlers, and rigid law-and-order constructionists. The ideology of the U.S. Constitution and the Bill of Rights is compromised in the rationale of both extremes. The traditional basis of jurisprudence found in the Judeo-Christian ethic is pushed aside for action-oriented solutions dealing with gross symptomatic behavior.

With increasing vigor, it is fashionable to discredit the juvenile justice system. In fact, it is often regarded as a "non-system." Failures of the present system are frequently highlighted as examples of systemic failure regardless of their statistical significance. Solutions are suggested as the province of new systems rather than increased application of the suggested actions derived from existing systems. The logical extension is to discredit government and governmental involvement in affording protective services for youth and the community.

This denigration of government sponsored programs serves as a springboard for the reduction in scope and quality of governmental services, particularly in the area of the juvenile justice system. It has led to the "purchase-of-services" doctrine based on the notion that persons not related to the government can provide better services. In the juvenile justice system, however, the exception is the serious offender.

This monograph is not a treatise on bigger and better government. It is an effort, however, to review public policy issues generated by public concern for the serious juvenile offender from the perspective of a state agency administrator. It is an area of national concern needing national policy. It is an area of critical State (Illinois) concern needing policy definition and program implementation.

The present thrust to decriminalize a large amount of juvenile behavior is beginning to create conflicting public policy as stated in statute. The effort to decriminalize status offenders (i.e., truants, runaways, etc.) is most notable, except for the often accompanying elimination of basic support services. A juvenile, extremely immature and attempting to fend for him/herself, frequently needs certain basic support services whether they be administered by law enforcement, court services, or court facilities. In the effort to remove certain juveniles from the purview of the justice system, the mechanism for the provision of basic support services is also often removed.

More meaningful as a public policy issue is the growing intensity of legislative change reflecting public regard for the adult criminal justice system. There is mounting evidence of significant anti-children legislation consistent with the law-and-order attitude that supports the move to punish adult offenders. The move involves child welfare legislation outside the justice system.

From the perspective of persons and agencies responsible for implementing policy on state and local levels, a dilemma exists. In recent years, a considerable amount of time and energy has been devoted to deinstitutionalization, contracting services with private agencies, and fostering the growth and development of services in the private sector. This activity has sometimes been fostered by an anti-government posture regarding the provision of human services.

Suddenly and with great emotion, a new climate demanding governmental policy of a punitive nature has evolved and is fast being written into statutes. A number of states have recently enacted legislation detailing punitive sentences for certain offenses. The legislation is usually described as mandating appropriate treatment for serious offenders.

The dilemma also includes a major personnel component. Most human service agencies are composed of persons trained and dedicated to treatment approaches and care. Certainly the training modality--academic and in-service--has been to enhance programmatic considerations and to define treatment goals for individuals committed to agency care.

A major problem has emerged in terms of public agencies reflecting public sentiment. Conflict in this area invariably results in political ferment. It would appear that the present ferment is the basis for political debate which more and more borders on demagoguery. The serious juvenile offender has become an issue for political debate and campaign rhetoric.

THE SERIOUS JUVENILE OFFENDER

The serious juvenile offender is defined in a number of different terms. In one context, the definition involves only those guilty of acts of violence against a person or of acts which threaten violence against a person. In another context, acts or threats of violence against a person are coupled with serious property offenses (i.e., auto theft, arson, grand theft, etc.). In yet another context, the acts against person and serious property offenses are linked to repetitive criminal behavior of a less serious nature. Repetitive participation in burglary, breaking and entering, simple theft, and similar offenses may lead to the descriptive appellation of "hard-core." Repetitive behavior generally becomes "hard-core" when it is known to involve an individual in official arrest or police files three or more times.

Recent research indicates that "...half of all serious crimes in the U.S. are committed by youth aged ten to seventeen. Since 1960 juvenile crime has risen twice as fast as that of adults. In San Francisco, kids of 17 and under are arrested for 57% of all felonies against people (homicide, assault, etc.) and 66% of all crimes against property. Last year in Chicago, one-third of all murders were committed by people aged 20 or younger, a 29% jump over 1975. In Detroit, youths commit so much crime that city officials were forced to impose a 10 P.M. curfew last year for anyone 16 or under." [2]

As reflected in official statistics, youth crime is an imposing social problem that needs attention and action as a function of the justice system. More importantly, it is a problem that needs attention and action in the area of prevention designed to cope with delinquency causation. A most notable achievement in this area was the enactment of the JJDP Act of 1974.

The juvenile justice system involves a small number of known participants in youth crime. [3] The best assessment in a large sample indicates that the number of youth participating in youth crime exceeds official statistics ten-fold. If that estimate is only 50% accurate, it encompasses an exceedingly large number of youth who are potential wards of the State as recipients of juvenile justice. It is obvious that the justice system, at least as we know it in terms of sanctions, cannot realistically cope with such large numbers of individuals. In studies of self-reported behavior, data indicates that "...acts which may be formally defined as delinquent are performed by the vast majority of juveniles." [4] The same studies also indicate that "...it is incorrect to divide adolescent misbehavior into two dichotomous and unrelated classes: mere misbehavior and status crimes on the one hand, and serious crime or 'proto criminal' behavior on the other. Our correlations show that the most trivial of status offenses and the most serious of juvenile felonies are different parts of the same social fabric. They intercorrelate with each other and they both correlate in many cases with the same social and demographic independent variables." [5]

Excepting the grossly pathological, the "serious offender" is not a "special breed" or a "different kind of person" to be separated on a treatment or punishment basis. Serious offenders "...have law-abiding friends and associates. There are teen-agers whom their peers acknowledge are dangerous or disturbed, but the overall integration of serious offenders in a peer-group world and of serious offenses with trivial ones in statistical correlations mean that serious crimes as well as trivial acts of misbehavior arise from many of the same conditions of adolescent life." [6] Knowledge of the serious offender promulgated to the public does not relate in a positive manner to the findings of research in the area. Extremely violent acts are usually isolated by the media and presented to the public in a journalistic mode that is often stated in language designed to stimulate outrage and indignation and/or sympathy and sorrow.

In a study of violence in the British Isles, considered to be not nearly as violent as the U.S., it was noted that "violence is normally part of a repertoire of behavior within a pre-existing relationship and is usually taking place between people who know each other, not in consequence of attacks by unknown thugs or assassins. This is an extremely important fact because the media project an image of violence as something which arises 'out of the blue'; the mugger, the random, vicious knife attack or pub brawl are given large coverage. However, the majority of violence takes place either within the family or within other existing relationships; this fact is rarely given adequate coverage by the media mainly perhaps because it reflects adversely on some very deeply held attitudes about family life within this country." [7]

The writer's personal familiarity with thousands of serious offenders over a period of twenty-six years in the juvenile justice correctional system of a large state jurisdiction (Illinois) supports the thesis that most violence involves interactions among people with existing relationships. Violence outside that context is generally wealth-acquisition oriented, reflecting known or perceived needs in terms of money or goods. Known or perceived needs may or may not be valid in a social context. They do, however, reflect individual perspectives deemed important, i.e., drug dependence, food, shelter, social status, etc.

It is also apparent that the defined serious delinquent is not a "different type" but rather "typed" by legal terminology which creates the connotation of being different. Certainly those guilty of auto theft and repetitive petty theft do not appear to personnel in the juvenile corrections systems to be included in the definition of serious offender. The informal knowledge of the number and frequency of such acts tend to depreciate any realistic inclusion of the perpetrators as serious offenders. The statistical image of the serious offender is skewed in terms of a more meaningful definition which centers on acts against persons. Acts against persons are relatively few in number and often are perpetrated by a relatively small number of offenders. It would appear that a realistic definition of the serious offender is crucial to the development of appropriate public policy in this area.

THE JUVENILE JUSTICE SYSTEM

In the State of Illinois, generally regarded as the founding jurisdiction of the juvenile court concept in 1889, the juvenile justice system is both amorphous and inefficient, yet far-reaching and futuristic in its structure. It is a system that functions primarily with state authority on a county level. Illinois has 102 counties, each served by a judicial circuit which may encompass one (e.g., Cook County) or more counties. There are twenty judicial circuits. Juvenile Court jurisdiction is a circuit court function executed by judges assigned to such functions by the Chief Circuit Judge on a permanent and/or rotating basis. The Juvenile Court Act gives the court the authority to hear petitions, detain, adjudicate, and make dispositions at county or State expense for dependent, neglected, and delinquent youth. Defined "status offenders" are also under the courts' jurisdiction, as is the authority to permit juveniles to be processed in Criminal Courts for serious felonies. Criminal Courts, however, must use juvenile justice system dispositions for convicted felons. In Illinois, juveniles cannot be programmed in the adult correctional system.

The Juvenile Court in Illinois is a civil court and its proceedings are civil

actions distinct from the adult criminal courts. This status has been upheld by the State Supreme Court and is important as the basis for public policy development.

A panoply of services to youth are offered in Illinois on a voluntary basis by private agencies. Many such agencies, however, have been supported by the State Planning Agency with Omnibus Crime and Delinquency Prevention Act funds. A special effort known as UDIS (Unified Delinquency Intervention Services) has been directed to serious offenders at the court level with community dispositions. That program is reported to you elsewhere in the program as a special concern for this Symposium.

Delinquency prevention services are recognized and promoted at the state level by a Commission on Delinquency Prevention. The Commission assists communities and agencies in developing self-help and volunteer prevention programs.

Of considerable significance in Illinois is the existence of a Department of Children and Family Services. DCFS has statutory authority as a disposition for dependent, neglected, status offenders and delinquents up to the age of thirteen. The Juvenile Division of the Department of Corrections has jurisdiction for juvenile delinquents, juvenile felons, and an occasional misdemeanant. Commitments to the Division are not time oriented, although release from institutional facilities requires the approval of the Pardon and Parole Board. The Division provides and supervises residential programs (institutions and group homes) and field services (parole supervision and support services). The field service functions have been regionalized [8] and the regions have been empowered to receive commitments and divert placement from institutions to community programs in cooperation with committing courts. Many DOC wards have been and may be under the guardianship of DCFS. Inter-agency planning and funding on a case basis is common practice.

Probation in Illinois is a judicial function, as is detention. Probation and detention are regarded as county functions and are supported by county funds with state subsidy. Detention services are inadequate, resulting in frequent inappropriate use of secure facilities for the detention of juveniles.

As can be deduced from the above structure, Illinois does not mix delinquents and status offenders in the same correctional facilities or programs. The issue of deinstitutionalization does not refer to status offenders but rather to the application of that adminstrative thrust to delinquents. This structure has permitted Illinois to close seven correctional institutions since 1970. A major institutional facility is scheduled for closing in November of 1977. Juvenile Corrections population has been reduced from 2,500 in beds in 1969 to 950 in beds in 1977. A corresponding decrease has occurred in the number under parole supervision. These

statistics, when compared with the demographic growth of the delinquent prone segment of the population (ages ten to seventeen), the growth of the population of Illinois (12,000,000), and the increased effectiveness of law enforcement, are inconsistent with the growing concern for the serious delinquent.

It would appear that in the absence of validating the scope of the serious offender problem with raw data, the intense concern about serious offenders has evolved into a scathing attack on the juvenile justice system. Vocal demands are expressed for simplistic solutions to individual cases of deviant behavior and serve as the basis for questioning the validity of the philosophical premise of the juvenile justice system.

From the perspective of one responsible for the management of state correctional programs, generally agreed to be the dispositions of last resort, increased punitive dispositions are being demanded for a decreased number of youth. The raging debate in the adult criminal justice system with respect to the role and scope of the state in the matter of coping with adult crime and crime control is "spilling over" into the juvenile justice system. The "spilling over" or contamination of thought regarding the juvenile justice system views serious juvenile offenders as young adults not as juveniles. Somehow the offense eliminates the status of being a juvenile, and the offender is viewed as one subject to adult sanctions. Youth guilty of serious offenses lose the protective provision of the juvenile justice system and are regarded as having "earned" adult status.

The present juvenile justice structure, based on the precepts of the Juvenile Court Act, is threatened. Efforts are made, and generally supported, to restrict placement and release authority for certain juveniles participating in state level programs. More importantly, the efforts are channeled into legislative changes to implement more restrictive guidelines for the treatment and placement of juveniles. Presently pending in Illinois is legislation to lower the age of criminal responsibility from seventeen to fourteen. A visit to any adult facility would suggest to the careful observer that the need, from a client perspective, is to raise the age to eighteen, and to enact youthful offenders legislation which would permit the removal of immature youth from the prison environment.

Other legislation addresses authorized absence authority and placement in group homes, halfway houses, and similar less restrictive programs. All of the legislation is designed to restrict these programmatic variables.

Clearly the official system, based in civil law with the protective tenets of the parens patriae doctrine that serves as the foundation of the juvenile justice

system, is in conflict with a considerable amount of public attitude which appears to be the correct response to information conveyed by the media. Media communication is not faulted for being in error or deceitful. Unfortunately, the issue appears to be a problem of balance. Negative incidents and violence are newsworthy. The humdrum activity of most juveniles, even those who participate in serious offenses, are not newsworthy and seldom are reported. Official crime statistics indicate a decline in violence and serious crime. Concern for violent crime, however, has been escalated to the level of near hysteria; so much so, that many are willing to give the State totalitarian authority in the criminal justice area.

PRESENT PROGRAMMING

In Illinois, the structure described above supports a number of residential facilities and community support services administered by the Juvenile Division of the Department of Corrections. Approximately 2,300 youth receive services--1,000 in residential programs and 1,200 in community placement status. As previously indicated, these numbers represent a decrease of approximately two-thirds since 1969.

Programmatically, efforts are made to provide an array of treatment modalities in addition to educational, vocational, recreational, medical (including psychiatric), dental, and general support services. The treatment modalities include: a coed setting; a positive peer culture program located at the Illinois Youth Center DuPage; a behavior modification program based on positive reinforcement located at IYC-Valley View; a structured Intensive Reintegration Program designed to serve seriously malfunctional youth with mental health problems; several small facilities specializing in community vocational experiences; small facilities emphasizing academic programming and vocational programming with area public vocational schools and community colleges.

The field service component of the Division is regionalized into four units. One unit encompasses Cook County which includes Chicago. Others combine a number of the counties in the State into northern, central, and southern regions. Regions are empowered to receive youth committed to the Division, and in cooperation with the committing court, arrange placement in regional community facilities rather than transfer to statewide institutions. This intradivisional diversion has resulted in the effective deinstitutionalization of a number of commitments and in the promotion of a host of regional programs and services on the community level.

The interaction with our staff has been beneficial in unifying a treatment approach

to the wards of the court. The increased communication has resulted in a meaningful dialogue on a case basis in the interest of youth.

The inevitable failures, however, often result in a generalized depreciation of the system, despite the statistical insignificance of the number of failures. It is difficult for administrators to avoid extreme caution and conservative decision-making, for fear that what appears to be appropriate for a particular case may jeopardize programmatic benefits for a large numbers of youth. This attitude infiltrates the various mechanisms designed to make release or placement decisions, i.e., staffing recommendations, hearing board decisions, parole board decisions, etc.

PUBLIC POLICY ISSUES

It is apparent that the concept of the juvenile justice system is a major public policy issue. The system is under question. The traditional goals and objectives are being subjected to intense scrutiny and review. Protection, services, and the promotion of concern for the errant and offenders are not governmental functions desired by a significant number of people. Justice as a virtue is tainted and often is equated with the state's role to exact retribution and sanction.

From this ferment, several specific issues have emerged. They are:

NATIONAL STANDARDS. A growing concern for the need to have recognized and accepted national standards has led to a flurry of activity in this area. Major efforts include the project effort of the Institute of Judicial Administration - American Bar Association to establish comprehensive standards for the juvenile justice system. The project's work is to be made available in a 23-volume set of standards, attesting to the monumental scope of the effort. Advance information indicates that several of the standards will be extremely controversial. The Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention of the Advisory Council of the Juvenile Delinquency Prevention Office - LEAA has been engaged in a major effort to develop juvenile justice standards. The Delinquency Prevention Act of 1974 mandated that the Administrator of the Juvenile Delinquency Prevention Office develop standards resulting in a third major effort--the Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice. The work of the latter group has been forwarded to the Office of the President for acceptance. The final disposition of this set of standards in terms of federal acceptance is not yet known.

Soon to be initiated is an effort by the Commission on Accreditation of Corrections - ACA to develop standards for juvenile justice appropriate to the anticipated accreditation process. It is expected that the work of the Accreditation Commission will result in a major effort to develop meaningful standards.

No less significant effort in the area of standards is federal case law recently litigated in such cases as Morales vs. Turman (Texas), Nelson vs. Heyne (Indiana), and Morgan vs. Sproat (Mississippi). These cases and others have created a substantial set of standards recognized by federal court authority as appropriate for the juvenile justice system.

STATE STANDARDS. In the absence of court decree, existing state statutory guidelines for the juvenile justice system are subject to the dilemma of enlightened federal case law and the demands of the punitive approaches generally espoused as current public sentiment. The sentiment is expressed by some professionals in the field and by many with political motivation. Without a doubt, the justice system has become a major political issue. The emotional impact of the care and treatment of offenders lends itself to great debate at the state level. The lack of consistent standards at the state level highlights the need for recognizable national guidelines.

Administrators of state agencies involved in the justice system traditionally have been formulators of public policy. They have been the primary source of legislative thought resulting in statute enactment. No longer is this generally true. The elevation of the justice system to the realm of political concern has effectively removed policy-making in this area to non-practitioners on the state level.

DEINSTITUTIONALIZATION. One of the effects of the trends described is contradictory to the policy of deinstitutionalization. The effort in recent years to remove numbers of youth from institutional settings has been dramatically successful. An almost 50% reduction in numbers of youth in state institutions has been achieved during the period 1970 to present. [9] Changes in the definition of juvenile delinquency, the creation of new legal categories (MINS, PINS, CHINS, etc.) and concerted efforts to divert from the system and develop more community-related services have contributed to the marked decline in youth committed to state programs in institutions. The serious offender, however, has remained the primary responsibility of state correctional agencies.

The change in the behavioral profile of the serious offenders has created

significant program implications for correctional administrators. Efforts to be responsive to community concern are often in conflict with youth program needs. While it is generally recognized that the program needs of serious offenders need not differ from those of other youth, the clamor for control has resulted in a host of program modalities designed to serve those guilty of serious offenses. These programs invariably include a strong control mechanism, usually described as "intensive." Administrators are faced with the problem of developing programs consistent with treatment perspectives with a highly structured and restrictive setting. The task is difficult if not impossible.

Other policy issues relate to the interpretation of standards or goals as the basis for staff training; the appropriate placement and treatment of the mentally ill juvenile offender; the fiscal implications of "intensive" programming; the development of dual program structures for the serious offender and other categories of youth, particularly in small states; the reintegration of serious offenders into community life; and, long-range planning for state agencies involved in the juvenile justice system. Underlying all of the problematic issues is a common, unanswered thesis--the role of government in the juvenile justice system. Is its primary function to protect juveniles and provide a human service with positive program goals, or is its primary purpose the imposition of sanctions for law violations? These questions have not been answered for the adult criminal system. The issue is more sharply drawn into focus when ascribed to juveniles. Whether or not the juvenile justice system reflects parens patriae rather than retribution and sanction is basic to the future planning for all human services. The issues need public debate and discussion. That has not been happening in a rational manner. State agency administrators and others can attend symposia and discuss operational problems. There needs to be a clarion call, however, for as many people as possible to participate in the philosophical debate from which will emerge public policy.

OUTLOOK

Given the present state of the art of reintegrating serious offenders into the mainstream of community life, one can predict continued skepticism about the juvenile justice system. The transmittal of information regarding the failures of the system is not likely to change. The preponderance of public information regarding failures can only serve to feed the negative attitudes which have been created about the system. Hopefully, some means of transmitting more balanced information can be devised.

The intensity of public concern will continue to stimulate enough interest to

ensure change in the near future. The issue is not whether or not the system should be changed, but rather what form the changes will be when they take place. Should they be procedural? Should they be based on new and different values? Should there be a value base to the justice system that reflects national ethic? Is the issue of the serious juvenile offender important enough to develop a set of standards and goals that differ from those standards and goals set for other juveniles? Can we have standards and goals for all juveniles which provide enough public policy latitude to effectively cope with the serious offender and public protection? These questions and others very similar must be answered in the near future if there is to be consistent and meaningful public policy for the juvenile justice system. State agency administrators through the National Association of Juvenile Delinquency Program Administrators have indicated an interest in open debate and discussion about the system. How we decide to treat the serious juvenile offender will be an indication of the future of the juvenile justice system. It may also be an indication of the future of all human services in the United States.

FOOTNOTES

1. Edward Warner, "Youth Crime," Time, July 11, 1977, pp. 18-28.
2. Ibid., p. 18.
3. William Simon and Joseph Puntil, "Youth and Society in Illinois," in Summary and Policy Implications (A Study of Self-reported Criminal Behavior of Adolescents conducted by the Illinois Institute of Juvenile Research), p. 2.
4. Ibid.
5. Ibid., p. 5.
6. Ibid., p. 6.
7. Norman Tutt, Violence (London: Her Majesty's Stationery Office, 1976), p. 19.
8. Samuel Sublett, Jr. and J. Robert Weber, "An Illinois Strategy for the Development of Community Corrections," in Resolution, vol. 1 no. 2 (Winter, 1975) p. 23.
9. Robert Vinter, et al., Juvenile Corrections in the States: Residential Programs and Deinstitutionalization (a report by the National Assessment of Juvenile Corrections Project, Univ. of Michigan, 1975), p. 13.

10. THE SERIOUS OR VIOLENT JUVENILE OFFENDER--IS THERE A TREATMENT RESPONSE?

SHIRLEY GOINS

The criminal justice system expresses a growing concern for providing programs which will be more effective in the rehabilitation of delinquents than presently accepted methods. The assumption is that this present justice system is sufficiently bad; there must be alternatives created that will be better than just implanting the offender further into the system. There is evidence to support this assumption in the current literature and knowledge in the field. Nationally, there has been a vigorous movement to end the unilateral commitment of children and adults to institutional, residential settings, in favor of community-based care. In the juvenile justice system, policy-makers are joining mental health workers in denouncing all institutional care as being dehumanizing, excessively expensive, and completely ineffective in rehabilitation. The argument states that social control of deviant behavior could be better served through community-based intervention strategies, rather than by isolating norm-violators in confined settings for rehabilitation and/or treatment.[1] For years, enlightened judges and probation officers have operated on the principle that it is desirable to limit the penetration of the juvenile corrections system as far as possible in considering the disposition of any delinquent. Obviously, the nature of the offense has something to do with the disposition, but within the system, the ideology prevailed that the nature of the child's difficulty, rather than the nature of his/her offense, should determine the treatment.

There was certainly a need for change. Perhaps we may attribute the initial recognition to the Wolfgang studies, which first called attention to the ominous potential for harm contained in a small group within the Philadelphia Birth Cohort designated as chronic offenders.[2]

As we have moved forward in a more innovative pattern of planning and thinking, there are new dilemmas confronting social and state agencies in planning for treatment, based on differentiating between classes of juvenile offenders. Perhaps moving a group of youths with less serious charges from the juvenile justice system, as well as successfully diverting some less serious offenders with serious charges, has resulted in the identification of a group of youngsters now called serious or violent juvenile offenders.

If our problem is what to do with the serious juvenile offender, we must first determine the magnitude of the problem, which is somewhat difficult due to the dearth of empirical data. According to the Uniform Crime Reports for 1975, youth under eighteen account for almost half of the serious crimes committed in the United States. Since 1960, crimes committed by juveniles have increased in number at twice the rate of crimes committed by adults.

The report indicates that youth under eighteen account for about a quarter of all arrests (about 2,000,000 out of a total of 8,000,000), 23.1% of all arrests for violent crimes, and 43.1% of all arrests for index crimes. Between 1970 and 1975, there was a 54% increase in the number of youth arrested for violent crimes, as compared with a 38.3% increase of those over eighteen. The only Part I offense that shows a decreased rate for juveniles during the period 1970-1975 was auto theft, which declined by almost 18%. [3]

Whether this increase reflects an actual increase in juvenile violence or a higher rate of police apprehension, the public in general has been persuaded that the streets are unsafe because of the dangerous juveniles. The F.B.I. cautions that these figures may show an increase in law enforcement activity, not necessarily the number of offenders. Still, there is some reason to think that the violent crimes committed by juveniles is a large share, perhaps a quarter, of all the violent crimes committed in our present day society. The data does not show us, however, how many serious juvenile offenders find their way into court, nor can we say how many of those who are brought to adjudication are placed under official control. Again, these are very difficult questions to answer due to this lack of data. News coverage has continuously conveyed the idea that the situation is out of control, especially in the larger cities, as well as reporting that the workload of the courts are unmanageable and the ideology of the juvenile courts is impracticable in dealing with these serious juvenile offenders.

It is certainly not unfamiliar to many of us that the institutional-prone control/treatment response system is inappropriate. However, a new ideology of hard-line approach demanding more harsh punishments for juveniles is emerging out of the current chaotic situation. The proponents of such ideology, of course, are functioning on the basic premise that increase in severity of punishment will decrease crime. Any implication of acceptance of this attitude could have an ominous impact on the management of juveniles, specifically those categorized as serious juvenile offenders. We need to consider the directions in which our thoughts are taking us regarding the serious juvenile offender and create viable options between the "nothing works" and the "harsher punishment/deterrent of crime."

What kinds of intervention should be used with serious juvenile offenders, how would they work, and how well will they work? The complexity of entering into this kind of a consideration is apparent even in defining "serious offender." Are we looking at what is defined as "dangerous?" Are we looking at what is defined as "violent?" Are we going to define all person-related crimes as serious, and are we going to use criteria of charges of convicted juveniles as criteria for labeling them "serious?" Are we also going to predict violent behavior of juveniles based on community charges?

As Norval Morris has written:

> Why use the criteria of conviction? The short answer is that it is the only reliable available basis. Granted, the severe distortion due to lack of detection, arbitrariness of arrest, prosecution and conviction, and plea-bargaining, what other acceptable evidence of past violent behavior do we have? [4]

If we use the presenting offense to identify serious juvenile offenders, have we, in fact, identified "dangerous" juveniles? Perhaps yes, perhaps no; all that has been achieved is a retrospective classification of so many young people who have committed serious crimes. For some of the newly labeled "serious offenders" group, the commission of the crime is the only time in their lives in which they were, or will be, dangerous to others. [5]

The Wolfgang longitudinal cohort study previously mentioned in this report, might be an alternative approach to identification of a population of serious offenders. It is stipulated in this report that 18% of all juveniles with any type of delinquent record had five or more offenses and thus were classified as "chronic recidivists." [6] The chronic recidivists were responsible for 51% of all delinquent acts committed by the cohort group. But even within this chronic or repetitious group of offenders, only 6.2% of their offenses were serious ones. [7]

This information seems to lead us back to the conclusion that the seriousness of the offense may be the only meaningful category. But what is our ability to predict which juveniles will engage in violent crime?

The conclusion of Wenk and his colleagues was that "there have been no successful attempt to identify, within...offender groups, a sub-class whose members have a greater than even chance of engaging again in an assaultive act." [8] Literature indicates that while our ability to predict violent acts in juveniles is not very good, it is not completely nonexistent. It is possible to identify juveniles who have higher-than-average chances of committing violent crimes. From the Wolfgang study [9] and other sources, those characteristics which would effect the probability

of a juvenile's committing a violent crime are his/her age, sex, race, and socio-economic status. Educational achievement, IQ, and residential mobility are also relevant. Literature further indicates that one of the best predictors of future violent behavior in a juvenile is his/her record of past violent behavior. This is not to imply that every child who ends up in a juvenile justice system and is convicted of a crime is on his/her way to a criminal career.

It is indicated by Wenk that nineteen out of twenty juveniles with a violent act in their history did not commit another violent act, at least within the first fifteen months after release. [10] There is also another very serious question which must be considered if we are going to use a criterion of conviction. What of the child with whom the juvenile justice system is suddenly confronted, who has no history of violent behavior but who has committed a severe crime? We must ask ourselves: Are these categories real and are they relevant to defining a treatment response; is there a single set of treatments that can relate to a category of "serious juvenile offenders?". The real myth in this field, I would submit, is any single factor explanation or any single factor solution to youth problems. There is simply no single cause of serious violent behavior; and if there is a single approach solution, it has yet to be discovered.

There have been some cursory evaluations of a few programs and techniques for working with the "serious juvenile offender."

As indicated by the Rand Report, [11] their findings were predictable but important: 1) "The data adequate to support finely grained judgments about the relative efficacy of the various treatment modalities does not exist;" 2) They did not encounter any programs that were concentrated solely on behavior-changing efforts with this population; and 3) "Limited success" was noted with each of the four treatment modalities that they explored. The report further indicates that there were characteristics that were in all of these programs, including: a) client choice; b) participation; c) learning theory features; d) wide range of applied techniques; and e) heuristic management.

One of the programs discussed in the Rand Report in which they noted some success was the community-based treatment program, the Unified Delinquency Intervention Services (UDIS). Even though UDIS is still young and seen by some as being experimental, it does address itself to the more serious offenders in Illinois.

Although many of the diversion programs of the past are based on humanitarian interest, experience has demonstrated that humanitarian intentions alone could not guarantee either more humane treatment or the protections of the rights of the child. Legal rights for juvenile offenders and delinquency prevention are meaningless

goals if the components of the juvenile justice system perpetuate policies and prophesies that tend to undermine the goals sought. Also, whatever rationale is publicly espoused for judicial and administrative intervention in the lives of youth is often massively buried in public doubts about the value of services for treatment of juvenile delinquents and their families. The negative political implications of fundamental institutional change often lead administrators of justice for children to tolerate what the components of system reform say is no longer tolerable. These general observations lead to four basic premises underlining the programs of the UDIS Project:

1. Any money expended to deliver diversionary services to adjudicated delinquents will be poorly used without, at the same time, consistent and vigorous efforts to identify and correct basic problems in management of juvenile justice which violate the constitutional, legal, or human rights of the children.

2. The fulfillment of the purposes of the juvenile court require adequate community based treatment services to minimize the unwarranted confinement of juvenile offenders, or else the court in large measure is reduced to a punitive tool of a society lacking other alternatives.

3. The administrators of components of juvenile justice systems have to take certain responsibility for the defects of the system so that to serve in good conscience without the active pursuit of institutional change becomes a moral and psychological impossibility.

4. The administrative structure of UDIS is so designed as to prevent and make difficult administrative capitulation to pressures for surrender to bureaucratic self-interest, political interest, and bureaucratic isolation of agencies.[12]

A real issue in juvenile justice administration is public accountability. Some funds of the UDIS Project are used to make major steps forward in institutionalizing public accountability about attacking problems about which there have been public interest and sensitivity. The goal is to achieve new methods of corroborative institutional change among juvenile justice agencies within the State of Illinois in the process of enabling probation violators to avoid illegal behavior.

The term "diversion" as traditionally used in the juvenile justice system, refers to the exercise at discretionary authority by probation and/or court administrative personnel and/or judge to substitute informal handling for formal procedures on alleged violations. Diversionary programs are usually selective about the alleged offenders to be removed in the formal justice system. Most "diversion" programs

focus on youngsters charged with misdemeanors, "status" offenses, and first or second offenses. Pre-adjudicative diversionary programs are primarily designed to prevent a deep penetration into the system.

In contrast to the judicial pre-adjudicative diversionary program, the UDIS Project primarily serves repeated offenders already on formal probation period, and referrals are at the post-adjudicatory stage. The juvenile/family courts throughout the state have performed an official adjudication in the cases to determine innocence and/or involvement. Having determined involvement, the disposition of the case by the judge is to UDIS. The judge uses the UDIS Project to divert delinquent probation violators from commitment to the Illinois Department of Corrections. A basic criterion for the judge making a dispositional decision with expected placement of youth with UDIS is that the only other alternative for the adjudicated youth is commitment to the Illinois Department of Corrections.

Thus, the term "diversion" as used in this Project means diversion away from unnecessary institutionalization of the adjudicated delinquent who has been involved in serious offenses. "Diversion" also means provision of special assistance and individualized program and services for the juvenile offender, thus giving to some judges throughout the State of Illinois clearly defined options to the Illinois Department of Corrections.

The program, as conceived, related to three areas that were proposed by the National Advisory Commission on Criminal Justice Standards and Goals for priority actions in reducing crimes: [13]

1. Preventing Juvenile Delinquency. Minimizing the involvement of young offenders in the juvenile and criminal justice system and reintegrating delinquents and youth offenders into the community.

2. Improving Delivery of Social Services. Public agencies should improve the delivery of all social services, particularly to those groups that contribute higher than average proportions than their number to crime statistics.

3. Increasing Citizen Participation. Citizens should actively participate in activities to control crime in their communities, and criminal justice agencies should actively encourage citizen participation.

The Project also relates to the following recommendations and standards made by the National Advisory Commission on Criminal Justice Standards and Goals:[14]

1. Distribute public service on the basis of need.
2. Expand job opportunities for disadvantaged youth.
3. Broaden after school and summer employment programs.
4. Develop career preparation programs in schools.
5. Provide effective, supportive services in schools.
6. Offer alternative education programs for deviant students.
7. Provide community programs for diversions by the courts.
8. Seek alternatives to new state corrections institutions.
9. Insure correctional cooperation with community agencies.
10. Seek public involvement in corrections.

Historically, the Unified Delinquency Intervention Services Project began receiving referrals in October of 1974, as a result of a year-long planning effort within the Illinois Department of Children and Family Services in conjunction with the Illinois Law Enforcement Commission. In a larger context, the Project represented a further step in a nationwide movement for the deinstitutionalization of delinquent youth by use of diversion mechanisms and programs.

The movement has been based on a number of factors. Philosophically, it had its roots in the labeling or societal reaction perspective on deviance and social control and the findings of evaluation research on the effectiveness of correctional institutions. Pragmatically, the move toward deinstitutionalization is informed by the growth of delinquency and youth crimes and the findings of cost-effectiveness studies comparing institution with community-based treatment. In Illinois, the climate within the juvenile justice system was already favorable for a project such as UDIS. For years, the Chicago Police Department had been diverting a majority of apprehended youth by use of station adjustments in lieu of referrals to Juvenile Court. The Court itself had made use of a number of internal diversion mechanisms including, more significantly, heavy reliance on probation. Recent changes in the Juvenile Court Act prescribe commitments of youths under thirteen years of age or youths charged with status offenses or violations of court orders, and require a recent social investigation before commitment. A formal screening process, which had been discontinued in 1968, was reinstituted in Cook County in 1973, and there was a strong emphasis on family therapy training for field probation officers. In addition, the leadership of the court was sensitive to the deficiencies of the juvenile justice system and was willing to explore new approaches to dealing with youth in trouble with the law.

The Department of Corrections (DOC) in the past four years has been characterized by: a) reduction in the number of state institutions; b) reduction in the state institutional population; c) increase in community programs; d) increase in the number of youth in the community and community programs; and e) reduction in the number of commitments by the court.

Philosophically and programmatically, Illinois has been moving from the medical-treatment model to the reintegration-justice model: reduction in the number of institutions; shorter institutional stays; increased community resources; greater purchase-of-services; more youth in the programs in the community; and a department youth advocate-ombudsman.

UDIS, however, was a significant departure from the established correctional practices in Illinois, and was viewed with some trepidation by the juvenile justice system agencies. UDIS is one of the projects that was spearheaded by what was seen then as three men from outside of the established political and justice systems: a new Governor, a new Executive Director of the Illinois Law Enforcement Commission (who was greatly interested in prison reform and deinstitutionalization), and a new Director of the Illinois Department of Children and Family Services (who had organized and implemented the deinstitutionalizational efforts in the State of Massachusetts).

It is significant to note that prior to UDIS accepting the first referrals to the program in October of 1974, the Illinois Department of Children and Family Services changed directors. The program did administratively function for nine months under the auspices of the new director. However, in September of 1975, it was decided that the UDIS Project was outside the statutory authority of the Illinois Department of Children and Family Services, and was then administratively transferred to the Illinois Department of Corrections. In terms of organizational dynamics, there was some concern that UDIS would be swallowed up in the correctional bureaucracy and would become just another program. This did not occur, because of the recommendations of a correctional task force whose membership was comprised of the leading juvenile justice experts in Cook County. UDIS is seen as a major entity in the Illinois Department of Corrections, Juvenile Division structure.

I have spent time recounting the history of the Project for basically two reasons: to highlight the importance of timing in attempting to operationalize a new concept of programming for juvenile offenders; and--even though I alluded to the second point only briefly--to indicate the threat that is perceived by the established institutionalized process in the criminal justice system, even though there is evidence available that there is a drastic need for change.

The Unified Delinquency Intervention Services is a cooperative effort of nine juvenile courts throughout the State of Illinois and the Illinois Department of Corrections, with pending expansion to eleven other counties in October, 1977. UDIS was originally designed to serve youth "who have reached the point of last-resort intervention prior to institutional commitment." This included those who were at risk of being committed or recommitted to the Illinois Department of Corrections, Juvenile Division. It included probation and parole violators, and repeat delinquent offenders. The emphasis of the Project is on utilization of community resources to maintain the offender in a free society rather than rely on incarceration. The purchase-of-services arrangement utilized involves the coordination of many social agency resources. The theoretical assumptions implicit in the design of UDIS are that crime and delinquency are social phenomena which originate and are maintained in the community, and therefore are best dealt with by the community itself.

The major goals of the Project are as follows:

1. Establishing an adequate network of community-based services.

2. Reducing commitments to the larger institutional facilities of the Department of Corrections, Juvenile Division, by 35% of the commitment rate out of Cook County, and 50% of the commitment rate throughout the rest of the state.

3. Providing services at a cost much less than institutional placement with Juvenile Division.

The great majority of the UDIS clients are referred directly from the Juvenile Court, with a few youths who are in danger of being recommitted or returned from parole being referred from the Illinois Department of Corrections. Therefore, the greater percentage of youth are not wards of the state, but participate in the Project as a condition of their probation, as ordered by the juvenile court judges. Although many arrests have been adjusted at local police stations, and petitions dropped (without prejudice), at least two findings of delinquency have been made for each UDIS participant.

UDIS has incorporated a combination of program approaches in dealing with those youth already identified as being alienated from the social system. These program approaches lead to a multi-impact program structure, which serves to answer the needs of the individual youth who are referred to the Project. This structure includes developing:

- New services and delivery system to youth;
- Programs which address themselves on a highly individualized basis to some youth, with a goal of changing behavior and developing and strengthening coping mechanisms and defenses; and
- Programs providing identified services needed by the youth's family, thereby creating opportunities at the community level for impact on those forces which impinge on the behavior of the youth.

These services are provided by community-based agencies which were existing at the time of the initiation of the Project, or by new programs specifically created to work with UDIS. The Project has approximately seventy-five purchase-of-service contracts, with a range of services that include individual counseling, family counseling, educational and tutoring services, vocational testing and job placement, advocacy services, specialized foster care, group home placements, temporary living arrangements, wilderness-stress programs placement, and the Intensive Care Unit providing residential services. The length of involvement of the youth with the UDIS Project is approximately three to six months, with continued involvement in some instances for a period of nine to twelve months.

UDIS considers itself a multi-impact agency, whereby the youth and the family can be served simultaneously by numerous agencies to answer needs that have been determined by an assessment at the time of the acceptance of the youth by the Project. UDIS struggles to create non-traditional resources that respond to the need of the youngsters that are in no way a duplication of previously experienced services which were not successful. UDIS utilizes a brokerage systems model, utilizing a case management process and a total purchase-of-care for services.

UDIS is now dealing with more serious offenders than had been envisioned in the program-design stage. Since the Project became operational, there was a trend toward the involvement of the more serious offender. At the completion of the initial Project year (October, 1974 to September, 1975), a total of 221 youth had been served; of these, 55% were offenders who had been charged with major felonies, including murder, rape, armed robbery, arson, and burglary. Twenty-nine (13%) of these offenders had committed crimes against persons, while 183 (83%) were property offenders. As is noted in the monthly report from the Northwestern University Tracking System, these percentages remained unchanged at the end of July, 1977. UDIS has accepted 745 youth between October 1, 1974 and July 31, 1977; of these, 55% had been charged with major felonies, including murder, rape, armed robbery, arson, and burglary. Two hundred sixty-seven (36%) of the charges were crimes against persons, and 441 (59%) were property offenders. [15]

One way of analyzing the outcomes to determine if the treatment response is appropriate in dealing with the stated problem is to compare the stated goals with the measurable progress. UDIS had set out to establish a network of community-based services. The network has been developed over a wide range, varying from programs offered by traditional agencies, to new services developed by community organizations specifically for UDIS clients.

UDIS intended to reduce commitments to the large, more traditionalized institutional facilities by 35% in Cook County, and by 50% in the other counties throughout the State of Illinois. In Cook County, at the time of the inception of the program, the commitments averaged between eighty and ninety per month; the average over the last twelve months has been approximately forty-two. There is certainly a possibility that other developments have related to this reduction (for example, the alteration of judicial and correctional attitudes), so that the decision to commit has been less frequent. In any event, I feel the important point is that clearly UDIS has had significant impact on the lowering of the commitment rate.

Another goal stated by UDIS was to provide service at a cost less than institutional placement in the Illinois Department of Corrections' institutions. A calculation, based on all Project administrative personnel and service cost, excluding no cost directly connected to the Project (dividing the number of dollars available and spent, by the number of youths given service), the cost per youth per year was $7,000. This cost compares favorably with the institutions of the Department of Corrections, Juvenile Division, with an average annual per capita cost as stated to be approximately $22,000 for the Fiscal Year 1976.

There are other considerations which might be worthy of mentioning in lieu of the fact that we are discussing a community-based corrections program. Four sets of issues have been central in the two years of UDIS existence. The first of these is the extent to which UDIS has been receiving youth who would otherwise have been committed to the Department of Corrections. There is a frequent tendency in diversion programs for a dragnet effect to have occurred, the dragnet effect being the inclusion in the alternative program of clients who would not otherwise have been sent to the correctional program. UDIS provides resources to youth who the probation department say they can no longer serve. Probation officers might then be tempted to increase the number of youth who are no longer able to be served, referring what would be noncommittable youth who would benefit from a group home placement, intensive advocacy services, or some other UDIS-contracted resource. As a project which has to prove its ability to work with serious delinquents in non-institutional settings and amidst a considerable amount of skepticism from referral sources, UDIS might be tempted to accept questionable referrals in order to bolster its track record and to build and maintain caseloads. Many of the service providers

with which UDIS contracts are new agencies dependent to a great extent on UDIS funding for their survival. Their self-interest, then, might tempt them to pressure UDIS to accept more cases. There were significant reasons for fears about a UDIS dragnet effect.

According to the preliminary investigation of the American Institute of Research doing a longitudinal study of UDIS, these fears have not been justified. Commitments to the Department of Corrections have declined substantially since UDIS began, and even though the amount of the decline contributed to UDIS is not clear at this time, it is certainly seen as having a very definitive impact. A statistical comparison of UDIS referrals and DOC commitments indicate a similar profile, and over 90% of the UDIS youth have been found delinquent on at least two petitions. Information given from the probation officers, judges, case managers and vendors, and reviews of police, DOC and UDIS files, have indicated that both UDIS and DOC youth have been heavily involved in delinquent behavior and appear generally to be a single universe.

The second major issue is one of long standing in the juvenile justice system: Should serious delinquent youth be maintained in the communities to which they would eventually return, or should they be removed from their families and friends on a supposition that old patterns of association and behavior must be broken or more structure and supervision be given? The thrust of the UDIS Program was working with youth in an effort to match individual client need with service resources. This strongly inclines UDIS to move toward the "least drastic alternative" criterion. As operationalized, UDIS has instituted temporary removal of some UDIS youth from their homes and communities and has added structure and control when it was deemed appropriate. The greater percentage of the youth have been worked with at the local level. All current data indicates that this has been done without increasing the risk to the public.

The third set of issues pertains to the severity of the UDIS client and the capability of UDIS staff to deal with them. Program design, formal criteria for referral, and the predilections of UDIS staff lead to the selection of youth who are more deeply entrenched in delinquent behavior. This leads to criticisms of two types: 1) Is UDIS capable of handling these youth; and 2) Should the youth be rewarded for their delinquent behavior? Criticisms regarding the severity of the cases which UDIS accepts comes from both court staff and vendor agencies. UDIS staff are sometimes viewed as relatively young, inexperienced, ignorant of the juvenile justice system, but somewhat street-wise. Their ability to manage their clientele has been somewhat suspect. However, in defense of UDIS staff, some probation officers have noted that it is important that the case managers be allowed to assume a nonauthoritarian relationship with the youth since the authoritarian role is already filled

by the probation officer, and since most youth are presumed to be in need of a non-threatening relationship. This role is eventually filled for most UDIS youth by an advocate. In fact then, the case manager tends to move back and forth between the roles of advocate and service broker and frequently finds him/herself in the middle, attempting to negotiate the competing demands of the involved parties. The working relationship of the probation officers is generally good and mutual respect fairly high, with the tacit understanding that the probation officer must always assume the "heavy" role and the case manager the advocacy role. As stated earlier, UDIS represents an opportunity structure for youth accepted into the program. In addition to an advocate and services such as counseling and family therapy, these youth and their families are given opportunities to obtain vocational education, continued advanced academic education, and programs which are designed to build ego strength to help them be reintegrated back into the community.

The whole purpose of UDIS is to deal with intractable youth--those seen as less salvageable and less deserving than the less entrenched youngsters--and to thus directly reduce institutionalization. By intervening at this stage, it is hoped that long-term incapacitation benefits will be realized. If UDIS were to accept less entrenched youth, the focus would demand giving up the current UDIS population or a substantial portion of it. Since 61% of the total of 745 youth who have participated in UDIS have egressed satisfactorily (15% still being active and 12% having been terminated for various reasons, leaving only 12% who have been committed to the Department of Corrections),[16] any consideration of change or criticism of the type of client that UDIS is accepting would seem to be at least premature, if not unwarranted.

The fourth major issue in the history of UDIS is the quality of vendor services and the concurrent service system. The backbone of UDIS is the purchase-of-service mechanism used to recruit and develop an array of services at the community level matched to the needs of the youth. Since services of a particular type or a particular area have not always been available from established agencies, UDIS has encouraged the development of new agencies primarily designed for UDIS youth. This has led to the charge that since the new agencies are dependent on UDIS funding for their existence, they hesitate to refuse referrals or to criticize UDIS operations.

Advocacy services are an important part of those services purchased. And as always, such services are suspect. Advocates are generally required to spend ten to fifteen hours per week with each youth, and there have always been isolated reports that this certainly does not occur. According to the initial American Institute of Research Report, however, there is a great deal of commitment and contact by agencies with whom UDIS is contracting.

A more serious possibility, however, relates to structural strains in these programs, namely the ability to maintain the integrity of the advocacy function. The fundamental principle of advocacy seems to be the consistent representation of the youth's interest against the court and other established agencies and systems. It is problematic that such a stance can be maintained when the agencies depend on state money and referrals from the state agency for their survival. There seems to be a fundamental tension between the charge of advocates to represent the client and their interest in guiding the client.

Some have made exactly the opposite criticism of the advocacy function. They are inclined to raise the issue that the commitment of advocates or the vendor agencies or case managers to advocacy sometimes result in their covering up of delinquent behavior by the youth. This is viewed as a violation of the UDIS promise to take public safety into account. How can an agency function as part of a juvenile justice system charged with ensuring public safety while at the same time stand in opposition to their system by representing their client's interest? Only continual, avid monitoring can respond to these criticisms. This contradiction is not unique to UDIS. There has always been a problem with any agency charged with both social control and social service functions.

UDIS appears to have good potential as a model for community-based corrections programs. It has demonstrated that it can offer alternatives to confinement for the serious juvenile offender without increasing the risk to the public. Success must be monitored, but if it continues, it should pose a major charge to traditional correctional assumptions about risk categories and classifications systems.

The UDIS success is certainly attributable to several factors: the increased confidence by the judiciary; the aggressive advocacy work of the Project staff; emphasis on resource development; attention to procedural detail; the utilization of a tracking and monitoring system; the cooperation and support of the purchase-of-care services; the continuing program and fiscal support by the Illinois Department of Corrections; and last but not least, the flexibility of all program staff.

FOOTNOTES

1. Excerpt from Juvenile Justice, National Council of Juvenile Court Judges, vol. 27, no. 2 (May, 1976).

2. Marvin E. Wolfgang, Robert Figlio, and Thorsten Sellin, Delinquency in a Birth Cohort (Chicago: University of Chicago Press, 1972).

3. Federal Bureau of Investigation, U.S. Department of Justice, Uniform Crime Reports--1975 (Washington, D.C.: U. S. Government Printing Office, 1976).

4. Norval Morris, The Future of Imprisonment (Chicago: University of Chicago Press, 1974).

5. Dale Mann, Intervening With Convicted Serious Juvenile Offenders, Prepared under a grant from the National Institute for Juvenile Justice and Delinquency Prevention, L.E.A.A., U.S. Department of Justice (Rand Corp., 1976).

6. Wolfgang, Figlio, and Sellin, Delinquency in a Birth Cohort.

7. Ibid., p. 102.

8. E. Wenk, J. Robison, and G. Smith, "Can Violence Be Predicted?" Crime and Delinquency 18 (1972).

9. Wolfgang, Figlio, and Sellin, Delinquency in a Birth Cohort.

10. Wenk, Robison, and Smith, "Can Violence Be Predicted?"

11. Dale Mann, Intervening With Convicted Serious Juvenile Offenders.

12. UDIS Grant Application to Illinois Law Enforcement Commission, n.d.

13. See National Advisory Commission on Criminal Justice Standards and Goals, A National Strategy to Reduce Crime (Washington, D.C.: U.S. Government Printing Office, January 23, 1973)--reiterated goal of Juvenile Justice Delinquency Prevention Report of Task Force (Washington, D.C., 1976).

14. Ibid.

15. Northwestern University Tracking System Report (June-July, 1977).

16. Ibid.

11. THE LEGAL RESPONSE TO THE "HARD-CORE" JUVENILE--THE OFFENDER OR THE OFFENSE

BARRY C. FELD

I. INTRODUCTION

At the gateway between the deterministic and rehabilitative predicates of the juvenile justice process and the autonomous individual and punishment assumptions of the adult criminal justice system is a mechanism for reference for adult prosecution. [1] The criminal justice system presumes responsible actors who possess free will, make blameworthy choices, and are punished in proportion to the gravity of the offense. [2] Their punishment may have a general preventive effect on other potential offenders as well. The retributive and deterrent justifications of the adult process attend primarily to the offense committed.

The evolution of the juvenile court led to a separate system of justice based on markedly different assumptions about the disposition of young offenders. While there have been a number of interpretations of this development, [3] the universal existence of separate systems for juvenile offenders reflects a minimum societal consensus that youthful law violators should receive separate and more rehabilitative treatment. Eschewing the punishment justifications of the criminal law, the juvenile court's primary justification is its commitment to the "rehabilitative ideal," the individualized treatment of the offender. [4] At least in theory, the best interests of the individual offender take precedence and the offense is accorded little significance since it provides scant insight into the child's social or psychological needs. Assuming greater malleability on the part of children, judicial intervention is motivated by a desire to help the child rather than to punish. Informal procedures and a rejection of the rigors of adversarial trials reflect the emphasis on individualized treatment. [5]

While the juvenile court attempts to rehabilitate all the young offenders appearing before it, a small but significant proportion of miscreant youths resist its benevolent offices. Persistent and frequent offenders or those who commit exceptionally serious offenses call into question the primary emphasis on rehabilitation. [6] They are typically older delinquents nearing the maximum age of juvenile court jurisdiction. [7] Frequently recidivists, they have not responded to prior intervention, and successful treatment may not be feasible during their minority. [8] Despite their chronological minority, they are perceived to be as mature and sophisticated as adult

offenders. [9] They account for a disproportionately large amount of the total volume of juvenile criminal activity. [10] In light of their persistent delinquent careers, further efforts at rehabilitation could entail a misallocation of scarce treatment resources vis-a-vis other, more tractable clients of the juvenile court. Retaining these troublesome youths within the juvenile justice system could perhaps negatively influence the less criminally sophisticated youths with whom they are housed. [11] Finally, there is the political reality of juvenile justice that certain highly visible, serious offenses evoke community outrage or fear which only the punitive sanction of an adult conviction can mollify. [12]

How to respond to the persistent or serious juvenile offender is one of the most intractable issues of juvenile justice. It is a bitter irony that the decision to transfer the difficult juvenile offender to the adult justice system simultaneously raises virtually every other issue associated with juvenile justice, i.e., questions about the efficacy of treatment for these or any offenders, questions about the exercise of broad discretion in the transfer process, and attendant dangers of abuse or discrimination. Moreover, transferring a juvenile for adult prosecution constitutes an admission of failure by the juvenile court; for a system predicated on the "rehabilitative ideal" this is a difficult, indeed dangerous, admission. [13]

Yet the availability of mechanisms for adult waiver are an important safety valve ultimately preserving the juvenile justice system. In the absence of transfer procedures, there could be almost irresistible pressures to lower the maximum age of juvenile court jurisdiction. While lowering the maximum age would reach many of these older, more sophisticated juvenile offenders, it would also sweep many other, presumably rehabilitatible youths into the adult criminal process as well.

The differences between the juvenile system's treatment of the offender and the adult system's punishment on the basis of the offense, raises the question of who should decide to prosecute a juvenile offender as an adult and on what basis. These questions involve both procedural and substantive issues: By what official and by what procedures should the "hard-core" offender be separated from other delinquents, and on what basis, using what criteria, supported by what evidence, should this decision be made?

II. WAIVER MECHANISMS

There are presently three mechanisms for removing juvenile offenders to the adult justice process. [14] The most common is via a judicial hearing in which a juvenile court judge transfers on a discretionary basis considering primarily the youth's

amenability to treatment and the public safety. The vast majority of states and virtually every commentator and professional organization have endorsed judicial waiver as the most consistent with juvenile court philosophy by providing an individualized examination of the offender. [15]

A second mechanism vests the transfer decision in the prosecutor's office. By granting juvenile and adult criminal courts concurrent jurisdiction over offenders of certain ages or over particular offenses, the prosecutor by deciding where to file charges effectively determines the forum that hears the matter.

A third type of transfer decision is made by the legislature in its definition of juvenile court jurisdiction. By excluding certain categories of offenses from juvenile court jurisdiction, the legislature automatically places youths charged with those offenses into the adult criminal courts. There are several permutations and combinations of these three mechanisms--excluding certain categories of offenses from juvenile court jurisdiction while allowing for judicial waiver for other types of violations.

The judicial, prosecutorial, and legislative waiver mechanisms each reflect different ways of asking and answering the same questions: Who are the serious, "hard-core" youthful offenders, on what basis are they identified, and how shall the juvenile and adult systems respond to them? Each mechanism uses different information to determine the appropriateness of handling certain juvenile offenders as adults. They highlight the treatment versus punishment values involved and reflect policy judgments about the relative importance to be accorded the offender and the offense. Judicial waiver reflects the treatment values of the juvenile court by its examination of the offender, while the other mechanisms reflect the punishment values of the criminal law by their greater emphasis on the offense. Unfortunately, each approach suffers from limitations associated with deficiencies in the present state of treatment technology, the inexactitudes of the social sciences, and the inability to make rational and just predictions about future serious misconduct.

A. JUDICIAL TRANSFER

Judicial transfer from a juvenile court of original jurisdiction is the most common waiver mechanism. The differences in philosophical assumptions about individualized treatment of the offender and punishment for the offense makes the waiver decision the most significant disposition available to a juvenile court. While juvenile court jurisdiction over an adjudicated offender may continue for the duration of minority, this will be a significantly lesser period than the twenty years to life

imprisonment for comparable adult felony convictions. Juveniles also enjoy private proceedings, confidential records, and protection from the stigma of a criminal conviction. [16]

The Supreme Court in Kent v. United States, [17] concluded that the loss of these statutory rights through a waiver decision was a "critical stage" requiring procedural safeguards including a hearing, assistance of counsel, access to social investigations and other records, and written findings and conclusions that can be reviewed by a higher court. [18] In the aftermath of Kent, many states revised their waiver procedures. Although decided in the context of a District of Columbia statute, the language of the opinion, especially in conjunction with subsequent decisions such as Gault, suggests the underlying constitutional basis for procedural due process in the waiver decision. The Supreme Court's most recent juvenile court decision in Breed v. Jones that jeopardy attaches to juvenile court proceedings and bars subsequent criminal reprosecution provides additional impetus to make the waiver decision early and accurately. [19]

While Kent was decided on procedural grounds, the Court adverted to the substantive bases of the waiver decision as well. Although an enumeration of reference criteria was unnecessary for its decision, the Court pointed out that "[t]he statute sets forth no specific standards for the exercise of this important discretionary act, but leaves the formulation of such criteria to the judge." [20] In an appendix to its opinion, the Court indicated some of the substantive criteria that a juvenile court might consider and these have been accepted by a number of jurisdictions either as legislative standards or as judicial gloss.

With the procedural issues essentially resolved, the most significant remaining controversies concern the substantive bases of judicial waiver decisions and the evidentiary showings to support them. Some have argued that the transfer decision should reflect solely the individual offender's needs:

> Since transfer of jurisdiction is a juvenile court decision, it must be made relative to the ends for which the juvenile court was established: treatment, rehabilitation, and the best interests of the child. It is only when these objectives cannot be accomplished within the juvenile justice system that there can be any rational basis for transferring the child to criminal court. [21]

Whether or not a child can respond to the rehabilitative efforts of the juvenile court leads to an inquiry into the youth's amenability to treatment. [22] This involves a very subtle social investigation of the youth, his/her psychological make-up, family, social environment, school experiences, prior delinquencies, and response to prior treatment. [23] The evidence adduced is typically the result of a

social investigation.

Reference proceedings are initiated because of serious or persistent misconduct on the part of a juvenile. The youngster's offense requires the court to decide whether the public safety will be adequately protected if juvenile jurisdiction is retained. Factors considered include whether it was a serious offense involving violence against the person, the prior record of the offender, the availability of secure juvenile facilities and the like. [24] A serious offense requires the court to make a prediction about the offender's future dangerousness as a juvenile.

While legislatures and courts have enumerated the factors to consider in a reference decision, they do not rank-order factors or assign a controlling weight to any one. Rather, they encourage judges to exercise the widest discretion in making these individualized inquiries.

1. Amenability to Treatment

A youth's amenability to treatment and/or dangerousness are the two most prominent factors considered in a judicial waiver decision. Such inquiries frequently require courts to engage in essentially subjective and speculative reviews prior to making a decision which may bear little relationship to the information presented. [25]

The question of amenability to treatment raises the fundamental issue of juvenile jurisprudence. It is problematical whether anyone is amenable to treatment in the sense of diagnosis, classification, identification of causal factors producing criminal behavior, and application of coercive intervention strategies to change these factors and lead to improved social adjustment.

The question of "what works" is one of the most controversial currently raging in penal debates. Whether juvenile offenders are amenable to treatment and specifically whether persistent, repetitive, and serious offenders are, is an empirical question as well as one for judicial speculation. Martinson's review of the effectiveness of penal programming in reducing inmate recidivism led to the rather pessimistic conclusion that "with few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism." [26] Although proponents of the juvenile court resist these conclusions, a more recent program survey to identify effective methods for treating serious juvenile offenders also failed to discover any effective intervention strategies. [27]

Basing the waiver decision on amenability to treatment presupposes that at least

some offenders may be treatable. These findings question the availability of an effective coercive change technology. Even assuming the possibility of effective coercive intervention for some individuals, there is the related question of diagnosis and classification. The juvenile court has to decide whether the particular individual confronting it is one of those who may be responsive. The absence of an empirically grounded offender typology denies the court the predictive knowledge required to make a diagnostic classification. While a juvenile's involvement in serious misconduct may indicate a need to intervene, there is very little evidence that there are behaviorally distinct categories of juvenile offenders, validated criteria to identify them, or distinctive treatments appropriate for those who commit serious offenses.

In short, juvenile court judges attempt to assess a youth's amenability to treatment even though: a) there is little evidence indicating that delinquents or criminals are responsive to coercive intervention programs; b) there are no distinct behavioral categories, typologies, or classificatory schema that identify those who may be responsive to intervention; and c) there are no methodologically validated indicators that permit diagnostic classification of serious offenders.

The uncertain inquiry into amenability also raises "right to treatment" issues. A right to treatment follows from the denial to juveniles of the full panoply of criminal procedural safeguards afforded adults.[28] The lack of procedural equality is justified by the rehabilitative treatment the juvenile is supposed to receive. Providing rehabilitative treatment is the quid pro quo tradeoff for less stringent procedures. Incarceration without treatment is punishment and punishment requires criminal procedural safeguards.[29] (The multitude of right to treatment issues concerning the definition of minimally adequate treatment, the evaluation of treatment services, and the role of the judiciary in their delivery are obviously beyond the scope of this discussion.)

The right to treatment concept interacts with the waiver decision. If a court denies waiver because it finds a youth is amenable to treatment and the youth subsequently exhausts all available juvenile treatment resources, theoretically the offender must be released. Continued incarceration without treatment would constitute punishment which, if imposed without the adult safeguards, violates the youth's right to due process. In the event that the juvenile's treatment is unsuccessful, Breed clearly bars later prosecution as an adult for the same offense. Providing yet another form of treatment of dubious efficacy would be the principal alternative to release.

A related aspect of the right to treatment/nonamenability interface occurs when a

court concludes that there is a substantial basis for believing that a youth would respond to a particular form of treatment but that the required treatment is not available. While some jurisdictions resolve this dilemma by basing the amenability decision on available resources, in the absence of such a provision, the court may be placed in the anomalous position of simultaneously finding that a youth is amenable to treatment, but certifying him/her because the required treatment is not available. [30] This raises the question whether a legislature can force waiver by not providing the treatment resources implied by the creation of a juvenile court. [31]

2. Dangerousness

An alternative basis for waiver is the conclusion that retaining the youth within the juvenile justice system would be inimical to the public safety. This requires the court to decide whether the youth is dangerous. Like the quest to identify the treatable, the search to predict the potentially dangerous has involved social scientists as well as courts. [32] And like the evaluations of treatment, these studies question a court's ability to predict human behavior in the future, especially that which is unusual or violent. [33] The concept of dangerousness "presupposes a capacity to predict future criminal behavior quite beyond our present technical ability." [34] Courts typically rely on the circumstances of the youth's present offense often in combination with his/her prior record to make this judgment.

It is not clear that the commission of one heinous or serious offense is sufficiently indicative of a propensity toward future violence to warrant certification, yet it is frequently in this context that certification is sought. While several court decisions bar waiver on the basis of a single offense, most jurisdictions permit certification in conjunction with an extensive prior record. "The two factors most often cited by juvenile judges deciding whether to waive jurisdiction are the seriousness of the offense and the past history of the juvenile." [35] To the extent that a present serious offense plus an extensive prior record provides a predictive basis for certification, an empirically grounded matrix could be adopted by the legislature to obviate the need for judicical speculation and define the amount of youthful deviance the community must accept.

There is a further danger of judicial prediction of dangerousness stemming from present tendencies to overpredict and identify as dangerous many who do not become so: the dilemma of the "false positive." In the context of waiver, judicial speculation may relegate an excessive number of juveniles to the adult process.

The uncertainties associated with assessing amenability and dangerousness have prompted several significant statutory changes. Under an earlier California statute, for example, a court was required to decide whether a minor would be "amenable to the care, treatment and training program available through the facilities of the juvenile court," taking into consideration the minor's present offense, prior record, and treatment efforts and prospects for rehabilitation as a juvenile. [36] A recent amendment creates a statutory presumption that a minor charged with one of an enumerated list of felonies against the person "is not a fit and proper subject to be dealt with under the juvenile court" unless the court affirmatively finds to the contrary. [37] This change uses the allegation of a serious crime to shift the balance against a finding of amenability by increasing the significance attributed to the offense. It is a significant departure from the rehabilitative philosophy of the juvenile court, interposing a legislative policy judgment about amenability, dangerousness, and the risks of serious offenders. An Indiana statute incorporates similar provisions. [38]

3. Discretion, Vagueness, and Discrimination

Although predicting amenabiltiy and dangerousness entails a highly speculative judgment, courts have enormous discretion in this task. If legislatures specify the criteria that courts should consider, they do so in broad generalities that provide minimal practical guidance. Appellate courts, likewise, refrain from specifying the factors a waiving court must consider or assigning them weights. [39]

The absence of clear guidelines pose problems of administration. Standardless statutes delegating enormous discretion to enforcement officials have been invalidated as "void for vagueness." Broad grants of discretion are susceptible to abuse in their implementation and permit decisions to be made on the basis of extraneous considerations. A principal defect of overly broad, standardless discretion is the inability of reviewing courts to discover whether the law is being administered properly or on the basis of impermissible factors.

Judicial waiver statutes have been challenged under the void for vagueness doctrine either because they provide no standards for the decision or because the criteria of amenability and dangerousness lack precision. [40] Where the legislature provides no standards, courts have little difficulty invalidating waiver statutes. As the Court in People v. Fields held, "If the legislature is to treat some persons under the age of 17 differently from the entire class of such persons, excluding them from the beneficent processes and purposes of our juvenile courts, the legislature must establish suitable and ascertainable standards whereby such persons are to be deemed

adults." [41] Courts have ruled that statutory waiver standards framed in terms of amenability, dangerousness, or the best interests of the child are sufficiently precise to pass constitutional muster, especially if the courts add, as judicial gloss, the criteria appended to the Kent decision. [42] Even when upholding their constitutionality, however, courts have still decried their lack of standards. "It is disquieting to me to learn that judicial action is taken without governing standards available to the public. To me their absence permits judicial decision by whim or caprice and lends to unequal treatment under the law." [43] In view of the preceding analysis of the amenability and dangerousness determinations, however, these holdings must be questioned. [44]

An obvious test of the adequacy of statutory standards is whether they can be applied in similar factual situations and produce similar results. Although Minnesota's Supreme Court held that its waiver statute afforded sufficiently precise standards, [45] a study committee appointed by the Court to examine certification issues found otherwise. This committee found that in practice the juvenile courts' discretion frequently yielded disparate results. It found striking urban-rural disparities in waiver administration with rural counties using certification "to allow the imposition of a sanction such as a fine or short jail sentence upon juveniles who committed relatively minor offenses." [46] An analysis of a sample of counties showed that the urban offenders who were certified committed more serious offenses and had more extensive prior records than did their rural counterparts. While a statute that explicitly provided for different juvenile treatment on the basis of urban-rural distinctions would probably run afoul of equal protection, the discretion afforded by an admittedly broad statute de facto accomplishes the same result. [47]

Overly broad discretionary statutes also afford opportunities for even more invidious discrimination based on characteristics such as race. While minority and lower class offenders are disproportionately overrepresented as juvenile court clients, this disparity is even more manifest in the context of waiver. Black youths are certified disproportionately even in relation to their overrepresentation in the juvenile court client pool. [48] While these racial differentials may reflect real differences in offender patterns, one must question whether such overly broad statutes are capable of evenhanded, nondiscriminatory administration.

Judicial waiver focusses on the offender and tries to make individualized judgments about amenability to treatment and dangerousness. This inquiry requires courts to ask questions that cannot be answered with any degree of precision or uniformity. To accommodate the asking of unanswerable questions about the offender, courts enjoy an extraordinarily broad range of discretion. This standardless discretion cannot

be applied systematically or evenhandedly and results in a variety of abuses and discrimination.

B. PROSECUTORIAL WAIVER

A second mechanism for removing serious offenders from the juvenile system is prosecutorial waiver.[49] As distinguished from legislative waiver whereby the legislature requires adult prosecution of juveniles charged with certain offenses, "pure" prosecutorial waiver allows the prosecutor to choose between a juvenile or criminal court which shares concurrent jurisdiction.[50] The prosecutor's decision where to file the charges determines the forum that will hear the issues. These statutes seldom provide any guidelines for the prosecutor in making the jurisdictional determination.

Unlike judicial waiver, the prosecutor's forum decision is not subject to appellate court review in keeping with the general position that prosecutorial discretion is nonreviewable.[51] In Cox v. United States, the Court upheld the federal delinquency statute providing for prosecutorial waiver, noting that:

> Judicial proceedings must be clothed in the raiment of due process, while the processes of prosecutorial decision-making wear very different garb. It is one thing to hold that when a state makes waiver of a juvenile court's jurisdiction a judicial function, the judge must cast about the defendant all of the trappings of due process, but it does not necessarily follow that a state or the United States may not constitutionally treat the basic question as a prosecutorial function, making a highly placed, supervisory prosecutor responsible for deciding whether to proceed against a juvenile as an adult.[52]

The prosecutorial waiver mechanism has been criticized extensively.[53] The most frequent complaint is the denial of procedural due process safeguards mandated by Kent for judicial waivers. Moreover, every objection to judicial waiver is equally if not more applicable to prosecutorial waiver. If a prosecutor waives on the same bases as a court, i.e., amenability or dangerousness, he/she is necessarily involved in the same speculative judgments. Since these unreviewable determinations avoid any due process proceedings, the availability of the social information that might aid the decision is reduced. The unreviewability of the decision increases the likelihood of error since it cannot be checked by appellate review. "The speed with which these decisions are often made in the prosecutor's office, the absence of standards, and the potential for conscious abuse or negligent misapplication of the statute results in decision-making that is fraught with the dangers of

arbitrariness." [54] Finally, a prosecutor as a law enforcement official is likely to be more sensitive to political pressures and public concerns than a juvenile court, to the obvious detriment of the minor. [55]

Fortunately, prosecutorial waiver is the least common transfer procedure employed and its use appears to be declining. Federal delinquency proceedings which formerly relied on prosecutorial waiver now employ judicial waiver to deal with serious juvenile offenders and other jurisdictions have adopted similar amendments. [56]

C. LEGISLATIVE WAIVER

The third waiver mechanism simply excludes certain offenses from juvenile court jurisdiction by legislative definition. While some jurisdictions exclude only capital offenses or those punishable by life imprisonment, others exclude broader categories of offenses. [57] While these are prosecutorial waivers in the sense that the charging decision determines the forum, it is the legislature that makes the policy choice that youths alleged to have committed certain offenses are beyond the redemption of the juvenile court.

Challenges to these statutes argue that they deny juveniles the procedural due process safeguards that Kent requires, that offense categorization constitutes an arbitrary legislative classification that violates equal protection, and that divesting the juvenile court of jurisdiction on the basis of the charge is contrary to the presumption of innocence. In the leading case of United States v. Bland, [58] the Court recognized that the statute was intended to circumvent the Kent waiver hearing but held that the prosecutor's charging decision was unreviewable and not subject to the due process constraints. It rejected the argument that the statute undercut the presumption of innocence since the charge determines only the forum, not guilt. It rejected the argument that legislative exclusion of certain offenses was an arbitrary classification by noting that "courts may not declare a legislative discrimination invalid unless, viewed in the light of facts made known or generally assumed, it is of such a character as to preclude the assumption that the classification rests upon some rational basis within the knowledge and experience of the legislators." [59] (Emphasis supplied.) The Court concluded that jurisdictional classification on the basis of offense was a rational categorization.

There is no constitutional right to a juvenile court per se; the beneficences of the juvenile justice system exist solely as a matter of legislative grace and the legislature can define the court's jurisdiction in virtually any rational fashion it chooses. [60] Just as the legislature can define "child" by establishing the

maximum age over which the juvenile court has jurisdiction, it can presumably exclude persons below the statutory maximum if this classification meets traditional tests of legislative rationality. Excluding certain offenses from the juvenile court reflects a legislative policy judgment either that no person charged with that offense is amenable to treatment, or that they require more extensive treatment than is warranted, or in the alternative that such offender is so conclusively dangerous as to require an adult disposition. While judicial waiver requires an individualized inquiry into amenability and dangerousness utilizing all available information, legislative waiver uses the offense alone to reach its conclusion.

While legislative waiver has been judicially upheld, these statutes pose several significant problems. By basing adult court jurisdiction on the prosecutor's charge rather than the ultimate conviction, jurisdictional divestiture is completed without any basis for subsequently assessing that decision. If a juvenile prosecuted as an adult is convicted of a lesser offense which would render him/her subject to juvenile court jurisdiction, he/she is not transferred back to the juvenile court for disposition. [61] Since the referral decision is based on the legislative conclusion that those who commit certain offenses are by definition inappropriate for juvenile court, it follows that if they are formally found not to fit into that class, then they should be transferred back to juvenile court. In the absence of such a provision, these statutes lend themselves to prosecutorial abuse via overcharging. [62]

There is a second, more significant problem with legislative waiver. While courts have concluded that excluding certain offenses from juvenile court jurisdiction is a reasonable legislative classification, in light of the empirical evidence regarding "hidden delinquency" [63] and the progression of delinquent careers, it is not clear that exclusion of even serious first offenses is either rational or desirable. It is not clear, for example, that a first time serious offender is any more dangerous or unresponsive to treatment than any other first offender. [64] The findings of Delinquency in a Birth Cohort indicate that a first offense, even a serious one, is not predictive of either future offenses or their seriousness and that the most significant differences occur between those juveniles with one or two delinquencies and those with five or more. [65] Accordingly, legislative waiver on the basis of a single, serious offense is an overly inclusive categorization that does not rationally identify those few youths engaged in persistent or serious delinquencies. [66]

In an effort to account for the persistence of offenses, as well as their seriousness, some jurisdictions authorize legislative waiver only for repeat offenders. Rhode Island, for example, provides that "[a] child sixteen (16) years of age or older who has been found delinquent for having committed two (2) offenses after the age of

sixteen (16) which would render said child subject to an indictment if he were an adult shall be prosecuted for all subsequent felony crimes by a court which would have jurisdiction of such offense if committed by an adult." [67] Similarly, Colorado provides that two prior felony convictions create a prima facie case for waiver. [68] Waiver on the basis of a present serious offense plus a significant prior record provides a legislative matrix that is much more likely than the "one-shot" statutes to identify the persistent juvenile offenders who pose the serious threat. Most of the empirical evaluations of judicial waiver proceedings indicate that those judicially waived had substantial prior involvements with the juvenile court. [69] The Juvenile Justice Standards Project recommends an even more stringent criterion of previous adjudication of a violent crime as a prerequisite to judicial waiver. [70] By systematizing the reference matrix, a legislature can take account of the same present offense plus prior record that judicial waiver uses in the context of a dangerousness prediction while avoiding the inconsistencies and discrimination associated with the latter process.

III. CONCLUSION

The various mechanisms for responding to the serious juvenile offender suffer from limitations. The two principal alternatives, judicial versus legislative, focus respectively on the offender and the offense. While individualized justice may be a desirable ideal, a rule of law can only tolerate individualization on rational bases. The individualization occasioned by judicial inquiry into amenability and dangerousness creates a frame of relevance so broad that virtually any decision is possible. The extensive and excessive discretion afforded to make these judgments lends itself to a variety of abuses without any demonstrable benefits. While the present legislative emphasis on offenses suffers from some defects, these problems are more remediable than those of vagueness and discretion.

Regardless of rhetoric, certification is sought because of a youth's criminal activities rather than his/her treatment needs. The threats they pose to the public suggest that at that point the values of the criminal process focussing on the offense should take precedence over the remote possibilities of rehabilitation. It is, appropriately, for the legislature to define what level of criminal activity the community must tolerate before the agencies of social control can respond to the conduct rather than the actor. The present legislative waiver provisions are overly inclusive and encompass many youthful offenders that the community should tolerate. They also deny the juvenile court the opportunity to attempt to rehabilitate potentially salvageable youths. Those jurisdictions that provide for a combination of present offense plus prior record are narrowing the focus to identify those

relatively few, persistent, and serious offenders that the community should not be expected to endure.

Adult prosecution based on a combination of present offense plus prior record is more easily administered and likely to produce more just and consistent results than discretionary judicial waiver. Obviously, however, relying on a matrix of present offense plus prior record increases the significance of every discretionary decision throughout the juvenile justice process from police, to intake, to prosecutor, to the court itself. While legislative waiver addresses one aspect of discretion, any rational effort to deal justly with the serious offender must provide mechanisms for controlling exercises of discretion in every decision in the system.

FOOTNOTES

1. See generally, Stamm, Transfer of Jurisdiction in Juvenile Court, 62 Kentucky L. Rev. 122 at n. 10 (1973), for a compilation of the law review articles on the subject as of 1973. Good general references include Schornhorst, The Waiver of Juvenile Court Jurisdiction, 43 Indiana L. Journal 583 (1968); Notes, Juveniles in Criminal Courts, 32 University of California Los Angeles L. Rev. 988 (1976); Vittiello, Constitutional Safeguards for Juvenile Transfer Procedure, 26 DePaul L. Rev. 23 (1976); Note, Sending the Accused Juvenile to Adult Criminal Court: A Due Process Analysis, 42 Brooklyn L. Rev. 309 (1975); Notes, Decision to Refer Juvenile Offenders for Criminal Prosecution as Adults to be Made on Basis of "State of Art" of Juvenile Corrections, 60 Minnesota L. Rev. 1097 (1976); Notes, Waiver of Juvenile Jurisdiction and the Hard-Core Youth, North Dakota L. Rev. 655 (1976). An even more extensive current bibliography is contained in A.B.A.-I.J.A. Juvenile Justice Standards Project, Transfer Between Courts (Cambridge: Ballinger, 1977), pp. 55-60.

2. Herbert Packer, The Limits of the Criminal Sanction (Stanford: Stanford Univ. Press, 1968); Hart, The Aims of the Criminal Law, 23 Law and Contemporary Problems 401 (1958).

3. Anthony Platt, The Childsavers (Chicago: University of Chicago, 1969); Fox, Juvenile Justice Reform: An Historical Perspective, 22 Stanford L. Rev. 1187 (1970).

4. Francis Allen, The Borderland of the Criminal Law (Chicago: University of Chicago, 1964), p. 25.

5. McKeiver v. Pennsylvania, 403 U.S. 528, 546-8 (1971); Paulsen, Fairness to the Juvenile Offender, 41 Minnesota L. Rev. 547 (1957); Kent v. United States: Constitutional Context of Juvenile Cases, Supreme Court Review 173 (1966).

6. Allen, Borderland, pp. 52-3.

7. Shornhorst, p. 592; Note, Problems of Age and Jurisdiction in Juvenile Court, 19 Vanderbilt L. Rev. 833, 858 (1966).

8. Keiter, Criminal or Delinquent, 18 Crime & Delinquency 528 (1971); Shornhorst, p. 593.

9. Sargent and Gordon, Waiver of Jurisdiction, 9 Crime & Delinquency 122 (1963); Stamm, p. 153.

10. Marvin Wolfgang, Robert Figlio, and Thorsten Sellin, Delinquency in a Birth Cohort (Chicago: University of Chicago Press, 1972), p. 88 report that 18% of the delinquents accounted for over half of the delinquencies of the cohort. Children and Youth in Crisis, The Violent and Hard-Core Offender in Hennepin County (Henn. Cty. Planning Agency, 1976).

11. Note, Youthful Offenders and Adult Courts, 121 University of Pennsylvania L. Rev. 1184 (1973).

12. Stamm, p. 155; Sargent and Gordon, p. 125; Note, Juveniles in Criminal Court, 23 University of California L. Rev. 992 (1976).

13. Stamm, p. 145; Note, Juveniles in Criminal Court, p. 992.

14. Stamm, p. 138; Schornhorst, p. 596; Note, Rights and Rehabilitation in the Juvenile Court, 67 Columbia L. Rev. 281 (1967); Note, Waiver of Juvenile Jurisdiction and the Hard-Core Youth, p. 688.

15. See Footnote 1 supra; Mlyniec, Juvenile Delinquent or Adult Convict -- Prosecutor's Choice, 14 American Crim. L. Rev. 57 (1967); Minn. Stat. Ann. Section 260.125; N. Dak. Cent. Code Section 27-30-34 (1974); Note, Representing the Juvenile Defendant in Waiver Proceedings, 12 St. Louis L. Journal 463-4 (1968); A.B.A.-I.J.A. Juvenile Justice Standards Project, Transfer Between Courts.

16. Stamm, p. 143; Note, Juveniles in Criminal Court, p. 995; Schornhorst, p. 586.

17. Kent v. United States, 383 U.S. 541, 556 (1966).

18. Paulsen, Kent v. United States, p. 167; Vittiello, p. 23.

19. One of the few remaining procedural issues concerns the requirement of a probable cause determination prior to transfer. While many jurisdictions require such hearings by statute, Me. Rev. Stat. Ann., tit. 15 Section 2611(3) (1964), where they are not required, appellate courts have declined to find them constitutionally mandated; State v. Duncan, -- Minn. --, -- N.W.2d -- (1977); Juvenile v. Commonwealth, 347 N.E.2d 677 (1976); Breed v. Jones, 421 U.S. 519 (1975). These courts note, however, that if the present offense provides the primary basis for certification, there must be some procedure for connecting the juvenile with it. The A.B.A.-I.J.A., Transfer Between Courts, p. 35 recommends such a procedure as a prerequisite to waiver.

20. 383 U.S. 541, 566 (1966).

21. Stamm. p. 134.

22. Stamm. p. 157. This is a criterion used by 24 of 36 jurisdictions providing for judicial waiver, A.B.A.-I.J.A., Transfer Between Courts, p. 37.

23. Stamm, p. 157 catalogues the factors considered in this determination. See also, Schornhorst, pp. 603-5; Note, Juveniles in Criminal Court, p. 1000.

24. Vittiello, p. 34.

25. See, e.g., Vittiello, p. 31, who observes that "it is questionable whether 'amenability to treatment'. . . is sufficiently self-defining to provide the juvenile courts with adequate guidelines." Similarly, Stamm, p. 159, observes that "the phrase 'amenability to treatment' is just as susceptible to subjective interpretations and subsequent abuse as the older standards."

26. Martinson, What Works -- Questions and Answers About Prison Reform, 35 Public Interest 22 (1974).

27. Dale Mann, Intervening with Convicted Serious Juvenile Offenders (Santa Monica: Rand, 1976). See also, Adams, Evaluative Research in Corrections: Status and Prospects, 38 Federal Probation 14 (1974); Gold, A Time for Skepticism, 20 Crime & Delinquency 20 (1974); Robinson and Smith, The Effectiveness of Correctional Programs, 17 Crime & Delinquency 67 (1971); Leslie Wilkins, Evaluation of Penal Measures (New York: Random House, 1969).

28. McKeiver v. Pennsylvania, 403 U.S. 528 (1971) (jury trial note required for juvenile delinquency adjudication,.

29. See, e.g., Morales v. Turman, 364 F.Supp. 166 (E.D. Tex., 1973); Nelson v. Heyne, 491 F.2d 352 (7th Cir., 1974); Marteralla v. Kelley, 349 F.Supp. 575 (SDNY, 1972); Inmates v. Affleck, 346 F.Supp. 1354 (DR.I., 1972); Note, Judicial Recognition and Implementation of a Right to Treatment for Institutionalized Juveniles, 49 Notre Dame Lawyer 1051 (1974); Simpson, Rehabilitation as the Justification of a Separate Juvenile Justice System, 64 California L. Rev. 996-999 (1976); Wald and Schwartz, Trying a Juvenile Right to Treatment Suit, 12 American Crim. L. Rev. 125 (1974).

30. In re Welfare of JEC v. State, --Minn.--, 225 N.W.2d 245 (1975). The Minnesota Supreme Court questioned whether reference was proper "where the finding of lack of amenability to treatment or danger to the public is based upon the correctional authority's failure to provide favorable treatment facilities." Note, Decision to Refer Juvenile Offenders for Criminal Prosecution as Adults; Vittiello, p. 37. But see, In re Welfare of IQS, 244 N.W.2d 30 (1976).

31. Stamm, p. 158; Note, Decision to Refer Juvenile Offenders for Criminal Prosecution as Adults, p. 1105.

32. Donald Gottfredson, "Assessments and Prediction Methods in Crime and Delinquency," Task Force: Juvenile Delinquency and Youth Crime (1967), p. 171.

33. See, e.g., John Monahan, "Prediction of Violence," in Chappel and Monahan (eds.), Violence and Criminal Justice (Lexington: Heath, 1975), pp. 15-31; Monahan and Cummings, Social Policy Implications of the Inability to Predict Violence, 31 Journal of Social Issues 153 (1975); Wenk, Robison, and Smith, Can Violence be Predicted, 18 Crime & Delinquency 393 (1972).

34. Norval Morris, The Future of Imprisonment (Chicago: University of Chicago Press), p. 62.

35. Note, Due Process and Waiver of Juvenile Court Jurisdiction, 30 Washington & Lee L. Rev. 598 (1973).

36. Calif. Welf. & Inst. Code Section 707.

37. Calif. Welf. & Inst. Code Section 707(b) (1976).

38. Ind. Code 31-5-7-14(b) [9-3214].

39. Donald L. v. Superior Court, 7 Cal. 3d 542, 601, 498 P.2d 1098, 1104 (1972).

40. Donald L. v. Superior Court, 7 Cal.3d 542, 498 P.2d 1098 (1972); People v. Browning, 45 Cal.App.3d 125, 119 Cal.Rptr. 420 (1975); In re FRW, 61 Wis.2d 193, 212 N.W.2d 130 (1970).

41. People v. Fields, 199 N.W.2d 217, 222.

42. Clemons v. State, 317 N.E.2d 859 (Ind.App.1974); In re FRW, 61 Wis.2d 193, 212 N.W.2d 130 (1973).

43. United States v. Caviness, 339 F.Supp. 545, 551 (1965).

44. Boches, Juvenile Justice in California, 19 Hastings L. Journal 96 (1967) has described the "amenability" standard as "hopelessly vague." Jimmy H. v. Superior Court, 3 Cal.3d 709, 714, 478 P.2d 23, 35 (1970).

45. In re Welfare of IQS, 244 N.W.2d 30, 36 (1976).

46. Supreme Court Juvenile Justice Study Committee (1976), p. 21. See also, Table 13 for an urban/rural offense comparison.

47. Long v. Robinson, 436 F.2d 1116 (4th Cir., 1971) (invalidating a statute setting a different juvenile court age limit for the city of Baltimore and the rest of the state).

48. Bazelon, Racism, Classism, and the Juvenile Process, 53 J. American Jud. Society 373 (1970); Keiter, Criminal or Delinquent? A Study of Juvenile Cases Transferred to the Criminal Courts, 19 Crime & Delinquency 532 (1971); Hays and Solway, The Role of Psychological Evaluation in Certification of Juveniles to Stand Trial as Adults, 9 Houston L. Rev. 709 (1972). The Minnesota Supreme Court Juvenile Justice Study Committee, pp. 68-9, reports that black juveniles accounted for 15.1% of the offenses committed in Hennepin County but 44.8% of those in certification proceedings.

49. Mlyniec, p. 29.

50. Neb. Rev. Stat. Sections 43-202(3)(b), 43-202.01 (Supp. 1975); Wyo. Stat. Ann. Section 14-115.4(c) (Supp. 5, 1973).

51. See, e.g., Oyler v. Bolles, 368 U.S. 448 (1962); Inmates of Attica v. Rockefeller, 477 F.2d 375 (2d Cir., 1973); U.S. v. Cox, 342 F.2d 167 (5th Cir., 1965); K. Davis, Discretionary Justice (1971), pp. 216-222; Note, Prosecutorial Discretion -- A Re-evaluation of the Prosecutor's Unbridled Discretion and Its Potential for Abuse, 21 DePaul L. Rev. 485 (1971).

52. 473 F.2d 223, 236.

53. Mlyniec, p. 29; Note, Youthful Offenders and Adult Courts: Prosecutorial Discretion v. Juvenile Rights, 121 Univ. Penna. L. Rev. 1184 (1973).

54. Mlyniec, pp. 36-37.

55. Vittiello, p. 48.

56. Act of June 25, 1948, ch. 645, 62 Stat. 857, repealed by 18 U.S.C. Section 5032 (Supp. IV, 1974); Note, Waiver of Juvenile Jurisdiction and the Hard-Core Youth, p. 659, n. 30. See also, Va. Code Ann. Section 16.1-176 (Supp. 4, 1974) amending the previous prosecutorial waiver statute to provide for a judicial hearing.

57. Colo. Rev. Stat. Ann. Sections 19-1-103(9)(b)(1) and 19-1-104(4)(b)(1) (Supp. 1975); Ind. Stat. Ann. Sections 33-5-7-3(B)(1) and 31-5-7-4.1(a)(1) Burns, (1975).

58. 472 F.2d 1329; Note, Juvenile Justice -- Statutory Exclusion from the Juvenile Court Process of Certain Alleged Felons, 53 Boston University L. Rev. 212 (1974); Note, Youthful Offenders and Adult Courts: Prosecutorial Discretion v. Juvenile Rights; Note, Prosecutorial Discretion and the Decision to Waive

Juvenile Court Jurisdiction; Note, Sending the Accused Juvenile to Adult Criminal Court; Note, Waiver of Juvenile Jurisdiction and the Hard-Core Youth.

59. United States v. Bland, 472 F.2d 1329 (1972).

60. Ibid.; People v. Jiles, 43 Ill.2d 145, 148, 251 N.E.2d 530, 531 (1969).

61. D.C. Code Section 16-2301(3)(1970); Note, Juvenile Justice -- Statutory Exclusion from the Juvenile Process of Certain Alleged Felons.

62. Note, Juvenile Justice -- Statutory Exclusion from the Juvenile Process of Certained Alleged Felons, p. 222.

63. See, e.g., Travis Hirschi, Causes of Delinquency (1969), p. 236; Gold, Undetected Delinquent Behavior, 3 J. Research Crime & Delinquency 27 (1966)

64. Stamm, p. 154. Comment, Representing Juvenile Delinquents in Waiver Proceedings, 12 St. Louis L. Rev. 440 (1968); Vittiello, p. 39; Note, Sending the Accused Juvenile to Adult Criminal Court, p. 344.

65. Wolfgang, Figlio, and Sellin, Ch. 6.

66. Research Report, "Alternative Definition of 'Violent' and 'Hard-Core' Juvenile Offenders: Some Empirical and Legal Implications" (St. Paul, Minn.: Gov's Comm. on Crime Prevention and Control, 1977), pp. 12-20, attempted to project the likely number of juveniles who would be identified by alternative legislative waiver definitions and concluded that relatively restrictive definitions counting both present offense and a pattern of prior records would best discriminate between serious and nonserious delinquents.

67. R.I. Stat. Section 14-1-7.1 (Supp. 1975).

68. Colo. Rev. Stat. Sections 19-3-108(2)(c); 19-1-104(b)(iii) (Supp. 1975).

69. See, Note, Problems of Age and Jurisdiction in Juvenile Court; Note, Waiver of Jurisdiction in Wisconsin Juvenile Courts, Wisconsin L. Rev. 551 (1968); Keiter, Criminal or Delinquent? A Study of Juvenile Cases Transferred to the Criminal Courts; Note, Certification of Minors to the Juvenile Court: An Empirical Study, 8 San Diego L. Rev. 404 (197). The Minnesota Supreme Court Juvenile Justice Study Committee (1976), pp. 72-3, reported that 64% of the urban youths for whom certification was sought had 3 or more prior delinquency adjudications.

70. A.B.A.-I.J.A., Transfer Between Courts, Section 2.2C(2).

12. THE PREDICTION OF VIOLENT BEHAVIOR IN JUVENILES

JOHN MONAHAN

Despite William James' admonition that we cannot hope to write biographies in advance, the juvenile justice system expends a great deal of energy attempting to identify today the child who tomorrow will be violent. Decisions regarding who should be processed by the juvenile justice system rather than diverted from it, who should be waived to the adult courts, and when juvenile detention should end, often are based on explicitly or implicitly held beliefs about future violent behavior. While the predictive/preventive approach to the adult justice system has fallen on hard times with the rise of the "just deserts" model of sentencing, no comparable waning of interest in prediction can be found in the juvenile system. The prediction of future behavior is an integral part of the "rehabilitative ideal," and the "rehabilitative ideal" is the essence of juvenile justice.

This paper will selectively review the most important research on the prediction of violent behavior in juveniles as well as supporting research done with adults, and will discuss several findings relevant to the accuracy of those predictions and their use in juvenile justice. [1]

There are two overlapping but clearly distinct perspectives on the prediction of violent behavior in juveniles. The first focusses upon the childhood precursors of adult violence. It asks the question, What factors in the upbringing or development of a child lead to his/her adopting a violent life style as an adult?

The second perspective uses a more telescoped time frame. It does not ask what factors or characteristics of a juvenile predict his/her adult crime, but rather what predicts future crime as a juvenile. The question addressed from this point of view is whether or not a given juvenile, if released from detention, or if not detained at all, will commit a violent act next month or next year, rather than farther down the path of life.

While it is this latter, time limited perspective which I believe has the most important implications for public policies at this time in history, most pschological and sociological research has focussed on the life span development approach, and it is this that we shall look at first.

It is one of the more established pieces of psychiatric folklore that the childhood triad of pyromania (fire setting), enuresis (bed-wetting), and cruelty to animals is clinically predictive of adult violence. [2] While the child who awakes from his/her bed to set fire to the cat is indeed a problem, there exists no research to support the belief that he/she will later turn to murder as an avocation.

One survey reviewed 1,500 references to violence in psychiatric literature, interviewed over 750 professionals who dealt with violent persons, and retrospectively analyzed over 1,000 clinical cases to ascertain the best childhood predictors of adult violence. [3] The authors reported that the four "early warning signs" most frequently mentioned in the literature, the interviews, and the case studies were fighting, temper tantrums, school problems, and an inability to get along with others. The child, in other words, is indeed father or mother to the grown-up.

Plainly, the most influential study assessing the childhood correlates of later criminal behavior--most influential until the Wolfgang, Figlio and Sellin cohort study [4]--was Unraveling Juvenile Delinquency, published by Sheldon and Eleanor Glueck in 1950. [5] While not concerned specifically with violent criminality, the Gluecks claimed that three factors--supervision by the mother, discipline by the mother, and cohesiveness of the family--were predictive of later crime in young adolescent boys. This research is among the most methodologically criticized in all of criminology, and there appears to be a consensus that the practical utility of the Glueck factors is marginal at best.

Earlier this year, Lefkowitz, Eron, Walder and Huesmann published the results of a longitudinal study entitled, Growing Up To Be Violent. [6] This research followed a sample of over 400 males and females in Columbia County, New York from the time they were eight until they were nineteen. They used peer ratings, parent ratings, self-report, and a personality test to measure violent aggression. Lefkowitz and his coworkers found that "aggression at age 8 is the best predictor we have of aggression at age 19 irrespective of IQ, social class, or parents' aggressiveness" (p. 192). Several other variables, among them the father's upward social mobility, low identification of the child with his/her parents, and a preference on the part of boys for watching violent television programs, were significantly predictive of aggression at age nineteen. Boys who, in the third grade, preferred television programs such as "Gunsmoke" or "Have Gun, Will Travel" were rated by their peers ten years later as three times as aggressive as boys who, in the third grade, preferred "Ozzie and Harriet," "I Love Lucy," or "Lawrence Welk."

The authors suggest government intervention to restrict violent television programs to being shown only after 11:00 p.m. and to enforce "the rights of the public not

to be taught (by the "news media") that violence pays" (p. 209). They do not consider whether this prevention program would require repeal of the First Amendment.

Research on the prediction of more immediate violence in juveniles is more difficult to come by. The most comprehensive study was reported by Wenk et al. in 1972.[7] These researchers studied violent recidivism in over 4,000 California Youth Authority wards. Attention was directed to the record of violence in the youth's past, and an extensive background investigation was conducted, including psychiatric diagnoses and a psychological test battery. Subjects were followed for fifteen months after release, and data on 100 variables were analyzed retrospectively to see which items predicted a violent act of recidivism. The authors concluded that the parole decision-maker who used a history of actual violence as his sole predictor of future violence would have nineteen false positives in every twenty predictions, and yet "there is no other form of simple classification available thus far that would enable him to improve on this level of efficiency" (p. 399). Several multivariate regression equations were developed from the data, but none was even hypothetically capable of doing better than attaining an 8 to 1 false to true positive ratio.

This finding--that violent behavior is drastically overpredicted--is paralleled in the research on the prediction of violent behavior in adults. Wenk et al. reported two studies undertaken in the California Department of Corrections. In the first study, a violence prediction scale which included variables such as commitment offense, number of prior commitments, opiate use, and length of imprisonment, was able to isolate a small group of offenders who were three times more likely to commit a violent act than parolees in general. However, 86% of those identified as violent did not in fact commit a violent act while on parole.

In the second study, over 7,000 parolees were assigned to various categories keyed to their potential aggressiveness on the basis of their case histories and psychiatric reports. One in five parolees was assigned to a "potentially aggressive" category, and the rest to a "less aggressive" category. During a one-year follow-up however, the rate of crimes involving actual violence for the potentially aggressive group was only 3.1 per 1,000 compared with 2.8 per 1,000 among the less aggressive group. Thus, for every correct identification of a potentially aggressive individual, there were 326 incorrect ones.

Kozol, Boucher, and Garofalo[8] have reported a ten-year study involving almost 600 offenders. Each offender was examined independently by at least two psychiatrists, two psychologists, and a social worker. A full psychological test battery was administered and a complete case history compiled. During a five-year follow-up period in the community, 8% of those predicted not to be dangerous became

recidivists by committing a serious assaultive act, and 34.7% of those predicted to be dangerous committed such as an act. While the assessment of dangerousness by Kozol and his colleagues appears to have some validity, the problem of false positives stands out. Sixty-five percent of the individuals identified as dangerous did not in fact commit a dangerous act. Despite the extensive examining, testing, and data gathering they undertook, Kozol et al. were wrong in two out of every three predictions of dangerousness.

Data from an institution very similar to that used in the Kozol et al. study have been released by the Patuxent Institution.[9] Four hundred and twenty-one patients, each of whom received at least three years of treatment at Patuxent were considered. Of the 421 patients released by the court, the psychiatric staff opposed the release of 286 of these patients on the grounds that they were still dangerous and recommended the release of 135 patients as safe. The criterion measure was any new offense (not necessarily violent) appearing on F.B.I. reports during the first three years after release. Of those patients released by the court against staff advice, the recidivism rate was 46% if the patients had been released directly from the hospital, and 39% if a "conditional release experience" had been imposed. Of those patients released on the staff's recommendation and continued for outpatient treatment on parole, 7% recidivated. Thus, after three years of observation and treatment, between 54 and 61% of the patients predicted by the psychiatric staff to be dangerous were not discovered to have committed a criminal act.

In 1966, the U.S. Supreme Court held that Johnnie Baxstrom had been denied equal protection of the law by being detained beyond his maximum sentence in an institution for the criminally insane without the benefit of a new hearing to determine his current dangerousness (Baxstrom v. Herold, 1966). The ruling resulted in the transfer of nearly 1,000 persons "reputed to be some of the most dangerous mental patients in the state [of New York]" from hospitals for the criminally insane to civil mental hospitals. It also provided an excellent opportunity for naturalistic research on the validity of the psychiatric predictions of dangerousness upon which the extended detention was based.

There has been an extensive follow-up program on the Baxstrom patients.[10] Researchers find that the level of violence experienced in the civil mental hospitals was much less than had been feared, that the civil hospitals adapted well to the massive transfer of patients, and that the Baxstrom patients were being treated the same as the civil patients. The precautions that the civil hospitals had undertaken in anticipation of the supposedly dangerous patients--the setting-up of secure wards and provision of judo training to the staff--were largely for naught. Only 20% of the Baxstrom patients were assaultive to persons in the civil hospitals or the

community at any time during the four-year follow-up of their transfer. Further, only 3% of the Baxstrom patients were sufficiently dangerous to be returned to a hospital for the criminally insane during the four years after the decision. Steadman and Keveles followed 121 Baxstrom patients who had been released into the community (i.e., discharged from both the criminal and civil mental hospitals). During an average of two and one-half years of freedom, only nine of the 121 patients (8%) were convicted of a crime and only one of those convictions was for a violent act. The researchers found that a Legal Dangerousness Scale (LDS) was most predictive of violent behavior. The scale was composed of four items: presence of juvenile record, number of previous arrests, presence of convictions for violent crimes, and severity of the original Baxstrom offense. In subsequent analyses, Cocozza and Steadman found that the only other variable highly related to subsequent criminal activity was age (under fifty years old). In one study, seventeen of twenty Baxstrom patients who were arrested for a violent crime when released into the community were under fifty and had a score of five or above on the fifteen-point Legal Dangerousness Scale. Yet the authors conclude:

> For every one patient who was under 50 years old and who had an LDS score of 5 or more and who was dangerous, there were at least 2 who were not. Thus, using these variables we get a false positive ratio of 2 to 1...Despite the significant relationship between the two variables of age and LDS score and dangerous behavior if we were to attempt to use this information for statistically predicting dangerous behavior our best strategy would still be to predict that none of the patients would be dangerous.
> [11]

The Supreme Court's Baxstrom decision promoted a similar group of "mentally disordered offenders" in Pennsylvania to petition successfully for release in Dixon v. Pennsylvania, 1971. The results of the release of 438 patients have been reported by Thornberry and Jacoby, [12] and are remarkably similar to those reported by Steadman. Only 14% of the former patients were discovered to have engaged in behavior injurious to another person within four years after their release.

Finally, Cocozza and Steadman [13] followed 257 indicted felony defendants found incompetent to stand trial in New York State in 1971 and 1972. All defendants were examined for a determination of dangerousness by two psychiatrists, with 60% being predicted to be dangerous and 40% not so. Subjects were followed in the hospital and in the community (if they were eventually released) during a three-year follow-up. While those predicted to be dangerous were slightly but insignificantly more likely to be assaultive during their initial incompetency hospitalization than those predicted not to be dangerous (42% compared with 36%), this relationship was reversed for those rearrested for a crime after their release, with 49% of the dangerous group

and 54% of the not-dangerous group rearrested. Predictive accuracy was poorest in the case of rearrest for a violent crime, "perhaps the single most important indicator of the success of the psychiatric predictions." Only 15% of the dangerous group, compared with 16% of the not-dangerous group, were rearrested for violent offenses. While these data are susceptible to alternative interpretations, [14] the authors believe that they constitute "the most definitive evidence available on the lack of expertise and accuracy of psychiatric predictions of dangerousness" and indeed, represent "clear and convincing evidence of the inability of psychiatrists or of anyone else to accurately predict dangerousness."

The conclusion to emerge most strikingly from these studies is the great degree to which violence is overpredicted. Of those predicted to be dangerous, between 54 and 99% are false positives--people who will not in fact be found to have committed a dangerous act. Violence, it would appear, is vastly overpredicted, whether simple behavior indicators or sophisticated multivariate analyses are employed, and whether psychological tests or thorough psychiatric examinations are performed.

Several factors have been suggested which might account for the great degree of overprediction found in the research. [15]

1. LACK OF CORRECTIVE FEEDBACK TO THE PREDICTOR. The individual is usually incarcerated on the basis of the prediction and so it is impossible to know whether or not he/she actually would have been violent.

2. DIFFERENTIAL CONSEQUENCES TO THE PREDICTOR OF OVERPREDICTING AND UNDERPREDICTING VIOLENCE. False negatives lead to much adverse publicity, while false positives have little effect on the predictor.

3. DIFFERENTIAL CONSEQUENCES TO THE INDIVIDUAL WHOSE BEHAVIOR IS BEING PREDICTED. A prediction of violence may be necessary to insure involuntary treatment.

4. ILLUSORY CORRELATIONS BETWEEN PREDICTOR VARIABLES AND VIOLENT BEHAVIOR. The often cited correlation between violent behavior and mental illness, for example, appears to be illusory.

5. UNRELIABILITY OF VIOLENCE AS A CRITERION EVENT. There is little consensus as to the definition of violence, and great unreliability in verifying its occurrence.

6. LOW BASE-RATES OF VIOLENCE. The prediction of any low base-rate event is extremely difficult.

7. LOW SOCIAL STATUS OF THOSE SUBJECTED TO PREDICTION EFFORTS. Overprediction may be tolerated in part because of class biases in the criminal justice and mental health systems.

What are we to make of all this? Several points seem germane to current policy debates.

1. THE ABILITY TO PREDICT WHICH JUVENILES WILL ENGAGE IN VIOLENT CRIME, EITHER AS ADOLESCENTS OR AS ADULTS, IS VERY POOR.

The conclusion of Wenk and his colleagues that "there has been no successful attempt to identify within...offender groups, a subclass whose members have a greater than even chance of engaging again in an assaultive act" is as true for juveniles as it is for adults. It holds regardless of how well trained the person making the prediction is--or how well programmed the computer--and how much information on the individual is provided. More money or more resources will not help. Our crystal balls are simply very murky, and no one knows how they can be polished.

2. IT IS POSSIBLE TO IDENTIFY JUVENILES WHO HAVE HIGHER-THAN-AVERAGE (BUT STILL LESS-THAN-EVEN) CHANCES OF COMMITTING VIOLENT CRIME.

While our ability to predict violent acts in juveniles is not very good, neither is it completely nonexistent. The research discussed earlier provides us with several factors which, if present in a given juvenile, would raise his or her probability of committing a violent act above the base-rate or norm. It should be remembered that if one out of one hundred juveniles commits a violent act in a given year, a given juvenile could be forty-nine times more likely than average to commit a violent crime, and still have less than a fifty-fifty chance of being violent.

Chief among those characteristics, from the Wolfgang study [17] and other sources, which would affect the probability of a juvenile's committing a violent crime, are his/her age, sex, race, and socio-economic status. Also relevant would be educational achievement, IQ, and residential mobility.

3. THE BEST PREDICTOR OF FUTURE VIOLENT BEHAVIOR IN A JUVENILE IS HIS OR HER RECORD OF PAST VIOLENT BEHAVIOR.

If there is any consistency in the research, it is this: The probability of future

violence increases with the frequency of past violence. It is certainly true that "not every child who commits an offense is teetering on the brink of a criminal career." [18] Wenk, for example, found that nineteen out of twenty juveniles with a violent act in their history did not commit another violent act, at least in the first fifteen months after release. [19] It is not that past violence is a good predictor of future violence, it is merely the best predictor available. And, if the research suggests that prediction is problematic even in the case of individuals with a history of a violent act, it is emphatic that prediction is foolhardy for those juveniles or adults without violence in their backgrounds. In the words of one psychiatrist who believes that violence can be predicted: "The difficulty involved in predicting dangerousness is immeasurably increased when the subject has never actually performed an assaultive act...No one can predict dangerous behavior in an individual with no history of dangerous acting out." [20] This point can hardly be overemphasized in discussions of public policies to control violent crime by juveniles.

4. THE POOREST PREDICTORS OF VIOLENT BEHAVIOR IN JUVENILES ARE THOSE THAT RELATE TO PSYCHOLOGICAL FUNCTIONING.

With the possible exception of IQ, psychological variables have not proven to be particularly useful as prognosticators of violent behavior in juveniles. While Lefkowitz et al. [21] did find positive correlations between a child's lack of identification with his/her parents, preference for violent television programs, and father's upward social mobility, and later violence, these correlations explained only about 10% of the variance of adult aggression.

As Mischel noted in his classic review of psychological prediction:

> A person's relevant past behaviors tend to be the best predictors of his future behavior in similar situations. It is increasingly obvious that even simple, crude, demographic indices of an individual's past behaviors and social competence predict his future behavior at least as well as, and sometimes better than, either the best test-based personality statements or clinical judgments.

No psychological test has been developed which can postdict, let alone predict, violence in either juveniles or adults. [23]

5. ACTUARIAL TABLES MAY BE SUPERIOR TO CLINICAL JUDGMENTS IN PREDICTING VIOLENT BEHAVIOR IN JUVENILES.

The two generic methods by which violent behavior (or any other kind of event) may be anticipated are known as clinical and actuarial prediction. In clinical prediction, a psychologist, psychiatrist, parole board member, or other person acting as a "clinician," considers what he or she believes to be the relevant factors predictive of violence, and renders an opinion accordingly. This was the method used in the Kozol, Steadman, Thornberry and Jacoby, and Patuxent studies reviewed earlier. The clinician may rely in part upon actuarial data in forming the prediction, but the final product is the result of an intuitive weighting of the data in the form of a professional judgment. Actuarial (or statistical) prediction refers to the establishment of statistical relationships between given predictor variables such as age, number of prior offenses, etc., and the criterion of violent behavior. This method was used in the Wenk et al. series of studies and the Glueck research. The prediction variables may include clinical diagnoses or scores on psychological tests, but these are statistically weighted in a prediction formula.

One of the "great debates" in the field of psychology has revolved around the relative superiority of clinical versus actuarial methods. It is one of the few such debates to emerge with a clear-cut victor. With the publication of Paul Meehl's classic work in 1954 [24] and its many subsequent confirmations, [25] actuarial methods have come to be recognized as the generally superior way of predicting behavior.

While actuarial tables have not yet proven their superiority in predicting violent behavior in juveniles, the impression persists that clinicians have "taken their best shot" at prediction and that it has been so wide of the mark that the future lies with actuarial methods, especially those building on the work of Wolfgang, Lefkowitz, and others.

6. ONE REASON CLINICAL PREDICTION PERSISTS IN JUVENILE JUSTICE IS THAT IT ALLOWS SOCIALLY SENSITIVE PREDICTOR VARIABLES TO BE HIDDEN.

If, after the commission of a violent act, the best predictors of future violence are simple demographic characteristics of the juvenile, and if actuarial tables may be more accurate than expert judgments, then why is there still such reliance upon psychiatric or psychological assessments of violence potential in the juvenile justice system? Surely a judge is as capable as a psychologist to check off whether a youth is male or female, black or white, thirteen or seventeen, rich or poor, or how many times his/her parents have moved. Why doesn't he or she just make explicit the variables being considered in the prediction and eliminate the psychiatric middle-man? In all likelihood, the judge's prediction would be as

good--or as bad--as the "expert's."

The reason that the predictive factors are not made explicit seems clear. They are too socially "hot" to handle.

Assume for a moment that the four best predictors of violent behavior in juveniles, after a violent act has been committed, are age, sex, race, and SES. Assume that is, that these four factors, which do show up consistently in the research, are not merely artifacts of racist, sexist, ageist, or capitalistic biases in the juvenile and criminal justice systems--although such biases undoubtedly do exist to some extent and to that extent attenuate the strength of the correlation. Assume that, for whatever reason, the relationships still exist when the biases of the system partialled out.

Can one imagine a juvenile court judge, presented with two youths, one black and one white, who have committed the same violent act and who are comparable in all other respects, sentencing the black child to a longer period of detention than the white one, and admitting publicly that he or she was doing it because blacks have a higher actuarial risk of violent recidivism than whites? The Supreme Court would be quick to overrule such an appallingly "suspect" and unconstitutional prediction system, even if it could be shown to be statistically accurate. The same, one hopes, would be true if the prediction were made on the basis of socio-economic status, with the poorer juvenile dealt with more harshly precisely because he/she is poor, and poverty is statistically associated with violence.

The case is less clear with sex and age. If two youths, comparable in all but their sex, came before a juvenile court judge, could the judge explicitly give more lenient treatment to the female because the actuarial table, like the insurance company tables, says that females are much less likely to recidivate than males? Or that thirteen year-olds are less likely to commit another violent crime than seventeen year-olds?

The "virtue" of clinical prediction is that a judge or youth authority board does not have to deal with these highly sensitive social questions, but can camouflage the issues by deferring to clinical expertise. The clinician is then free to take all these variables into account--indeed, must take these variables into account if the prediction is to be any good--and no one will be the wiser. The sensitive issues will never be raised because they are hidden in the depths of "professional judgment," while in fact that judgment is made on the basis of the same factors that might be unconstitutional if used in open court. In this sense, clinical prediction represents a "laundering" of actuarial prediction, so that the sensitive

nature of the predictor variables cannot be traced.

A related reason for not putting our actuarial cards on the table is that it is unclear which way the deck should be cut. Some of the factors which lead to an increase in predictive accuracy also imply a decrease in moral culpability. If one used poverty or race as variables in a predictive/preventive scheme, for example, one would deal more harshly with the poor and the nonwhite. If, on the other hand, one was attempting to match the sanction--not to a utilitarian calculus but rather to the moral desert or culpability of the offender--it could be argued that a history of adversity and discrimination should attenuate rather than exacerbate the sanction. One cannot, in other words, maximize public safety and moral justice at the same time. The juvenile court itself is a good example of this. We deal more leniently with a sixteen year-old violent offender than with a fifty year-old one, on the moral ground that the older man should know better and is more "deserving" of punishment, while, in fact, the chances of violent recidivism are much higher in the sixteen year-old. If our primary purpose was to prevent violent acts, it is the juvenile, rather than the adult, we would subject to lengthy incarceration.

7. DESPITE ITS PRIMITIVE STATE OF DEVELOPMENT, IT IS HIGHLY UNLIKELY THAT PREDICTION WILL CEASE TO PLAY A MAJOR ROLE IN JUVENILE JUSTICE.

One cannot attempt to rehabilitate juvenile offenders without first predicting which of them is in need of rehabilitation--which is to say, which of them will be violent if not rehabilitated--and one desists with rehabilitation primarily on the basis of a prediction that the risk of violence has decreased. To cease prediction is to cease rehabilitation, and to cease rehabilitation is to cease the juvenile justice system. The alternative to prediction and the rehabilitative ideal is a system of sanctions based upon moral desert, and that is how we sanction adult offenders.

I would suggest that the next step in the reform of juvenile justice is an increased honesty in how predictive decisions are made. Let us cease to sweep the troublesome issues under the psychologist's rug, and be open about the value issues which confront us. Let us publish our actuarial tables and have the legitimacy of each predictor item litigated both in courts of law and in the court of public opinion. I do not know which way the decision would fall. I do not even know which way I would vote. But, I do believe that the outcome of this legal and social debate would clarify what it is we wish to accomplish in juvenile justice, and the price we are willing to pay for it.

FOOTNOTES

1. For a more detailed discussion of some of the issues raised in this paper, the reader is referred to D. Gottfredson, "Assessment and Prediction Methods in Crime and Delinquency," in Task Force Report: Juvenile Delinquency and Youth Crime (Washington, D.C.: President's Commission on Law Enforcement & Administration of Justice, 1967); J. Monahan, "The Prevention of Violence," in J. Monahan (ed.), Community Mental Health and the Criminal Justice System (New York: Pergamon Press, 1976), pp. 13-34; and J. Monahan, "The Prediction of Violent Criminal Behavior: A Methodological Critique and Prospectus," in National Research Council (ed.), Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates (Washington, D.C.: National Academy of Sciences, in press).

2. D. Hellman and N. Blackman, "Enuresis, Firesetting, and Cruelty to Animals: A Triad Predictive of Adult Crime," American Journal of Psychiatry, 122 (1966): 1431-1435.

3. B. Justice, R. Justice, and J. Kraft, "Early Warning Signs of Violence: Is a Triad Enough?" American Journal of Psychiatry, 131 (1974): 457-459.

4. M. Wolfgang, R. Figlio, and T. Sellin, Delinquency in a Birth Cohort (Chicago: University of Chicago Press, 1972).

5. S. Glueck and E. Glueck, Unraveling Juvenile Delinquency (New York: The Commonwealth Fund, 1950).

6. M. Lefkowitz et al., Growing Up To Be Violent (New York: Pergamon, 1977).

7. E. Wenk, J. Robison, and G. Smith, "Can Violence be Predicted?" Crime and Delinquency 18 (1972): 393-402.

8. H. Kozol, R. Boucher, and R. Garofalo, "The Diagnosis and Treatment of Dangerousness," Crime and Delinquency 18 (1972): 371-392.

9. Department of Public Safety and Correctional Services, State of Maryland, "Maryland's Defective Delinquency Statute - A Progress Report" (Manuscript, 1973).

10. H. Steadman and J. Cocozza, Careers of the Criminally Insane (Lexington, Mass.: Lexington Books, 1974); H. Steadman and A. Halfon, "The Baxstrom Patients: Backgrounds and Outcome," Seminars in Psychiatry 3 (1971): 376-386; H. Steadman and G. Keveles, "The Community Adjustment and Criminal Activity of the Baxstrom Patients: 1966-1970," American Journal of Psychiatry, 129 (1972): 304-310.

11. J. Cocozza and H. Steadman, "Some Refinements in the Measurement and Prediction of Dangerous Behavior," American Journal of Psychiatry, 131 (1974): 1012-1020.

12. T. Thornberry and J. Jacoby, "The Uses of Discretion in a Maximum Security Mental Hospital: The Dixon Case" (Manuscript, 1974).

13. J. Cocozza and H. Steadman, The Failure of Psychiatric Predictions of Dangerousness: Clear and Convincing Evidence, 29 Rutgers L. Rev. 1084-1101 (1976).

14. J. Monahan, "Prediction Research and the Emergency Commitment of Dangerous Mentally Ill Persons," American Journal of Psychiatry (in press).

15. Monahan, "Prediction of Violence" (1976).

16. Wenk, Robison and Smith, "Can Violence be Predicted?"

17. Wolfgang, Figlio and Sellin, Delinquency in a Birth Cohort.

18. S. Fox, "Prediction Devices and the Reform of Juvenile Justice," in S. Glueck and E. Glueck (eds.), Identification of Predelinquents (New York: Intercontinental Medical Book Corporation, 1972) pp. 107-114.

19. Wenk, Robison and Smith, "Can Violence be Predicted?"

20. Kozol, Boucher and Garofalo, "The Diagnosis and Treatment of Dangerousness," p. 384.

21. Lefkowitz et al., Growing Up To Be Violent.

22. W. Mischel, Personality and Assessment (New York: Wiley, 1968).

23. E. Megargee, "The Prediction of Violence with Psychological Tests," in C. Spielberger (ed.), Current Topics in Clinical and Community Psychology (New York: Academic Press, 1970).

24. P. Meehl, Clinical Versus Statistical Prediction (Minneapolis: University of Minnesota Press, 1954).

25. J. Sawyer, "Measurement and Prediction, Clinical and Statistical," Psychological Bulletin, 66 (1966): 178-200.

13. FROM BOY TO MAN--FROM DELINQUENCY TO CRIME

MARVIN E. WOLFGANG

PURPOSE AND BACKGROUND

The purpose of this paper is to examine the relationship between juvenile and adult offense probabilities, offense types, and offense seriousness. Although the probability statements may sound predictive, I am not suggesting a juvenile-to-adult predictive model to be used by criminal justice. The lucid and comprehensive summary of prediction studies in criminology by John Monahan [1] stands firm in its conclusions beside any data I present here. I therefore wish at the outset to caution against unwarranted prediction inferences being made from the findings I report. On the other hand, there are some strong assertions, supported by statistical analysis, to be made about adult offensivity and adult assaults based on juvenile offensivity and juvenile assaults. The degree of boldness of the claims is a function of the rigor of the data and the robustness of the methodology, not the subjective leaps beyond the confines of the data.

The material presented here is derived from the birth cohort study conducted at the Center for Studies in Criminology and Criminal Law at the University of Pennsylvania. The first display of this work was published as Delinquency in a Birth Cohort in 1972. [2] That study involved analysis of a cohort of males born in 1945 who lived in Philadelphia at least from their tenth to their eighteenth birthdays. Through the use of school, police, and Selective Service files, we were able to locate and gather data on 9,945 boys. Since 1968 we have followed a 10% random sample of the original cohort. The sample drawn consisted of 975 subjects who were representative of white and nonwhite delinquents and nondelinquents. After three years of diligent searching for the sample subjects, many could not be found. The process resulted in a working sample of 567 respondents who were interviewed on a variety of items regarding educational, marital, occupational history, earlier gang membership, and social psychological variables. The interview was approximately one to two hours; no one located refused to respond. Of relevance to this particular paper, questions were asked about "hidden" offenses, those which were committed but for which the subjects were not arrested. Each person was asked if and how often he had committed any of twenty-four specific crimes before age eighteen and after his eighteenth birthday. These items cover a full range of offenses from the very minor (disturbing the peace) to the very serious (homicide and rape). All subjects were interviewed around the time of their twenty-fifth birthday and all names were checked through police files

at the time of their twenty-sixth birthday. However, during the process of the follow-up, a special report was produced that used Philadelphia police file checking at age twenty-two. And since the interviews, we have investigated the 975, the 10% sample, for previous arrests and dispositions up to age thirty. Hence we have several data banks about continued criminality to which I shall refer. They all include knowledge about juvenile (under age eighteen) official arrest record and juvenile self-reported offenses. For adults (eighteen and over) there are the following files:

1. 18 - 22: official arrest records
2. 18 - 26: official and self-reported offenses
3. 18 - 30: official arrest records

Special computer runs are still being made since we received reports on our subjects up to age thirty. Some of these runs had been made at earlier ages; this is the main reason that some of my findings are drawn from different files at this time.

Methodologically, there is one additional comment to be made, and that is about the application of weighted seriousness scores for each of the offenses committed by our cohort subjects. Derived from the work Thorsten Sellin and I had done previously and reported in The Measurement of Delinquency, [3] a psychological scaling study, the seriousness scores denote relative mathematical weights of the gravity of different crimes.

I shall not discuss here issues about reliability and validity of the sample, nor of the official or self-reported material. In our forthcoming book we cover these topics in detail. In short, however, we believe that the traditional scientific requirements of validity and reliability are satisfactorily met; we have been as comprehensively self-critical as possible and have had the benefit of distinguished colleagues.

Although there are many complex and intricate kinds of relationships and multivariate analyses to be made among the many variables available in the longitudinal birth cohort study, including results from a restraint or incapacitation model on offenders up to age thirty, and special analyses comparing official and self-report data and socio-economic status, I shall focus on some transition probability data that yield information about moving from a juvenile to an adult status, with mostly descriptive bivariate analyses.

SOME FINDINGS

Table I shows the relationship between juvenile and adult offender status by race in the analysis of five years into adulthood, or from ages eighteen to twenty-two.[4] Nearly 60% of the birth cohort had no record of arrest, but 41% did. Of this latter arrest-record group, 35% had a record before age eighteen; 22% only as juveniles; 14% before and after age eighteen. But it is important to note that only 5% (4.82) had an arrest record only as adults, or after age eighteen.

TABLE I

NUMBER AND PER CENT OF COHORT SUBJECTS
BY OFFENDER STATUS AND RACE

OFFENDER STATUS	RACE		TOTALS
	White #/%	Nonwhite #/%	#/%
I. Subjects with No Arrest Record	473 (66.71)	103 (38.72)	576 (59.08)
II. Subjects with Arrest Record	236 (33.29)	163 (61.28)	399 (40.92)
A. Before Age 18 Only	147 (10.73)	67 (25.19)	214 (21.95)
B. Before & After Age 18	58 (8.18)	80 (30.07)	138 (14.15)
C. After Age 18 Only	31 (4.37)	16 (6.01)	47 (4.82)
TOTALS	709 (100.00)	266 (100.00)	975 (100.00)

It is also important to point out the differences between whites and nonwhites in this array. Cohort subjects who had an official arrest record after age eighteen, or as adults, are not satistically different. That is, about 5% of whites and 6% of nonwhites obtain an arrest record only after age eighteen. But the socially and statistically significant fact is that blacks, or nonwhites, are four times more likely to have an arrest record before and after age eighteen than are whites.

Moreover, when we examine the mean number of offenses for subjects with both juvenile and adult arrest records (6.37) we note it is about three times greater than for those who have only a juvenile record and more than three times as great for those with an adult record (1.94). Table II on the following page shows these facts

dramatically and clearly. Nonwhites, both as juveniles and as adults, have mean offense numbers much higher than whites: nonwhite juveniles, 7.41; white juveniles, 4.93; nonwhite adults, 3.06; white adults, 1.35.

TABLE II

NUMBER AND PER CENT OF OFFENSES BY OFFENDER STATUS AND RACE

OFFENDER STATUS	WHITES				NONWHITES				TOTALS			
	Subj.	Offenses			Subj.	Offenses			Subj.	Offenses		
	N	N	%(2)	$\bar{X}$(3)	N	N	%(2)	$\bar{X}$	N	N	%	$\bar{X}$
Juvenile Offender(1)	147	291	47.01	1.98	67	180	21.90	2.69	214	471	32.69	2.20
Adult Offender	89	328	52.99	3.68	96	642	78.10	6.69	185	970	67.31	5.41
Arrest Record Before 18	(58)	(286)	(46.20)	(4.93)	(80)	(593)	(72.14)	(7.41)	(138)	(879)	(61.00)	(6.37)
Arrest Record After 18	(31)	(42)	(6.79)	(1.35)	(16)	(49)	(5.96)	(3.06)	(47)	(91)	(6.31)	(1.94)
TOTALS	236	619	100.00	2.62	163	822	100.00	5.04	399	1441	100.00	3.61

(1) Arrest Record before age 18 only.
(2) Per cents across.
(3) $\bar{X}$ = mean number of offenses per offender

Table III on the following page is a display of the number of arrests per subject after age eighteen by the number of arrests prior to age eighteen. Of the 185 subjects arrested as adults, 138 had a previous juvenile arrest as well. But most juvenile offenders (61%) avoid the stigma of arrest upon reaching adulthood; this finding is especially true for those with only one or two official offenses before age eighteen. Of the 222 taken into custody once or twice before age eighteen, 72% had no further arrests as adults.

Racially, again, there are significant differences. Only 28% of whites taken into custody as juveniles had an arrest as adults; for nonwhites the per cent is 54. We should also note that of the 394 offenses recorded for ages eighteen to twenty-two, one-third were UCR index offenses having an element of injury, theft, or damage. Seventy-five per cent of these index offenses as well as 78% of the non-index offenses were committed by men who had a juvenile arrest record. It is nonwhites who commit most of these serious offenses as adults: 84% with injury, 69% with theft, 75% with property damages. In fact, from ages nine through twenty-two, nonwhites account for nearly 80% of all offenses involving physical injury to victims.

TABLE III

NUMBER OF ARRESTS PER SUBJECT AFTER AGE 18 BY NUMBER OF ARRESTS PRIOR TO AGE 18

(Per Cent Across)

NUMBER OF ARRESTS PER SUBJECT PRIOR TO AGE 18 (N = Subjects)	NUMBER OF ARRESTS PER SUBJECT AFTER AGE 18					
	None N/%	One N/%	Two N/%	Three N/%	Four N/%	Five+ N/%
None (N = 623)	576 (92.46)	28 (4.99)	12 (1.93)	2 (0.32)	—	5 (1.80)
One (N = 158)	116 (73.42)	28 (17.72)	8 (5.06)	3 (1.90)	1 (0.63)	2 (1.27)
Two (N = 64)	44 (68.75)	11 (17.19)	6 (9.37)	—	—	3 (4.69)
Three (N = 37)	20 (54.05)	6 (16.22)	4 (10.81)	4 (10.81)	1 (2.70)	2 (5.41)
Four (N = 23)	10 (43.48)	4 (17.39)	3 (13.04)	3 (13.04)	2 (8.70)	1 (4.35)
Five (N = 70)	24 (34.28)	22 (31.43)	3 (4.29)	12 (17.14)	3 (4.29)	6 (8.57)
TOTALS (N = 975)	790 (81.03)	99 (10.15)	36 (3.69)	24 (2.46)	7 (0.72)	19 (1.95)

TABLE IV

AGE OF OFFENDERS AND NONOFFENDERS, BEFORE AGE 18, AGE 18 AND OVER

		Age 18 and over		
		Offender	Nonoffender	
Under age 18	Offender	149(A)	193(B)	342(A+B)
	Nonoffender	77(C)	555(D)	632(C+D)
		226(A+C)	748(B+D)	974(E)

Probabilities of being a:

1) Juvenile offender (<18) $= .3511 \left(\frac{A + B}{E}\right)$

2) Offender (≤26) $= .4308 \left(\frac{A + B + C}{E}\right)$

3) Adult offender only (>18 to ≤26) $= .2320 \left(\frac{A + C}{E}\right)$

4) Adult offender, having been a juvenile offender $= .4357 \left(\frac{A}{A + B}\right)$

5) Adult offender, not having been a juvenile offender $= .1218 \left(\frac{C}{C + D}\right)$

Consider offense probabilities up to age twenty-six. Table IV [5] shows these data. As was reported in Delinquency in a Birth Cohort, the probability of being an officially recorded juvenile offender before age eighteen was .35. The chances of being an adult offender (up to age twenty-six) without having been a juvenile offender is .12, relatively low. But the likelihood of being an adult offender, once having been a juvenile offender at all, is .43. In fact, the overall probability of having an officially recorded arrest record by age twenty-six is .43.

What happens up to age thirty? As might be expected, the probabilities of having an official arrest record increase up to .47. Thus it may be said that an urban male's chance of having at least one arrest contact with the police by age thirty is nearly 50%. These probabilities, by offense number, are displayed in Table V. [6]

TABLE V

PROBABILITIES OF RECIDIVISM BY OFFENSE NUMBER:
ALL OFFENSES AND INDEX OFFENSES

Offense Number	Probability of Any Offense	Probability of Index Offense	
1	.473	.217	(459)
2	.662	.266	(304)
3	.717	.321	(218)
4	.798	.356	(174)
5	.828	.333	(144)
6	.847	.328	(122)
7	.836	.353	(102)
8	.892	.385	(91)
9	.879	.325	(80)
10	.900	.416	(72)
11	.889	.406	(64)
12	.781	.460	(50)
13	.900	.555	(45)
14	.955	.442	(43)
15	.814	.371	(35)
16	.771	.370	(27)
17	.889	.417	(24)
18	.833	.300	(20)
19	.909	.722	(18)
20	.889	.625	(16)

As Table VI clearly shows, the mean seriousness scores increase with age. As age increases up to thirty, the seriousness of offenses increases. In the juvenile years seriousness scores remain relatively low and stable. In the early adult years (eighteen to twenty-one) the scores increase by about 2.5 times and they continue to increase in the next two age categories (twenty-two to twenty-five, twenty-six to thirty) by more than 100 points with each increment in age.

TABLE VI

MEAN OFFENSE SERIOUSNESS SCORES BY AGE CATEGORIES

Age	Mean Offense Seriousness Score
$\leq$ 13	114 (216)
14-17	110 (842)
18-21	299 (469)
22-25	405 (331)
26-30	517 (239)
Overall	246 (2097)

Let us return to the interviewed subjects with arrest records known at age 26. Here there is also information about self-reported offenses. One of our concerns was the validity-reliability issue among our interviewed males. This is a complex topic, but there is one aspect that might profitably be shown here. Table VII compares recidivists (2-4 officially recorded offenses) and chronic offenders (5 or more offenses) on three dimensions. The mean number of total career offenses indicates that interviewed and noninterviewed offenders do not differ from one another within offender category. That is, interviewed recidivists average 2.58 offenses while noninterviewed recidivists commit 2.72. Chronic interviewed offenders had 11.89 average number of offenses; chronic noninterviewed 11.54. The average career number of index offenses committed by interviewed and noninterviewed groups within offender categories also shows no substantial differences. These findings lend credence to the self-reported offenses obtained in the interviews.

TABLE VII

COMPARISON OF INTERVIEWED-NONINTERVIEWED OFFENDER GROUPS ON MEAN NUMBER OF CAREER OFFENSES, MEAN CAREER INDEX OFFENSES AND MEAN CAREER OFFENSE SERIOUSNESS SCORE

	Recidivists*		Chronics*	
	Interviewed	Noninterviewed	Interviewed	Noninterviewed
All Offenses	2.58 (85)	2.72 (75)	11.89 (54)	11.54 (90)
Index Offenses	.49 (85)	.72 (75)	4.13 (54)	4.07 (90)
Seriousness Score	546 (85)	717 (75)	720 (54)	960 (90)

* None of the differences within offender categories (recidivist or chronic) is significant beyond the .05 level.

By having information on all officially recorded offenses outside as well as within Philadelphia and up to age thirty, we can show more data on the types of offender statuses. Table VIII tells us that 459, or 47.3% of the cohort sample have an official record of police contact by age thirty. Of the entire sample, 6% were chronic offenders by age eighteen; now 14.8% are chronic by age thirty. Expressed another way, 18% of all offenders were chronic by age eighteen, but now 31.4% of all offenders are chronic by age thirty.

TABLE VIII

OFFENDER CATEGORY	VIOLATOR STATUS			
	Delinquent only	Adult only	Both	Totals
One-time Offenders	63.2 (98)	36.8 (57)	0 (0)	100.0 (155)
Recidivists	35.0 (56)	24.4 (39)	40.6 (56)	100.0 (160)
Chronics	11.1 (16)	13.2 (19)	75.7 (109)	100.0 (144)
Mean Percentage	37.0	25.1	37.9	100.0
Total	(170)	(115)	(174)	(459)

The chronic offender group has been further divided into those who committed their fifth offense before age eighteen (early chronics) and those whose fifth offense occurred after age eighteen (late chronics). Table IX shows their differences. Early chronics have a mean number of official offenses (14.1) that is considerably higher than that of late chronics (8.7). But there is a higher likelihood that late chronics are involved in a personal offense involving injury. Early chronics are move often involved in property offenses. The differences are not great but the offenses of the late chronics also have higher seriousness scores because of the injury offenses.

TABLE IX

OFFENSE CLASSES BY EARLY AND LATE CHRONICS:
PERCENTAGE OF OFFENSES

	Early Chronic (N=72)	Late Chronic (N=72)
Total Offenses	1012	626
Mean Number	14.1	8.7
Personal	9.6 (97)	14.5 (91)
Property	27.6 (279)	23.5 (147)
Nonindex	62.8 (636)	62.0 (388)
Injury	11.7 (118)	13.3 (83)
Theft	31.3 (317)	28.6 (179)
Weapon	5.7 (58)	8.6 (54)
Damage	12.9 (131)	8.3 (52)
Seriousness Score		
1 - 100	45.5 (460)	33.9 (212)
101 - 400	36.9 (373)	36.3 (227)
400+	13.6 (138)	19.6 (123)

Using self-reports of offensivity, there is a relationship between juvenile and adult high seriousness groups, and Table X shows this association when subjects are classified by their delinquent and nondelinquent status.[7] Thus, 82% of officially designated nondelinquents reported a low level of self-revealed UCR index offenses as juveniles and as adults. At the other extreme, 62% of officially recorded delinquents reported a high level of UCR index offenses both as juveniles and adults. (In both cases, X^2 is significant at the .0001 level.)

TABLE X

RELATIONSHIP BETWEEN THE UNIFORM CRIME REPORTS INDEX SERIOUSNESS GROUPS FOR THE REPORTED JUVENILE AND ADULT OFFENSES CONTROLLING FOR OFFICIAL DELINQUENCY STATUS

	Delinquency Status					
	Non-Delinquent			Delinquent		
	Juvenile Index Group					
Adult Index Group	Low	High	Row Total	Low	High	Row Total
Low	81.6%	48.5%	67.3%	73.5%	38.3%	52.0%
	182	82	264	50	41	91
High	18.4%	51.5%	32.7%	26.5%	61.7%	48.0%
	41	87	128	18	66	84
Column Total	56.9%	43.1%	100%	38.9%	61.1%	100%
	223	169	392	68	107	175
Chi-square =	46.4 (sig. at .0001)			19.3 (sig. at .0001)		
Gamma =	0.65			0.63		
Summary Gammas:	Zero-Order Gamma = 0.66			First-Order Partial Gamma = 0.65		

Further confirmation of the continued high seriousness of offenses by adults who had committed serious offenses as juveniles is displayed in Table XI on the following page, which is restricted again to index crimes. Over the offense career, the combination of officially recorded and self-report offenses results in an annual mean for injury and property offenses of 1.1 for all offenders. When one-time offenders are removed, the mean annual number of index offenses is 1.21; for chronic offenders the mean is nearly two such offenses per annum. Recidivists, or those with two to four official contacts, have a much shorter official career (4.28 years) than do chronic offenders (9.26 years). Self-reported offense means are generally three times higher than official means.

The same table provides age-specific index offense estimates for ages fourteen to thirty. (We have given estimates of self-reported offenses from ages twenty-six to thirty by using the mean number of index offenses reported between eighteen and twenty-five.) The means refer to index offenses committed by offenders who have come into contact with the juvenile or adult criminal justice system for any offense. Official injury offenses are low in the juvenile years, increase in the early adult years, and then remain stable and relatively high. However, self-reported injury offenses are high in juvenile years and lower and stable in adult years. Official property offenses are relatively stable over all ages, but self-reported property offenses are highest in the juvenile years and decrease in adult years. The ratios between self-reported and official acts are highest in the juvenile years, or about eight to eleven index offenses committed for everyone officially recorded. The ratios for those males eighteen to twenty-five ranges between three and six self-reported offenses for each officially recorded act.

Using our birth cohort data up to age thirty, James Collins, from the Criminology Center at the University of Pennsylvania, worked on a report concerned with an incapacitation or restraint model. This study indicates that for each index offender incarcerated in the 14-to-17-age span, four to five index offenses would be prevented. For each adult offender incarcerated for a year between ages eighteen and twenty-five, about three to thee and one-half index offenses would be prevented. The general model shows that restraint of the chronic offender would have the greatest per capita impact. The probability that an offender, after his fourth offense, will recidivate is about .80 and the likelihood that his next offense will be an index one, over the next sixteen offense transitions, is, on the average, .426, ranging from .300 to .722.

TABLE XI

MEAN OFFICIAL AND SELF-REPORTED INDEX OFFENSE ESTIMATES FOR OFFENDER CATEGORIES AND OFFENDER AGES: INJURY OFFENSES ($\bar{X}_I$, $\bar{X}_I^*$), PROPERTY OFFENSES ($\bar{X}_P$, $\bar{X}_P^*$) AND INJURY AND PROPERTY OFFENSES COMBINED ($\bar{X}_T$, $\bar{X}_T^*$)

Offender Category--Age	(1) $\bar{X}_I$	(2) $\bar{X}_I^*$	(3) $\bar{X}_P$	(4) $\bar{X}_P^*$	(5) $\bar{X}_T$	(6) $\bar{X}_T^*$	(7) $\bar{X}_T+\bar{X}_T^*$
All Offenders (459)	.11 (212)	.27	.25 (501)	.47	.35 (713)	.74	1.10
All Except One-Time Offenders (304)	.10 (206)	.28	.24 (478)	.59	.34 (684)	.87	1.21
Recidivists (160)	.03 (21)	.22	.11 (73)	.34	.14 (94)	.55	.69
Chronics (144)	.14 (185)	.40	.30 (405)	1.03	.44 (590)	1.42	1.86
14 (98)	.06 (5)	2.00	.32 (28)	2.18	.38 (33)	4.08	4.45
15 (139)	.02 (2)	2.02	.51 (63)	3.04	.52 (65)	4.17	4.69
16 (170)	.09 (13)	2.18	.39 (58)	3.04	.47 (71)	4.38	4.86
17 (117)	.12 (12)	2.25	.40 (40)	3.02	.52 (52)	4.13	4.64
18 (96)	.21 (19)	1.43	.28 (26)	1.56	.49 (45)	2.52	3.01
19 (96)	.15 (13)	1.66	.39 (33)	1.49	.54 (46)	2.44	2.98
20 (88)	.19 (14)	1.38	.33 (25)	1.50	.52 (39)	2.45	2.97
21 (69)	.17 (10)	1.42	.33 (20)	2.10	.50 (30)	3.02	3.51
22 (56)	.24 (10)	1.42	.49 (21)	1.32	.73 (31)	2.48	3.21
23 (63)	.36 (20)	1.42	.54 (30)	1.80	.91 (50)	2.79	3.70
24 (62)	.22 (12)	1.28	.35 (19)	1.71	.57 (31)	2.50	3.06
25 (54)	.27 (12)	1.39	.38 (17)	2.14	.64 (29)	2.92	3.56
26 (47)	.32 (12)		.59 (22)		.91 (34)	2.61(a)	3.52
27 (43)	.66 (24)		.19 (7)		.86 (31)	2.61(a)	3.47
28 (31)	.38 (11)		.49 (14)		.87 (25)	2.61(a)	3.48
29 (33)	.32 (10)		.29 (9)		.61 (19)	2.61(a)	3.22
30 (17)	.47 (8)		.24 (4)		.71 (12)	2.61(a)	3.32

(a) A self-reported summary estimate is computed for ages 26-30. It is the mean number of self-reported index offenses for all adult years 18-25.

CONCLUSION

Serious offenses are committed frequently by a relatively small number of offenders: up to age thirty in a birth cohort (approximately 14%). Serious offenses, officially known and self-reported, committed by juveniles, have a higher probability of being committed by these same persons as adults. Race is significantly associated with this finding, which is to say that proportionately many more nonwhites than whites will be involved in this serious juvenile/serious adult offender status grouping. But the transition stability also occurs among the proportionately smaller number of whites. The chronic offender continues to be the most important category with which the criminal justice system should deal in its concern about serious, particularly personal injury, offenses.

Perhaps as meaningful as anything to emerge from this longitudinal study thus far and in the context of this conference is that with respect to chronicity of offenders, the juvenile/adult statutory dichotomy has little justification. At whatever age the chronic offender begins his fourth or fifth offense, he will commit further offenses with very high probabilities, and, on the average, the next offense will be an index offense nearly half the time. It may be, therefore, that if the severity of the sanction is proportionate to the gravity of the crime and to the cumulative history of serious crime, the sanction should be similar for chronic serious offenders whatever their age.

FOOTNOTES

1. John Monahan, "The Prediction of Violent Behavior in Juveniles," paper presented at the National Symposium on The Serious Juvenile Offender, Department of Corrections, State of Minnesota, Minneapolis, Minnesota, September 19-20, 1977.

2. Marvin E. Wolfgang, Robert Figlio, and Thorsten Sellin, Delinquency in a Birth Cohort (Chicago: University of Chicago Press, 1972).

3. Thorsten Sellin and Marvin E. Wolfgang, The Measurement of Delinquency (New York: John Wiley and Sons, Inc., 1964).

4. Data reported in Tables I through III are derived from work performed on our birth cohort material by Albert P. Cardarelli, whose dissertation at the University of Pennsylvania appears as "Socio-Economic Status and Delinquency and Adult Criminality in a Birth Cohort," 1974.

5. This table is reproduced from Marvin E. Wolfgang, "Crime in a Birth Cohort," Proceedings of the American Philosophical Society (October 25, 1973) 117:5: 404-411 at 409.

6. Data reported in Tables V through IX, and Table XI are derived from work performed on our birth cohort material at the Center for Studies in Criminology and Criminal Law at the University of Pennsylvania by James J. Collins, Jr. whose dissertation, "Offender Careers and Restraint: The Probabilities and Policy Implications," 1977, was supported by a grant from the National Institute of Law Enforcement and Criminal Justice, LEAA, Department of Justice, Grant Number 76NI-99-0089.

7. Data reported in Table X are derived from work performed on our birth cohort material at the Center for Studies in Criminology and Criminal Law by Paul E. Tracy as part of his dissertation entitled "A Self-Report Study of Delinquent and Criminal Behavior," forthcoming, 1977.

14. SUMMARY AND CONCLUSIONS

JOE HUDSON and PAT MACK

The ideas identified in the introductory statement have been elaborated upon in the subsequent papers. Our purpose here is to summarize the major themes running through these papers, to identify further program and research needs, and to suggest some likely future developments.

A dominant, yet often inexplicit, theme at the Symposium, as well as in these collected papers, has to do with several different aspects of the social context of the juvenile justice system. First, our present situation seems to be characterized by a serious questioning of the facts upon which our interventions are based. At the same time, there is great concern expressed by the citizenry about the problems of crime and delinquency. While few social problems generate more concern than crime and delinquency, the difficulty is that there is little evidence regarding how to proceed. While one might expect that at this point in the operation of the juvenile justice system, facts would direct our activities, the only fact that is probably clear is that we are led more by personal beliefs than by valid and reliable information. Even the few "facts" that are available are interpreted differently by the police, prosecutors, corrections officials, criminologists, and the general public.

An example of this is the Robert Martinson review of the research dealing with the effectiveness of corrections treatments. [1] The police use Martinson's findings to demonstrate the need to lock up people longer because treatment is not seen as working. Legislators use it to cut budgets so that a variety of services become vulnerable if defined as "treatment." Promoters of determinant sentencing use it as a reason to support their concept. Furthermore, treatment people either say that the report does not apply to their method, or that professionals should not be surprised because treatment has never had the necessary resources, or finally, that Martinson is changing his report to say that some programs do, in fact, work and that he would have undoubtedly included their program under this definition if only he had studied it. The same types of responses are made in relation to the group of youth variously defined as serious juvenile offenders--what works, what does not work, how should it be evaluated and by whom, who should be the primary recipient of the service and the sanction, how should services be provided, by whom, and what is to be the nature of the service and sanction? While professionals in the field

must increasingly acknowledge that they are generally guided by what they believe rather than by established facts, there is now the suggestion that even our few facts are established on quicksand. Furthermore, what is held as factual, and consequently used in directing interventive activities, may change over time. For example, practioners may attempt to use some research findings that indicate single parenting contributes to delinquency. A variety of delinquency prevention programs may then be established to diminish the expected impact of the missing father. At the same time, however, social values may change and single parenting may begin to take on different dimensions. With divorce a more acceptable choice, research used in support of the original interventions needs to be re-evaluated to the changing social condition.

What is commonly referred to as the juvenile justice "system" is a key part of the social context which bears directly upon how we define and intervene with young people in conflict with the law. The suggestion that the system is a "non-system" is now generally accepted but commonly forgotten. Different actors responsible for dealing with the young offender do not share the same assumptions nor agree upon the same established facts, nor do they commonly converse so as to at least begin to establish some common perspective as to what it is they are all about.

A related theme in these papers is the problem of identifying a serious offender and the size of this population, and determining whether the extent of the problem is increasing or decreasing. Historically, corrections officials have tended to identify serious offenders as those causing problems in corrections institutions--in the case of young people, those usually defined as runaways and incorrigibles--as well as those youth who are assaultive and sexually aggressive within the institution. In fact, however, youth labeled this way by corrections officials may seldom have behaved in such ways within the community. One of the terrible ironies of this is that while similar behavior in the community was often used to revalidate institutional diagnoses, the absence of such behavior had little or no bearing on the label. The street runs only one way, with the result that a pyramid of pathology is all too likely to develop.

Several specific attempts at defining the serious juvenile offender were made during the Symposium. While these definitions vary, they all make reference to community legal violations rather than to adjustment problems in corrections institutions. It seems, however, that our talk and our practice may proceed down parallel tracks, so that while our definitions of this population may exclusively refer to community legal violations, much of our practice is focussed upon dealing with the institution problem youth. Even given a clear definition of the population, however, there would seem to be only inadequate ways of counting offenders. Few quality

control procedures have been implemented to insure the accuracy of the statistics, and there is almost no grounds for comparing the present situation with the recent past.

A theme which was dealt with extensively at the Symposium concerns the present status of making predictions about violent behavior. The ability to make such predictions is central to the rehabilitative ideal, as this allows professionals to diagnose and to intervene with some kind of rehabilitative process or, alternatively, to have youth who cannot be "saved" transferred into adult courts so as to achieve the goal of public protection. While the idea may be logically impeccable, its practical utility is frightening. Regardless of the predictors used, there will be a tremendous overprediction. Furthermore, the best predictors of future violence seem to be relatively enduring characteristics of the offender--race, sex, socio-economic status, prior court appearances--and these pose problems for the way in which we deal with such youth. First, because such information cannot be socially or politically defended as a basis for dealing differentially with youth and, secondly, because there is little or no chance of maintaining the use of such predictors through the legal appellate process.

This leads to what was probably the major theme at the Symposium: a questioning of the basic assumptions underlying the operation of the juvenile justice system. Marvin Wolfgang made the comment at the Symposium that we seem to be experiencing a wave of "neo-classical revivalism" and this seems to be an accurate reading of recent developments. The basic tenets of positivism, which reached perhaps its purest form in the juvenile court, are being seriously questioned and the modifications being proposed tend to borrow from the classical and neo-classical schools of criminology. In this respect, it is interesting to note some apparent similarities in the conditions of the administration of law in 18th century Europe and in recent practices in the juvenile justice system--imprisonment on the flimsiest of evidence, unlimited discretion exercised by judges and corrections officials, and arbitrary and inconsistent sentencing. It was against this type of background that Beccaria wrote his classic essay, [2] and it is against a generally similar type of background in juvenile justice that we now appear to be standing.

What are some of the central ideas of the classical school of criminology? How do they contrast with the positive school? In what form are they being raised today about the way we deal with young people in conflict with the law? First, in contrast to the positive school and the emphasis on determinism (whether biological, psychological, or sociological) classicists suggest that the administration of law be based on viewing the individual offender as deliberately and willfully engaging in criminal behavior. To the classical school, man is assumed to be a rational creature

exercising free will and, therefore, consistent and fair punishments are required proportionate to the criminal damage inflicted. In contrast, positivists have minimized the importance of punishment and have emphasized treatment. In so doing, they have paid less attention to the criminal act and have focussed on the individual needs of the criminal actor.

In this respect, many of the papers and much of the discussion at the Symposium dealt with the notion of moving the juvenile court system away from an emphasis on coercive treatment and rehabilitation and all that it entails, toward a system of "just deserts" emphasizing consistency and fairness in sentencing along with a re-definition of the goals and procedures to be followed. Several of the papers suggest that, by its very nature, a system of individualized justice based upon "treatment needs" of youth rather than the nature of the offense committed will be inequitable and inconsistent. In this respect, adherants of the just deserts approach take seriously the classical notion articulated by Professor Hart that justice:

> ...consists in no more than taking seriously the notion that what is to be applied to a multiplicity of different persons is the same general rule, undeflected by prejudice, interest, or caprice. [3]

As one looks at developments in the juvenile justice system over the past few years, there seems to have been a general erosion of the parens patriae doctrine. Appellate decisions surrounding the presentation of evidence, the confrontation of witnesses, and the more precise descriptions of offenses, have all made the juvenile court a more formal place. Furthermore, efforts at removing status offenders from juvenile corrections institutions as well as diversion programs designed to keep them from the court all give clear guidance and parameters to our "system of caring." The erosion of the traditional juvenile justice system has also proceeded to the other end of the spectrum with the serious juvenile offender. While binding-over procedures have always been available, more and more states are looking toward some kind of definite and pre-determined institutional period of time based upon the nature of the offense committed and not necessarily in relation to the perceived needs of the delinquent child.

One of the clearest and most thoughtful expositions of classical ideas in recent juvenile justice literature has come from Professor Sanford Fox. [4] Among the three reasons offered by Fox in support of the "child's right to punishment" is that coerced rehabilitation is based upon the myth that we really know how to treat and rehabilitate. Fox suggests that this is the least important reason for supporting the elimination of the rehabilitative ideal and suggests that a more important reason is that the rehabilitative ideal has the great potential for abuse. In fact, he suggests that a wide variety of instances can be documented citing the

inappropriate exercise of administrative discretion over young people. Finally, and most importantly, Fox is deeply concerned about the scientific possibilities of coercively attempting to change behavior--whether in the form of aversive conditioning procedures, chemicals, or physical manipulation of the mind and body. Not only is Fox against the rehabilitative approach, he is clearly in support of the punishment approach on the grounds that punishment implies definite limits on what can be appropriately done to the offender and also calls attention to itself as a necessary evil to be used by society as a last resort.

Consequently, he suggests that the use of a punishment model, rather than one of treatment, will help to insure that the smallest possible number of young people will be dealt with in the juvenile system. While the arguments raised by Professor Fox are open to serious question and disagreement, and while a variety of differing proposals have been offered for changes in the juvenile justice system, such ideas and proposals do reflect a growing body of thought, opinion, and practice.

Illustrating the changing views about the juvenile justice system and its goals and procedures are the striking statutory changes being made in state juvenile codes around the country. 1977 Washington State legislation, for example, explicitly provides for "punishment commensurate with the age, crime, and criminal history of the juvenile offender." [5] This statute stands in contrast to the more common and traditional juvenile justice statutes which stress treatment and rehabilitation. For example, the Minnesota statute dealing with juveniles explicitly states that the purpose of the juvenile justice system is to substitute "...for retributive punishment methods of training and treatment directed toward the correction and rehabilitation of young persons found delinquent or quilty of a crime." [6] In the thirty years between the 1947 Minnesota statute and the 1977 Washington legislation, a great change appears to have occurred.

A related theme at the Symposium was the need to temper past excessive claims that if only given more resources, the problem of youth crime would be resolved. Such claims are under increasing attack both because of the lack of research support for the effects of our interventions and because of questions about the logical sense of expecting that much can be done by the corrections system. James Q. Wilson, for example, has noted that:

> if a child is delinquent because his family made him so or his friends encouraged him to be so, it is hard to conceive what society might do about this. No one knows how a government might restore affection, stability and fair discipline to a family that rejects these characteristics; still less can one imagine how even a family once restored could effect a child who by now has left the formative years and in any event has

developed an aversion to one or both of his parents. [7]

In short, the juvenile justice system may be one necessary but insufficient way of dealing with serious youth crime. Clearly, however, none of the papers suggest that society should avoid responsibility for providing a full range of programs and services for juvenile offenders, nor that the state should stop attempting to improve the social and economic status of its citizens. What several of the papers do suggest, however, is the need to recognize that the way we deal with young people can frequently further damage them. While in many cases, most people would agree that the state must and should intervene, it is being increasingly acknowledged that such actions should be undertaken with the aim of causing the least harm to the young person rather than with the expectation of doing the greatest good. This argument was made in 1967 by the President's Commission on Law Enforcement and Administration of Justice, and was used by that body to support both retaining a separate justice system for juveniles and minimizing the extent to which youth penetrate such a justice system. As a consequence, a wide variety of "diversion" programs have been implemented in various jurisdictions. In a host of cases, unfortunately, such purportedly diversionary programs have been used to supplement existing sanctions. In many respects, the opposite effect of the one intended has been achieved. [8] If this can be taken as an indication of the ability of the justice system to achieve its goals, perhaps we should reverse the process used and aim for the opposite of what we want to achieve.

In conclusion, and with the obvious risk of oversimplifying the Symposium discussions, we would suggest that the following points summarize some of the major considerations raised:

1. The parens patriae doctrine is under serious attack both from the courts and from state legislatures.

2. The idea of coercively treating juveniles is being seriously reconsidered. At the same time, however, a clear definition is missing regarding what constitutes treatment and what the specific role of the state should be with regard to such youth.

3. The exercise of political power on behalf of young people in this country seems to be diminishing. Until recently, the population of this country has been composed of a large proportion of young people. As the greying of America takes place and as elderly citizens are victimized or fear becoming victims of crime, the removal of the offender from society is likely to become an increasingly more politically palatable option. Given this, some balance needs to be struck between what is seen as

the protection of society and what is in the best interests of the young person.

4. Given the apparent movement toward a model of just deserts and assuming the gradual abandonment of the rehabilitative ideal, the programming options available in state delinquency institutions need to be clarified so as to avoid producing a worsened version of state-raised youth.

5. A greater volume of resources need to be allocated to research activities concerning the serious juvenile offender, and the quality of such research must be improved relative to the questions asked and the procedures used.

FOOTNOTES

1. Robert Martinson, "What Works?--Questions and Answers About Prison Reform," The Public Interest 35 (Spring, 1974): 22-54.

2. Cesare Beccaria, On Crimes and Punishment (New York: Bobbs Merrill, 1963).

3. H. L. A. Hart, The Concept of Law (Oxford, England: Clarendon Press, 1961), p. 102.

4. Sanford J. Fox, "The Reform of Juvenile Justice: The Child's Right to Punishment," Juvenile Justice, August, 1974, pp. 2-9.

5. See, for a discussion of this legislation: Kevin Krajick, "A Step Toward Determinacy For Juveniles," Corrections Magazine vol. 3, no. 3 (September, 1977), pp. 37-42.

6. Minnesota Statutes 260.11.

7. James Q. Wilson, "Crime and the Criminologists," Commentary, July, 1974, pp. 47, 48.

8. See, for example, Paul Lerman, Community Treatment and Social Control (Chicago: University of Chicago Press, 1975); and Robert D. Vinter, George Downs, and John Hall, Juvenile Corrections in the States: Residential Programs and Deinstitutionalization, National Assessment of Juvenile Corrections, The University of Michigan, November, 1975.

APPENDIX A:

LIST OF CONTRIBUTORS

JOHN P. CONRAD
Senior Fellow in Criminal Justice
The Academy For Contemporary Problems
Ohio State University
Columbus, Ohio

PETER B. EDELMAN
Director, New York State Division for Youth
Albany, New York

BARRY C. FELD
Professor of Law
University of Minnesota
Minneapolis, Minnesota

SHIRLEY GOINS
Director, Unified Delinquency Intervention Services
Illinois Department of Corrections
Chicago, Illinois

DONNA HAMPARIAN
Manager, Dangerous Juvenile Offender Study
The Academy For Contemporary Problems
Ohio State University
Columbus, Ohio

JOE HUDSON
Director, Victim Services Division
Minnesota Department of Corrections
St. Paul, Minnesota

PAT MACK
Assistant Commissioner
Minnesota Department of Corrections
St. Paul, Minnesota

JEROME G. MILLER
Commissioner of Children and Youth For
The Commonwealth of Pennsylvania
Harrisburg, Pennsylvania

JOHN MONAHAN
Professor, Program in Social Ecology
University of California at Irvine
Irvine, California

KENNETH F. SCHOEN
Commissioner
Minnesota Department of Corrections
St. Paul, Minnesota

SAMUEL SUBLETT, JR.
Administrator, Illinois Department of
Corrections, Juvenile Division
St. Charles, Illinois

RAY A. TENNYSON
Professor, Institute of Criminology
University of Maryland
College Park, Maryland

MARVIN E. WOLFGANG
Director, Center For Studies in
Criminology and Criminal Law
University of Pennsylvania
Philadelphia, Pennsylvania

FRANKLIN E. ZIMRING
Director, Center For Studies in Criminal Justice
University of Chicago
Chicago, Illinois

☆ U. S. GOVERNMENT PRINTING OFFICE : 1978 260-992/2113