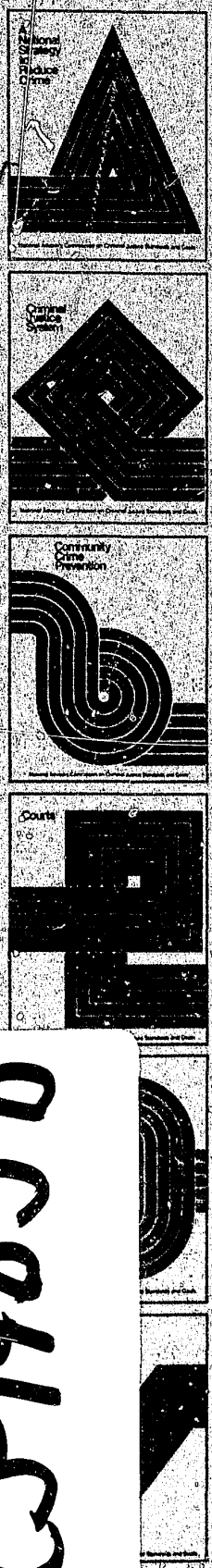

Standards and Goals for Juvenile Justice

Juvenile Delinquency Interdepartmental Council ...

In recognizing the complexities of issues surrounding juvenile delinquency, the Law Enforcement Assistance Administration is committed to initiating and supporting purposeful action at every level.

As chairman of the Interdepartmental Council to Coordinate All Federal Juvenile Delinquency Programs, established by Public Law 92-381, I am pleased to offer this compilation of standards and goals as related to juvenile justice to those people who, in the last analysis, do the all important work with our nation's children.

I would hope and expect that this compilation will be viewed both as a yardstick with which to measure current efforts and as a starting point in launching what will and must come in the years ahead.

In closing, I would point out that the work necessary for this document was accomplished through the Interdepartmental Council involving personnel from the Law Enforcement Assistance Administration, U.S. Department of Justice, U.S. Department of the Interior and the U.S. Department of Agriculture.

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TABLE OF CONTENTS

FOREWORD

The National Advisory Commission on Criminal Justice Standards and Goals was appointed by the Administrator of the Law Enforcement Assistance Administration on October 20, 1971, to formulate for the first time national criminal justice standards and goals for crime reduction and prevention at the State and local levels.

Membership in the Commission was drawn from the three branches of State and local government, from industry, and from citizen groups. Commissioners were chosen, in part, for their working experience in the criminal justice area. Police chiefs, judges, corrections leaders, and prosecutors were represented.

Other recent Commissions have studied the causes and debilitating effects of crime in our society. The Standards and Goals Commission has sought to formulate a series of standards, recommendations, priorities, and goals to modernize and unify the criminal justice system, and to provide a yardstick for measuring progress. Its purpose has been the reduction of crime. But the Commission's work is only the first step. It remains now for citizens, professionals, and policy makers to mount the major effort by implementing the standards proposed in the six volumes of the Commission's work.

Some State or local governments may already meet standards or recommendations proposed by the Commission; most in the Nation do not. In any case, each State and local government is encouraged to evaluate its present status and to implement those standards and recommendations that it deems appropriate.

Each jurisdiction will, of course, analyze the reports and apply goals and standards in its own way and in the context of its own needs. There is no need to enact legislation making compliance with the standards a prerequisite to receipt of Federal funds or a requirement on the States in any other firm. However, while Federal endorsement of these standards is not specifically recommended, there is still much the Federal Government can do in translating the Commission's work into action.

The Commission believes that the effort it has begun should be carried on by a permanent group of citizens which can monitor implementation of the standards over the long term. In implementing important standards or groups of standards, the Commission also urges that evaluation plans be designed as an integral part of all projects. In addition, the Commission recommends that national professional and civic groups and appropriate university interests support implementation of the standards and goals.

In the last analysis, the Commission believes that the cost of crime reduction must be weighed against the cost of crime itself. New techniques of measurement are beginning only now to tell the American people how much crime they actually endure, crime that takes its toll in human lives, in personal injury and suffering, in stolen money and property. This cost must reach substantial levels in all jurisdictions. Less crime will mean fewer victims of crime and will result in genuine, demonstrable savings, both to potential victims and to the whole society.

INTRODUCTION

Priority: Preventing Juvenile Delinquency

The highest attention must be given to preventing juvenile delinquency, minimizing the involvement of young offenders in the juvenile and criminal justice system, and reintegrating them into the community. By 1983 the rate of delinquency cases coming before courts that would be crimes if committed by adults should be cut to half the 1973 rate.

Street crime is a young man's game. More than half the persons arrested for violent crime in 1971 were under 24 years of age, with one-fifth under 18. For burglary, over half of the 1971 arrests involved youths under 18.

There is strong evidence that the bulk of ordinary crime against person and property is committed by youths and adults who have had previous contact with the criminal justice or juvenile justice system.

In addition, we know that people tend to learn from those closest to them. It is small wonder then that prisons and jails crowded with juveniles, first offenders, and hardened criminals have been labeled "schools of crime."

People also tend to become what they are told they are. The stigma of involvement with the criminal justice system, even if only in the informal processes of juvenile justice, isolates persons from lawful society and may make further training or employment difficult.

For many youths, as noted above, incarceration is not an effective tool of correction. Society will be better protected if certain individuals, particularly youths and first offenders, are diverted prior to formal conviction either to the care of families or relatives or to employment, mental health, and other social service programs. Thus a formal arrest is inappropriate if the person may be referred to the charge of a responsible parent, guardian, or agency. Formal adjudication may not be necessary if an offender can be safely diverted elsewhere, as to a youth services bureau for counseling or a drug abuse program for treatment. Offenders properly selected for pretrial diversion experience less recidivism than those with similar histories and social backgrounds who are formally adjudicated.

The Department of Health, Education, and Welfare, which collects information on juvenile courts, estimates that a little less than 40 percent of cases disposed of by courts are cases of running away, truancy, and other offenses that would not be crimes if committed by an adult. These are the so-called juvenile status offenses.

The remaining 60-odd percent of cases estimated to be disposed of by juvenile or family courts are nonstatus crimes, those that would be crimes if committed by adults. It is the rate of these cases which the Commission would propose to cut in half.

Meeting the goal, the Commission believes, should result in significant decreases in crime through preventing recidivism and might also prove to be far less costly than dealing with delinquents under present methods. To process a youth through the juvenile justice system and keep him in a training school for a year costs almost $6,000. There is no reason to believe that the cost of a diversionary program would exceed this figure, since most such programs are not residential. Indeed, diversion might prove to provide significant savings.

One final note should be added. Minimizing a youth's involvement with the criminal justice system does not mean abandoning the use of confinement for certain individuals. Until more effective means of treatment are found, chronic and dangerous delinquents and offenders should be incarcerated to protect society. But the juvenile justice system must search for the optimum program outside institutions for juveniles who do not need confinement.

Priority: Improving Delivery of Social Services

Public agencies should improve the delivery of all social services to citizens, particularly to those groups that contribute higher than average proportions of their numbers to crime statistics.

There is abundant evidence that crime occurs with greater frequency where there are poverty, illiteracy, and unemployment, and where medical, recreational, and mental health resources are inadequate. When unemployment rates among youths in poverty areas of central cities are almost 40 percent and crime is prevalent, it is impossible not to draw conclusions about the relationship between jobs and crime. The Commission believes that effective and responsive delivery of public services that promote individual and economic well-being will contribute to a reduction in crime.

Social Service Delivery Mechanisms: Youth Services Bureaus

In addition to the equitable delivery of services there is a need for coordinating existing social, medical, and rehabilitative services. Efforts must be made to develop comprehensive service delivery systems that avoid wasteful duplication, open lines of communication to the

community, and better assist individual clients through a coordinated delivery of services to arrive at their best functioning level. One of the most important examples of comprehensive services delivery is the youth services bureau.

These bureaus in large part were the result of a recommendation by the 1967 President's Commission on Law Enforcement and Administration of Justice, which urged communities to establish them to serve both delinquent and nondelinquent youth referred by police, juvenile courts, schools, and other sources. The bureaus were to act as central coordinating units for all community services for young people.

A national census in 1972 identified 150 youth services bureaus in operation in many States and territories. In the absence of national standards, local youth services bureaus have developed according to the needs and pressures of each community.

In most localities, however, the youth services bureau, at a minimum is a link between available resources and youth in need. It first identifies services and resources in the community and then refers clients to an agency that can provide the required services. Social services made available might include employment, job training, education, housing, medical care, family counseling, psychiatric care, or welfare.

Once a young person has been directed to another agency, the youth services bureau follows up to assure that adequate services are being provided. The bureau acts as a services broker, matching the young person with the service he or she needs. When services are not available through governmental or volunteer sources, they may be purchased from private agencies or independent professionals.

Referrals to the youth services bureau should be completed only if they are voluntarily accepted by the youth. Youths should not be forced to choose between bureau referral and further justice system processing.

Enough information has now been gathered on existing youth services bureaus for the Commission to recommend that bureaus be established in communities experiencing serious youth problems. Each year a vast number of young people becomes involved in the justice system for acts that are not crimes for adults: incorrigibility, truancy, running away, and even stubbornness. In addition, many youths are processed through the juvenile justice system for minor offenses that are neither recurring nor a serious threat to the community. Such behavior is often an indication that a young person needs special attention, but not necessarily punitive treatment.

Many of what are now considered delinquency or predelinquency problems should be redefined as family, educational, or welfare problems and diverted from the juvenile justice system. Such diversion can relieve overburdened probation offices and courts and allow them to concentrate

on offenders that need serious attention. In addition, diversion through youth services bureaus can avoid the unnecessary "delinquent" label that frequently accompanies involvement with the juvenile court.

Each State should enact enabling legislation that encourages local establishment of youth services bureaus throughout the State and that provides partial funding for them. Legislation also should be enacted to mandate the use of youth services bureaus as a voluntary diversion resource by agencies of the juvenile justice system.

To avoid misunderstanding, criteria for referrals should be developed jointly and specified in writing by law enforcement, courts, and youth services bureau personnel.

Diversion can take place only if there is cooperation and communication between concerned parties. The essence of any social service delivery system is the marshaling of resources in a coordinated way to bring clients to the best functioning level.

Education

Schools are the first public agencies that most children contact. For this reason, the schools inevitably have been proposed as vehicles for the solution of a host of public problems including the problem of crime. In making its recommendations, the Commission is well aware of crushing demands already placed upon local school teachers, principals, and school boards.

Nevertheless, individuals sometimes come to the attention of the criminal justice system because the educational system has not met their personal needs. The fact that the public schools have not helped a large portion of young people is reflected in high youth unemployment rates and high dropout rates. Twenty percent of those who now enter grade five leave before high school graduation, and only 28.7 percent of 1971 high school graduates went on to college. Yet 80 percent of the effort in schools is structured to meet college entry requirements. Too often classroom instruction is not related to life outside. Undoubtedly many of the 850,000 students who left elementary and secondary schools in 1970 and 1971 did so because they felt their educational experiences were irrelevant.

The Commission believes that the primary goals of American education should be to prepare and interest people in satisfying and useful careers.

Schools should plan programs that will guarantee that every child leaving school can obtain either a job or acceptance to an advanced program of studies, regardless of the time he leaves the formal school setting.

If schools are going to make guarantees of this kind there must be a

shift to career education. In career education programs, instruction is related to the world of work and opportunities are provided to explore or receive training in a career. Career education may begin in first grade or earlier and continue beyond high school graduation. It should bring an awareness to students of the wide range of jobs in American society and the roles and requirements involved.

In the Education chapter of the Commission's Report on Community Crime Prevention, additional approaches designed to make school systems more responsive to the individual student are recommended.

Varied alternative educational experiences should be provided to students who cannot benefit from classroom instruction. School counseling and other supportive services should be available. There should be bilingual programs for young people who are not fluent in English. There should be a guarantee of functional literacy to every student who does not have serious emotional, physical, or mental problems.

Aside from fulfilling the primary objective of preparing young people for adult life, school systems may also contribute to community crime prevention by serving as centers for community activities. The traditional school operating 5 days a week for 39 weeks a year is an unaffordable luxury. Schools can become total community opportunity centers for the young and the old, operating virtually around the clock, 365 days a year.

The Juvenile Court

The general rise in crime throughout the United States in the last decade has brought increasing burdens to all courts, particularly the juvenile courts. In 1960, there were 510,000 delinquency cases disposed of by juvenile courts; in 1970 there were 1,125,000 delinquency cases disposed of by juvenile courts.

The question is whether or not the present juvenile court system is an effective method of controlling juvenile crime. Throughout the country, the juvenile courts vary widely in structure, procedure, and quality. In the main, however, they reflect an understanding that special treatment for the young offender is desirable.

After considerable study, the Commission concurs that the juvenile offender should have special treatment. However, the present juvenile court systems are not providing that special treatment in an adequate, fair, and equitable manner.

The Commission believes that major reform of the juvenile justice system is needed. The juvenile justice system has not obtained optimum results with young people on their first contact with the system. Further it is the conclusion of the Commission that juvenile courts must become part of an integrated, unified court system; that the

jurisdiction of the juvenile courts must be narrowed and that the relationships between the courts and juvenile service agencies must be broadened in a manner which maximizes diversion from the court system. In addition there must be reform of the procedures for handling those juveniles who are referred to court.

Reorganization of Juvenile Courts

The existence of the juvenile court as a distinct entity ignores the causal relationship between delinquency and other family problems. A delinquent child most often reflects a family in trouble-a broken family, a family without sufficient financial resources, a family of limited education, and a family with more than one child or parent exhibiting antisocial behavior. The family court concept as now utilized in New York, Hawaii, and the District of Columbia permits the court to address the problems of the family unit, be they civil or criminal.

Further, in the past juvenile courts have, by their jurisdictional authorization, intervened in areas where alternative handling of the juvenile is more successful. It is the view of the Commission that the delinquent child-the child who commits an offense which would be criminal if committed by an adult-should be the primary focus of the court system. The Commission takes no position with respect to extension of jurisdiction to the "person in need or supervision" (PINS). The PINS category includes the runaway and truant. Jurisdiction, however, should not extend to dependent children-those needing economic, medical, or other social assistance through no fault of their parents. Dependent children should be handled outside the court system through other social agencies. Of course, provision in the court system must be made for the neglected child who must be taken from his parents and cared for due to abusive conduct of the parent, failure of the parent to provide for the child although able to do so, and those circumstances where parents are incarcerated, hospitalized, or otherwise unable to care for their children for protracted periods of time.

The Commission recommends that jurisdiction over juveniles be placed in a family court which should be a division of a trial court of general jurisdiction. The family court should have jurisdiction over all legal matters related to family life, including delinquency, neglect, support, adoption, custody, paternity actions, divorce, annulment, and assaults involving family members. Dependent children-those needing help through no fault of their parents-should be handled outside the court system.

Reform of Court Procedures

In re Gault clarified the constitutional rights of juveniles to due process. The juvenile can no longer be deprived of his basic rights by adherence to a parens patriae, "best interests of the child" doctrine.

Reform of court procedures, however, must not be limited to the areas identified in Gault. There is much, much more to be done in the juvenile justice system to minimize recidivism and control juvenile crime. Reforms are needed in the areas of intake proceedings, detention of juveniles, disposition of juveniles, and transfer of juveniles to the adult system when juvenile resources are exhausted.

Intake, Detention, and Shelter Care

There are a number of studies which suggest that many children mature out of delinquent behavior. If this is true, the question is whether it is better to leave these persons alone or put them into the formal juvenile justice system. Because there are no satisfactory measures of the effectiveness of the juvenile justice system, there is a substantial body of opinion which favors "leaving alone" all except those who have had three or four contacts with the police.

Each jurisdiction should consider this phenomenon, conduct studies among its juveniles charged with delinquent behavior, and establish intake criteria. Each court system should have an intake unit which should determine whether the juvenile should be referred to court. This intake unit should have available a wide variety of informal dispositions including referral to other agencies, informal probation, consent decrees, etc. In addition, the intake unit should have criteria for determining the use of detention or shelter care where formal petitions are filed with the court.

The Commission recommends that each family court, in accord with written criteria, create an intake unit which should determine whether the juvenile should be referred to court or dealt with informally, and should determine whether the juvenile should be placed in detention or shelter care. In no event should a child be detained for more than 24 hours pending determination of the intake unit.

Transfer of Juveniles to Adult Court

There are some juveniles for whom the juvenile process is not appropriate. These include instances where the juvenile has previously participated in the rehabilitative programs for juveniles; instances where the juvenile justice system has no suitable resources; and instances where the criminal sophistication of the juvenile precludes any benefit for the special juvenile programs.

It is the view of the Commission, however, that transfer of juveniles should be limited. The Supreme Court in Kent v. United States has given direction on the procedures to be used and on the substantive issues to be resolved in any transfer to adult court. The procedures must meet due process standards.

The Commission recommends that family courts have authority to order the transfer of certain juveniles for prosecution in the adult courts, but only if the juvenile is above a designated age, if a full and fair

hearing has been held on the transfer, and if the action is in the best interest of the public.

Adjudication and Disposition of Juveniles

A juvenile charged with an act which, if committed by an adult, would be a criminal offense is by law entitled to most of the procedures afforded adult criminal defendants. The juvenile is entitled to:

-Representation by counsel.
-The privilege against self-incrimination.
-Right to confront and cross-examine witnesses.
-Admission of only evidence which is competent and relevant.
-Proof of the acts alleged beyond a reasonable doubt.

There remains some question as to whether juveniles should be afforded jury trials. After consideration of McKeiver v. Pennsylvania and the rationale therein, this Commission concludes that the State as a matter of policy should provide non-jury trials for juveniles. The theoretical protections of a jury trial are outweighed by the advantages of informality, fairness, and sympathy which the traditional juvenile court concept contemplates.

The Commission noted, however, that where the adjudication of delinquency is in a nonjudicial forum, provision must be made for separation of the adjudication and the disposition. The disposition hearing should be separate and distinct so that the determination of guilt will not be tainted by information that should be considered in making a decision on the appropriate rehabilitative program, including the past involvement of the juvenile with the criminal justice system.

During adjudicatory hearings to determine guilt or innocence, the juvenile should have all of the rights of an adult criminal defendant except that of trial by jury.

The disposition hearing to determine a rehabilitative program for the juvenile should be separate and distinct from the adjudicatory hearing and should follow, where feasible, the procedure recommended for the sentencing of convicted adult offenders.

CONCLUSION

The criminal court system of a free Nation should conform to the ideal of equal justice under law and should be typified by quality, efficiency, and fairness. These three words exemplify the standards proposed in the Commission's Report on Courts. Great emphasis is placed upon upgrading the quality of criminal court personnel and thereby improving the quality of justice dispensed. Efficiency in processing cases from arrest to trial to final appellate judgment is a prominent theme. But throughout the report appear standards safeguarding the rights of all

persons, including witnesses, jurors, and defendants.

The Commission believes that persons committing infractions of the law should be speedily arrested, tried, afforded appellate review, and given meaningful sentences. If recidivism is to be reduced, these same persons must feel that they have been treated fairly, honestly, and impartially. The standards in the Report on Courts provide a mechanism for achieving both of these sets of goals.

STANDARDS AND GOALS

POLICE

Standard 4.3

Diversion *

Every police agency, where permitted by law, immediately should divert from the criminal and juvenile justice systems any individual who comes to the attention of the police, and for whom the purpose of the criminal or juvenile process would be inappropriate, or in whose case other resources would be more effective. All diversion dispositions should be made pursuant to written agency policy that insures fairness and uniformity of treatment.

1. Police chief executives may develop written policies and procedures which allow, in appropriate cases, for juveniles who come to the attention of the agency to be diverted from the juvenile justice process. Such policies and procedures should be prepared in cooperation with other elements of the juvenile justice system.

2. These policies and procedures should allow for processing mentally ill persons who come to the attention of the agency, should be prepared in cooperation with mental health authorities and courts, and should provide for mental health agency referral of those persons who are in need of professional assistance but are not taken into custody.

3. These policies should allow for effective alternatives when arrest for some misdemeanor offenses would be inappropriate.

* For commentary see Police pp. 80-82

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Standard 9.5

Juvenile Operations *

The chief executive of every police agency immediately should develop written policy governing his agency's involvement in the detection, deterrence, and prevention of delinquent behavior and juvenile crime.

1. Every police agency should provide all its police officers with specific training in preventing delinquent behavior and juvenile crime.

2. Every police agency should cooperate actively with other agencies and organizations, public and private, in order to employ all available resources to detect and deter delinquent behavior and combat juvenile crime.

3. Every police agency should establish in cooperation with courts written policies and procedures governing agency action in juvenile matters. These policies and procedures should stipulate at least:

a. The specific form of agency cooperation with other governmental agencies concerned with delinquent behavior, abandonment, neglect, and juvenile crime;

b. The specific form of agency cooperation with nongovernmental agencies and organizations where assistance in juvenile matters may be obtained;

c. The procedures for release of juveniles into parental custody; and

d. The procedures for the detention of juveniles.

4. Every police agency having more than 15 employees should establish juvenile investigation capabilities.

a. The specific duties and responsibilities of these positions should be based upon the particular juvenile problems within the community.

b. The juvenile specialists, besides concentrating on law enforcement as related to juveniles, should provide support and coordination of all community efforts for the benefit of juveniles.

5. Every police agency having more than 75 employees should establish a juvenile investigation unit, and every smaller police agency should establish a juvenile investigation unit if community conditions warrant. This unit:

a. Should be assigned responsibility for conducting as many juvenile investigations as practicable, assisting field officers in juvenile matters, and maintaining liaison with other agencies and organizations interested in juvenile matters; and

b. Should be functionally decentralized to the most effective command level.

* For commentary see Police pp. 221-223

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Standard 2.1

General Criteria for Diversion *

In appropriate cases offenders should be diverted into noncriminal programs before formal trial or conviction.

Such diversion is appropriate where there is a substantial likelihood that conviction could be obtained and the benefits to society from channeling an offender into an available noncriminal diversion program outweigh any harm done to society by abandoning criminal prosecution. Among the factors that should be considered favorable to diversion are: (1) the relative youth of the offender; (2) the willingness of the victim to have no conviction sought; (3) any likelihood that the offender suffers from a mental illness or psychological abnormality which was related to his crime and for which treatment is available; and (4) any likelihood that the crime was significantly related to any other condition or situation such as unemployment or family problems that would be subject to change by participation in a diversion program.

Among the factors that should be considered unfavorable to diversion are: (1) any history of the use of physical violence toward others; (2) involvement with syndicated crime; (3) a history of antisocial conduct indicating that such conduct has become an ingrained part of the defendant's lifestyle and would be particularly resistant to change; and (4) any special need to pursue criminal prosecution as a means of discouraging others from committing similar offenses.

Another factor to be considered in evaluating the cost to society is that the limited contact a diverted offender has with the criminal justice system may have the desired deterrent effect.

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* For commentary see Courts pp. 32-38

Standard 2.2

Procedure for Diversion Programs *

The appropriate authority should make the decision to divert as soon as adequate information can be obtained.

Guidelines for making diversion decisions should be established and made public. Where it is contemplated that the diversion decision will be made by police officers or similar individuals, the guidelines should be promulgated by the police or other agency concerned after consultation with the prosecutor and after giving all suggestions due consideration. Where the diversion decision is to be made by the prosecutor's office, the guidelines should be promulgated by that office.

When a defendant is diverted in a manner not involving a diversion agreement between the defendant and the prosecution, a written statement of the fact of, and reason for, the diversion should be made and retained. When a defendant who comes under a category of offenders for whom diversion regularly is considered is not diverted, a written statement of the reasons should be retained.

Where the diversion program involves significant deprivation of an offender's liberty, diversion should be permitted only under a court-approved diversion agreement providing for suspension of criminal proceedings on the condition that the defendant participate in the diversion program. Procedures should be developed for the formulation of such agreements and their approval by the court. These procedures should contain the following features:

1. Emphasis should be placed on the offender's right to be represented by counsel during negotiations for diversion and entry and approval of the agreement.

2. Suspension of criminal prosecution for longer than one year should not be permitted.

3. An agreement that provides for a substantial period of institutionalization should not be approved unless the court specifically finds that the defendant is subject to nonvoluntary detention in the institution under noncriminal statutory authorizations for such institutionalization.

4. The agreement submitted to the court should contain a full statement of those things expected of the defendant and the reason for diverting the defendant.

5. The court should approve an offered agreement only if it would be approved under the applicable criteria if it were a negotiated plea of guilty.

6. Upon expiration of the agreement, the court should dismiss the prosecution and no future prosecution based on the conduct underlying the initial charge should be permitted.

7. For the duration of the agreement, the prosecutor should have the discretionary authority to determine whether the offender is performing his duties adequately under the agreement and, if he determines that the offender is not, to reinstate the prosecution.

Whenever a diversion decision is made by the prosecutor's office, the staff member making it should specify in writing the basis for the decision, whether or not the defendant is diverted. These statements, as well as those made in cases not requiring a formal agreement for diversion, should be collected and subjected to periodic review by the prosecutor's office to insure that diversion programs are operating as intended.

The decision by the prosecutor not to divert a particular defendant should not be subject to judicial review.

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* For commentary see Courts pp. 39-41

Standard 7.5

Judicial Education *

Every State should create and maintain a comprehensive program of continuing judicial education. Planning for this program should recognize the extensive commitment of judge time, both as faculty and as participants for such programs, that will be necessary. Funds necessary to prepare, administer, and conduct the programs, and funds to permit judges to attend appropriate national and regional educational programs, should be provided.

Each State program should have the following features:

1. All new trial judges, within 3 years of assuming judicial office, should attend both local and national orientation programs as well as one of the national judicial educational programs. The local orientation program should come immediately before or after the judge first takes office. It should include visits to all institutions and facilities to which criminal offenders may be sentenced.

2. Each State should develop its own State judicial college, which should be responsible for the orientation program for new judges and which should make available to all State judges the graduate and refresher programs of the national judicial educational organizations. Each State also should plan specialized subject matter programs as well as 2- or 3-day annual State seminars for trial and appellate judges.

3. The failure of any judge, without good cause, to pursue educational programs as prescribed in this standard should be considered by the judicial conduct commission as grounds for discipline or removal.

4. Each State should prepare a bench manual on procedural laws, with forms, samples, rule requirements and other information that a judge should have readily available. This should include sentencing alternatives and information concerning correctional programs and institutions.

5. Each State should publish periodically—and not less than quarterly—a newsletter with information from the chief justice, the court administrator, correctional authorities, and others. This should include articles of interest to judges, references to new literature in the judicial and correctional fields, and citations of important appellate and trial court decisions.

6. Each State should adopt a program of sabbatical leave for the purpose of enabling judges to pursue studies and research relevant to their judicial duties.

* For commentary see Courts pp. 156-159

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Standard 14.1

Court Jurisdiction Over Juveniles *

Jurisdiction over juveniles of the sort presently vested in juvenile courts should be placed in a family court. The family court should be a division of the trial court of general jurisdiction, and should have jurisdiction over all legal matters related to family life. This jurisdiction should include delinquency, neglect, support, adoption, child custody, paternity actions, divorce and annulment, and assault offenses in which both the victim and the alleged offender are members of the same family. The family court should have adequate resources to enable it to deal effectively with family problems that may underlie the legal matters coming before it.

The family court should be authorized to order the institutionalization of a juvenile only upon a determination of delinquency and a finding that no alternative disposition would accomplish the desired result. A determination of delinquency should require a finding that the State has proven that the juvenile has committed an act that, if committed by an adult, would constitute a criminal offense.

The family court's jurisdiction should not include so-called dependent children, that is, juveniles in need of care or treatment through no fault of their parents or other persons responsible for their welfare. Situations involving those juveniles should be handled without official court intervention. The definition of neglected children or its equivalent, however, should be broad enough to include those children whose parents or guardians are incarcerated, hospitalized, or otherwise incapacitated for protracted periods of time.

Specialized training should be provided for all persons participating in the processing of cases through the family court, including prosecutors, defense and other attorneys, and the family court judge. Law schools should recognize the need to train attorneys to handle legal matters related to family problems, and should develop programs for that training. These programs should have a heavy clinical component.

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* For commentary see Courts pp. 293-295

Standard 14.2

Intake, Detention, and Shelter Care * in Delinquency Cases

An intake unit of the family court should be created and should:

1. Make the initial decision whether to place a juvenile referred to the family court in detention or shelter care;

2. Make the decision whether to offer a juvenile referred to the family court the opportunity to participate in diversion programs; and

3. Make, in consultation with the prosecutor, the decision whether to file a formal petition in the family court alleging that the juvenile is delinquent and ask that the family court assume jurisdiction over him.

A juvenile placed in detention or shelter care should be released if no petition alleging delinquency (or, in the case of a juvenile placed in shelter care, no petition alleging neglect) is filed in the family court within 24 hours of the placement. A juvenile placed in detention or shelter care should have the opportunity for a judicial determination of the propriety of continued placement in the facility at the earliest possible time, but no later than 48 hours after placement.

Criteria should be formulated for the placement of juveniles in detention and shelter care. These criteria must be applied in practice.

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* For commentary see Courts pp. 296-299

Standard 14.3

Processing Certain Delinquency Cases as Adult Criminal Prosecutions *

The family court should have the authority to order certain delinquency cases to be processed as if the alleged delinquent was above the maximum age for family court delinquency jurisdiction. After such action, the juvenile should be subject to being charged, tried, and (if convicted) sentenced as an adult.

An order directing that a specific case be processed as an adult criminal prosecution should be entered only under the following circumstances:

1. The juvenile involved is above a designated age;

2. A full and fair hearing has been held on the propriety of the entry of such an order; and

3. The judge of the family court has found that such action is in the best interests of the public.

In each jurisdiction, more specific criteria should be developed, either through statute or rules of court, for determining when juveniles should be processed as criminal defendants.

If an order is entered directing the processing of a case as an adult criminal prosecution and the juvenile is convicted of a criminal offense, he should be permitted to assert the impropriety of the order or the procedure by which the decision to enter the order was made on review of his conviction. When the conviction becomes final, however, the validity of the order and the procedure by which the underlying decision was made should not be subject to any future litigation.

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* For commentary see Courts pp. 300-301

Standard 14.4

Adjudicatory Hearing in Delinquency Cases *

The hearing to determine whether the State can produce sufficient evidence to establish that a juvenile who is allegedly delinquent is in fact delinquent (the adjudicatory hearing) should be distinct and separate from the proceeding at which—assuming a finding of delinquency—a decision is made as to what disposition should be made concerning the juvenile. At the adjudicatory hearing, the juvenile alleged to be delinquent should be afforded all of the rights given a defendant in an adult criminal prosecution, except that trial by jury should not be available in delinquency cases.

In all delinquency cases, a legal officer representing the State should be present in court to present evidence supporting the allegation of delinquency.

If requested by the juvenile, defense counsel should use all methods permissible in a criminal prosecution to prevent a determination that the juvenile is delinquent. He should function as the advocate for the juvenile, and his performance should be unaffected by any belief he might have that a finding of delinquency might be in the best interests of the juvenile. As advocate for the juvenile alleged to be delinquent, counsel's actions should not be affected by the wishes of the juvenile's parents or guardian if those differ from the wishes of the juvenile.

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* For commentary see Courts pp. 302-303

Standard 14.5

Dispositional Hearings in Delinquency Cases *

The dispositional hearing in delinquency cases should be separate and distinct from the adjudicatory hearing. The procedures followed at the dispositional hearing should be identical to those followed in the sentencing procedure for adult offenders.

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* For commentary see Courts pp. 304-305

Standard 3.1

Use of Diversion *

Each local jurisdiction, in cooperation with related State agencies, should develop and implement by 1975 formally organized programs of diversion that can be applied in the criminal justice process from the time an illegal act occurs to adjudication.

1. The planning process and the identification of diversion services to be provided should follow generally and be associated with "total system planning" as outlined in Standard 9.1.

a. With planning data available, the responsible authorities at each step in the criminal justice process where diversion may occur should develop priorities, lines of responsibility, courses of procedure, and other policies to serve as guidelines to its use.

b. Mechanisms for review and evaluation of policies and practices should be established.

c. Criminal justice agencies should seek the cooperation and resources of other community agencies to which persons can be diverted for services relating to their problems and needs.

2. Each diversion program should operate under a set of written guidelines that insure periodic review of policies and decisions. The guidelines should specify:

a. The objectives of the program and the types of cases to which it is to apply.

b. The means to be used to evaluate the outcome of diversion decisions.

c. A requirement that the official making the diversion decision state in writing the basis for his determination denying or approving diversion in the case of each offender.

d. A requirement that the agency operating diversion programs maintain a current and complete listing of various resource dispositions available to diversion decisionmakers.

3. The factors to be used in determining whether an offender, following arrest but prior to adjudication, should be selected for diversion to a noncriminal program, should include the following:

a. Prosecution toward conviction may cause undue harm to the defendant or exacerbate the social problems that led to his criminal acts.

b. Services to meet the offender's needs and problems are unavailable within the criminal justice system or may be provided more effectively outside the system.

c. The arrest has already served as a desired deterrent.

d. The needs and interests of the victim and society are served better by diversion than by official processing.

e. The offender does *not* present a substantial danger to others.

f. The offender voluntarily accepts the offered alternative to further justice system processing.

g. The facts of the case sufficiently establish that the defendant committed the alleged act.

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* For commentary see Corrections pp. 95-97

Standard 7.1

Development Plan for Community-Based Alternatives to Confinement *

Each State correctional system or correctional system of other units of government should begin immediately to analyze its needs, resources, and gaps in service and to develop by 1978 a systematic plan with timetable and scheme for implementing a range of alternatives to institutionalization. The plan should specify the services to be provided directly by the correctional authority and those to be offered through other community resources. Community advisory assistance (discussed in Standard 7.3) is essential. The plan should be developed within the framework of total system planning discussed in Chapter 9, Local Adult Institutions, and State planning discussed in Chapter 13, Organization and Administration.

Minimum alternatives to be included in the plan should be the following:

1. Diversion mechanisms and programs prior to trial and sentence.

2. Nonresidential supervision programs in addition to probation and parole.

3. Residential alternatives to incarceration.

4. Community resources open to confined populations and institutional resources available to the entire community.

5. Prerelease programs.

6. Community facilities for released offenders in the critical reentry phase, with provision for short-term return as needed.

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* For commentary see Corrections pp. 237-239

Standard 7.2

Marshaling and Coordinating Community Resources *

Each State correctional system or the systems of other units of government should take appropriate action immediately to establish effective working relationships with the major social institutions, organizations, and agencies of the community, including the following:

1. Employment resources—private industry, labor unions, employment services, civil service systems.

2. Educational resources—vocational and technical, secondary college and university, adult basic education, private and commercial training, government and private job development and skills training.

3. Social welfare services—public assistance, housing, rehabilitation services, mental health services, counseling assistance, neighborhood centers, unemployment compensation, private social service agencies of all kinds.

4. The law enforcement system—Federal, State, and local law enforcement personnel, particularly specialized units providing public information, diversion, and services to juveniles.

5. Other relevant community organizations and groups—ethnic and cultural groups, recreational and social organizations, religious and self-help groups, and others devoted to political or social action.

At the management level, correctional agencies should seek to involve representatives of these community resources in policy development and interagency procedures for consultation, coordinated planning, joint action, and shared programs and facilities. Correctional authorities also should enlist the aid of such bodies in formation of a broad-based and aggressive lobby that will speak for correctional and inmate needs and support community correctional programs.

At the operating level, correctional agencies should initiate procedures to work cooperatively in obtaining services needed by offenders.

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* For commentary see Corrections pp. 240-243

Standard 7.4

Inmate Involvement in Community Programs *

Correctional agencies should begin immediately to develop arrangements and procedures for offenders sentenced to correctional institutions to assume increasing individual responsibility and community contact. A variety of levels of individual choice, supervision, and community contact should be specified in these arrangements, with explicit statements as to how the transitions between levels are to be accomplished. Progress from one level to another should be based on specified behavioral criteria rather than on sentence, time served, or subjective judgments regarding attitudes.

The arrangements and procedures should be incorporated in the classification system to be used at an institution and reflect the following:

1. When an offender is received at a correctional institution, he should meet with the classification unit (committee, team, or the like) to develop a plan for increasing personal responsibility and community contact.

2. At the initial meeting, behavioral objectives should be established, to be accomplished within a specified period. After that time another meeting should be held to make adjustments in the individual's plan which, assuming that the objectives have been met, will provide for transition to a lower level of custody and increasing personal responsibility and community involvement.

3. Similarly, at regular time intervals, each inmate's status should be reviewed, and if no strong reasons exist to the contrary, further favorable adjustments should be made.

4. Allowing for individual differences in time and progress or lack of progress, the inmate should move through a series of levels broadly encompassing movement from (a) initial security involving few outside privileges and minimal contact with community participants in institutional programs to (b) lesser degrees of custody with participation in institutional and community programs involving both citizens and offenders, to (c) partial-release programs under which he would sleep in the institution but have maximum participation in institutional and outside activities involving community residents, to (d) residence in a halfway house or similar noninstitutional residence, to (e) residence in the community at the place of his choice with moderate supervision, and finally to release from correctional supervision.

5. The presumption should be in favor of decreasing levels of supervision and increasing levels of individual responsibility.

6. When an inmate fails to meet behavioral objectives, the team may decide to keep him in the same status for another period or move him back. On the other hand, his behavioral achievements may indicate that he can be moved forward rapidly without having to go through all the successive stages.

7. Throughout the process, the primary emphasis should be on individualization—on behavioral changes based on the individual's interests, abilities, and priorities. Offenders also should be afforded opportunities to give of their talents, time, and efforts to others, including other inmates and community residents.

8. A guiding principle should be the use of positive reinforcement in bringing about behavioral improvements rather than negative reinforcement in the form of punishment.

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* For commentary see Corrections pp. 244-246

Standard 8.1

Role of Police in Intake and Detention *

Each juvenile court jurisdiction immediately should take the leadership in working out with local police agencies policies and procedures governing the discretionary diversion authority of police officers and separating police officers from the detention decision in dealing with juveniles.

1. Police agencies should establish written policies and guidelines to support police discretionary authority, at the point of first contact as well as at the police station, to divert juveniles to alternative community-based programs and human resource agencies outside the juvenile justice system, when the safety of the community is not jeopardized. Disposition may include:

   a. Release on the basis of unfounded charges.

   b. Referral to parents (warning and release).

   c. Referral to social agencies.

   d. Referral to juvenile court intake services.

2. Police should not have discretionary authority to make detention decisions. This responsibility rests with the court, which should assume control over admissions on a 24-hour basis.

When police have taken custody of a minor, and prior to disposition under Paragraph 2 above, the following guidelines should be observed.

1. Under the provisions of Gault and Miranda, police should first warn juveniles of their right to counsel and the right to remain silent while under custodial questioning.

2. The second act after apprehending a minor should be the notification of his parents.

3. Extrajudicial statements to police or court officers not made in the presence of parents or counsel should be inadmissible in court.

4. Juveniles should not be fingerprinted or photographed or otherwise routed through the usual adult booking process.

5. Juvenile records should be maintained physically separate from adult case records.

* For commentary see Corrections pp. 264-265

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Standard 8.2

Juvenile Intake Services *

Each juvenile court jurisdiction immediately should take action, including the pursuit of enabling legislation where necessary, to establish within the court organized intake services operating as a part of or in conjunction with the detention center. Intake services should be geared to the provision of screening and referral intended to divert as many youngsters as possible from the juvenile justice system and to reduce the detention of youngsters to an absolute minimum.

1. Intake personnel should have authority and responsibility to:

a. Dismiss the complaint when the matter does not fall within the delinquency jurisdiction of the court or is so minor or the circumstances such that no intervention is required.

b. Dismiss complaints which seem arbitrary, vindictive, or against the best interests of the child.

c. Divert as many youngsters as possible to another appropriate section of the court or to alternative programs such as mental health and family services, public welfare agencies, youth service bureaus, and similar public and private agencies.

2. Intake personnel should seek informal service dispositions for as many cases as possible, provided the safety of the child and of the community is not endangered. Informal service denotes any provision for continuing efforts on the part of the court at disposition without the filing of a petition, including:

a. Informal adjustments.

b. Informal probation.

c. Consent decrees.

3. Informal service dispositions should have the following characteristics:

a. The juvenile and his parents should be advised of their right to counsel.

b. Participation by all concerned should be voluntary.

c. The major facts of the case should be undisputed.

d. Participants should be advised of their right to formal adjudication.

e. Any statements made during the informal process should be excluded from any subsequent formal proceeding on the original complaint.

f. A reasonable time limit (1 to 2 months) should be adhered to between date of complaint and date of agreement.

g. Restraints placed on the freedom of juveniles in connection with informal dispositions should be minimal.

h. When the juvenile and his parents agree to informal proceedings, they should be informed that they can terminate such dispositions at any time and request formal adjudication.

4. Informal probation is the informal supervision of a youngster by a probation officer who wishes to reserve judgment on the need for filing a petition until after he has had the opportunity to determine whether informal treatment is sufficient to meet the needs of the case.

5. A consent decree denotes a more formalized order for casework supervision and is neither a formal determination of jurisdictional fact nor a formal disposition. In addition to the characteristics listed in paragraph 3, consent decrees should be governed by the following considerations:

a. Compliance with the decree should bar further proceedings based on the events out of which the proceedings arose.

b. Consummation of the decree should not result in subsequent removal of the child from his family.

c. The decree should not be in force more than 3 to 6 months.

d. The decree should state that it does not constitute a formal adjudication.

e. No consent decree should be issued without a hearing at which sufficient evidence appears to provide a proper foundation for the decree. A record of such hearing should be kept, and the court in issuing the decree should state in writing the reasons for the decree and the factual information on which it is based.

6. Cases requiring judicial action should be referred to the court.

a. Court action is indicated when:

(1) Either the juvenile or his parents request a formal hearing.

(2) There are substantial discrepancies about the allegations, or denial, of a serious offense.

(3) Protection of the community is an issue.

(4) Needs of the juvenile or the gravity of the offense makes court attention appropriate.

b. In all other instances, court action should not be indicated and the juvenile should be diverted from the court process. Under no circumstances should children be referred to court for behavior that would not bring them before the law if they were adults.

Under the supervision of the court, review and monitoring procedures should evaluate the effectiveness of intake services in accomplishing the diversion of children from the juvenile justice system and reducing the use of detention, as well as appropriateness and results of informal dispositions.

7. Predetention screening of children and youths referred for court action should place into their parental home, a shelter, or nonsecure residential care as many youngsters as may be consistent with their needs and the safety of the community. Detention prior to adjudication of delinquency should be based on these criteria:

a. Detention should be considered a last resort where no other reasonable alternative is available.

b. Detention should be used only where the juvenile has no parent, guardian, custodian, or other person able to provide supervision and care for him and able to assure his presence at subsequent judicial hearings.

c. Detention decisions should be made only by court or intake personnel, not by police officers.

d. Prior to first judicial hearing, the juvenile ordinarily should not be detained longer than overnight.

e. Juveniles should not be detained in jails, lockups, or other facilities used for adults.

* For commentary see Corrections pp. 266 - 268

References

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Standard 8.3

Juvenile Detention* Center Planning

When total system planning conducted as outlined in Standard 9.1 indicates need for renovation of existing detention facilities to accommodate an expanded function involving intake services or shows need for construction of a new juvenile detention facility, each jurisdiction should take the following principles into consideration in planning the indicated renovations or new construction.

1. The detention facility should be located in a residential area in the community and near court and community resources.

2. Population of detention centers should not exceed 30 residents. When population requirements significantly exceed this number, development of separate components under the network system concept outlined in Standard 9.1 should be pursued.

3. Living area capacities within the center should not exceed 10 or 12 youngsters each. Only individual occupancy should be provided, with single rooms and programming regarded as essential. Individual rooms should be pleasant, adequately furnished, and homelike rather than punitive and hostile in atmosphere.

4. Security should not be viewed as an indispensable quality of the physical environment but should be based on a combination of staffing patterns, technological devices, and physical design.

5. Existing residential facilities within the community should be used in preference to new construction.

6. Facility programming should be based on investigation of community resources, with the contemplation of full use of these resources, prior to determination of the facility's in-house program requirements.

7. New construction and renovation of existing facilities should be based on consideration of the functional interrelationships between program activities and program participants.

8. Detention facilities should be coeducational and should have access to a full range of supportive programs, including education, library, recreation, arts and crafts, music, drama, writing, and entertainment. Outdoor recreational areas are essential.

9. Citizen advisory boards should be established to pursue development of in-house and community-based programs and alternatives to detention.

10. Planning should comply with pertinent State and Federal regulations and the Environmental Policy Act of 1969.

References

1. California Department of the Youth Authority. *Guidelines for Inspecting Juvenile Halls*. Sacramento: 1969.
2. "Designing Facilities—The Detention Center" (Philadelphia: University of Pennsylvania, 1971, unpublished.)
3. National Council on Crime and Delinquency. *Standards and Guides for the Detention of Children and Youth*. New York: NCCD, 1961.
4. *Planning and Designing for Juvenile Justice*, report prepared by the Management and Behavioral Sciences Center, Wharton School, University of Pennsylvania. Washington: Law Enforcement Assistance Administration, 1972.
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* For commentary see Corrections pp. 269 - 270

Standard 8.4

Juvenile Intake and Detention Personnel Planning *

Each jurisdiction immediately should reexamine its personnel policies and procedures for juvenile intake and detention personnel and make such adjustments as may be indicated to insure that they are compatible with and contribute toward the goal of reintegrating juvenile offenders into the community without unnecessary involvement with the juvenile justice system.

Personnel policies and procedures should reflect the following considerations.

1. While intake services and detention may have separate directors, they should be under a single administrative head to assure coordination and the pursuit of common goals.

2. There should be no discriminatory employment practice on the basis of race or sex.

3. All personnel should be removed from political influence and promoted on the basis of a merit system.

4. Job specifications should call for experienced, specialized professionals, who should receive salaries commensurate with their education, training, and experience and comparable to the salaries of administrative and governmental positions requiring similar qualifications.

5. Job functions and spheres of competency and authority should be clearly outlined, with stress on teamwork.

6. Staffing patterns should provide for the use of professional personnel, administrative staff, indigenous community workers, and counselors.

7. Particular care should be taken in the selection of line personnel, whose primary function is the delivery of programs and services. Personnel should be selected on the basis of their capacity to relate to youth and to other agencies and their willingness to cooperate with them.

8. The employment of rehabilitated ex-offenders, new careerists, paraprofessionals, and volunteers should be pursued actively.

9. Staff development and training programs should be regularly scheduled.

10. The standards set forth in Chapter 14, Manpower, should be observed.

References

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9. Shavlik, Frank. *Institutional Community Interpersonal Relations Project: Final Report*. El Reno, Okla.: Federal Reformatory, 1970.

* For commentary see Corrections pp. 271-272

Standard 11.9

Counseling Programs*

Each institution should begin immediately to develop planned, organized, ongoing counseling programs, in conjunction with the implementation of Standard 11.3, Social Environment of Institutions, which is intended to provide a social-emotional climate conducive to the motivation of behavioral change and interpersonal growth.

1. Three levels of counseling programs should be provided:

   a. Individual, for self-discovery in a one-to-one relationship.

   b. Small group, for self-discovery in an intimate group setting with open communication.

   c. Large group, for self-discovery as a member of a living unit community with responsibility for the welfare of that community.

2. Institutional organization should support counseling programs by coordinating group living, education, work, and recreational programs to maintain an overall supportive climate. This should be accomplished through a participative management approach.

3. Each institution should have a full-time counseling supervisor responsible for developing and maintaining an overall institutional program through training and supervising staff and volunteers. A bachelor's degree with training in social work, group work, and counseling psychology should be required. Each unit should have at least one qualified counselor to train and supervise nonprofessional staff. Trained ex-offenders and paraprofessionals with well-defined roles should be used.

4. Counseling within institutions should be given high priority in resources and time.

References

1. California Youth Authority. *Division of Institutions Task Force for Program Development.* Sacramento, 1966.
2. Fenton, N., et al. *The Correctional Community.* Sacramento: California Youth and Adult Corrections, 1967.
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4. U.S. Department of Health, Education, and Welfare. *Institutions Servicing Delinquent Children.* Children's Bureau Publication 360. Washington: DHEW, 1962.
5. U.S. Department of Health, Education, and Welfare. *Group Counseling with Delinquent Youth.* Children's Bureau Publication 459. Washington: DHEW, 1968.

* For commentary see Corrections pp. 385-386

Standard 16.1

Comprehensive Correctional Legislation*

Each State, by 1978, should enact a comprehensive correctional code, which should include statutes governing:

1. Services for persons awaiting trial.

2. Sentencing criteria, alternatives, and procedures.

3. Probation and other programs short of institutional confinement.

4. Institutional programs.

5. Community-based programs.

6. Parole.

7. Pardon.

The code should include statutes governing the preceding programs for:

1. Felons, misdemeanants, and delinquents.

2. Adults, juveniles, and youth offenders.

3. Male and female offenders.

Each legislature should state the "public policy" governing the correctional system. The policy should include the following premises:

1. Society should subject persons accused of criminal conduct or delinquent behavior and awaiting trial to the least restraint or condition which gives reasonable assurance that the person accused will appear for trial. Confinement should be used only where no other measure is shown to be adequate.

2. The correctional system's first function is to protect the public welfare by emphasizing efforts to assure that an offender will not return to crime after release from the correctional system.

3. The public welfare is best protected by a correctional system characterized by care, differential programming, and reintegration concepts rather than punitive measures.

4. An offender's correctional program should be the least drastic measure consistent with the offender's needs and the safety of the public. Confinement, which is the most drastic disposition for an offender and the most expensive for the public, should be the last alternative considered.

References

1. American Correctional Association. *Manual of Correctional Standards.* 3d ed. Washington: ACA, 1966. Ch. 1.
2. American Law Institute. *Model Penal Code: Proposed Official Draft.* Philadelphia: ALI, 1962.
3. Council on the Diagnosis and Evaluation of Criminal Defendants. *Illinois Unified Code of Corrections: Tentative Final Draft.* St. Paul: West, 1971.
4. Federal Bail Reform Act of 1966, 18 U. S. C. Sec. 3146.
5. *Legislative Guide for Drafting Family and Juvenile Court Acts.* Washington: U.S. Department of Health, Education, and Welfare, 1969.
6. *Legislative Guide for Drafting State-Local Programs on Juvenile Delinquency.* Washington: U.S. Department of Health, Education, and Welfare, 1972.
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9. National Council on Crime and Delinquency. *Model Sentencing Act.* New York: NCCD, 1963.
10. National Council on Crime and Delinquency. *Standards and Guides for the Detention of Children and Youth.* New York: NCCD, 1965.
11. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Corrections.* Washington: Government Printing Office, 1967.

* For commentary see Corrections pp. 553 - 554

Standard 16.9

Detention and Disposition of Juveniles *

Each State should enact legislation by 1975 limiting the delinquency jurisdiction of the courts to those juveniles who commit acts that if committed by an adult would be crimes.

The legislation should also include provisions governing the detention of juveniles accused of delinquent conduct, as follows:

1. A prohibition against detention of juveniles in jails, lockups, or other facilities used for housing adults accused or convicted of crime.

2. Criteria for detention prior to adjudication of delinquency matters which should include the following:

   a. Detention should be considered as a last resort where no other reasonable alternative is available.

   b. Detention should be used only where the juvenile has no parent, guardian, custodian, or other person able to provide supervision and care for him and able to assure his presence at subsequent judicial hearings.

3. Prior to first judicial hearing, juveniles should not be detained longer than overnight.

4. Law enforcement officers should be prohibited from making the decision as to whether a juvenile should be detained. Detention decisions should be made by intake personnel and the court.

The legislation should authorize a wide variety of diversion programs as an alternative to formal adjudication. Such legislation should protect the interests of the juvenile by assuring that:

1. Diversion programs are limited to reasonable time periods.

2. The juvenile or his representative has the right to demand formal adjudication at any time as an alternative to participation in the diversion program.

3. Incriminating statements made during participation in diversion programs are not used against the juvenile if a formal adjudication follows.

Legislation, consistent with Standard 16.8 but with the following modifications, should be enacted for the disposition of juveniles:

1. The court should be able to permit the child to remain with his parents, guardian, or other custodian, subject to such conditions and limitations as the court may prescribe.

2. Detention, if imposed, should not be in a facility used for housing adults accused or convicted of crime.

3. Detention, if imposed, should be in a facility used only for housing juveniles who have committed acts that would be criminal if committed by an adult.

4. The maximum terms, which should not include extended terms, established for criminal offenses should be applicable to juveniles or youth offenders who engage in activity prohibited by the criminal code even though the juvenile or youth offender is processed through separate procedures not resulting in a criminal conviction.

References

1. Empey, LaMar T. *Alternatives to Incarceration*. Washington: U.S. Department of Health, Education, and Welfare, 1967.
2. *Legislative Guide for Drafting Family and Juvenile Court Acts*. Washington: U.S. Department of Health, Education, and Welfare, 1969.
3. *Legislative Guide for Drafting State-Local Programs on Juvenile Delinquency*. Washington: U.S. Department of Health, Education, and Welfare, 1972.
4. National Conference of Commissioners on Uniform State Laws. "Uniform Juvenile Court Act," in *Handbook*. Chicago: NCCUSL, 1968.
5. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Crime*. Washington: Government Printing Office, 1967.

* For commentary see Corrections pp. 573 - 575

Standard 16.10

Presentence Reports *

Each State should enact by 1975 legislation authorizing a presentence investigation in all cases and requiring it:

1. In all felonies.
2. In all cases where the offender is a minor.
3. As a prerequisite to a sentence of confinement in any case.

The legislation should require disclosure of the presentence report to the defendant, his counsel, and the prosecutor.

References

1. American Bar Association Project on Standards for Criminal Justice. *Standards Relating to Probation*. New York: Office of the Criminal Justice Project, 1970, and authorities cited therein.
2. American Bar Association Project on Standards for Criminal Justice. *Standards Relating to Sentencing Alternatives and Procedures*. New York: Office of the Criminal Justice Project, 1968.
3. American Law Institute. *Model Penal Code: Proposed Official Draft*. Philadelphia: ALI, 1962, Sec. 707.
4. *Legislative Guide for Drafting State-Local Programs on Juvenile Delinquency*. Washington: U.S. Department of Health, Education, and Welfare, 1972.
5. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: The Courts*. Washington: Government Printing Office, 1967.
6. *State* v. *Kunz*, 55 N.J. 128, 259 A.2d 895 (1969).
7. Zastrow, William G. "Disclosure of the Pre-Sentence Investigation Report," *Federal Probation*, 30 (1971), 20.

* For commentary see Corrections pp. 576 - 577

Standard 16.11

Probation Legislation *

Each State should enact by 1975 probation legislation (1) providing probation as an alternative for all offenders; and (2) establishing criteria for (a) the granting of probation, (b) probation conditions, (c) the revocation of probation, and (d) the length of probation.

Criteria for the granting of probation should be patterned after Sec. 7.01 of the Model Penal Code and should:

1. Require probation over confinement unless specified conditions exist.

2. State factors that should be considered in favor of granting probation.

3. Direct the decision on granting probation toward factors relating to the individual offender rather than to the offense.

Criteria for probation conditions should be patterned after Sec. 301.1 of the Model Penal Code and should:

1. Authorize but not require the imposition of a range of specified conditions.

2. Require that any condition imposed in an individual case be reasonably related to the correctional program of the defendant and not unduly restrictive of his liberty or incompatible with his constitutional rights.

3. Direct that conditions be fashioned on the basis of factors relating to the individual offender rather than to the offense committed.

Criteria and procedures for revocation of probation should provide that probation should not be revoked unless:

1. There is substantial evidence of a violation of one of the conditions of probation;

2. The probationer is granted notice of the alleged violation, access to official records regarding his case, the right to be represented by counsel including the right to appointed counsel if he is indigent, the right to subpena witnesses in his own behalf, and the right to confront and cross-examine witnesses against him; and

3. The court provides the probationer a written statement of the findings of fact, the reasons for the revocation, and the evidence relied upon.

In defining the term for which probation may be granted, the legislation should require a specific term not to exceed the maximum sentence authorized by law except that probation for misdemeanants should not exceed one year. The court should be authorized to discharge a person from probation at any time.

The legislation should authorize an appellate court on the initiation of the defendant to review decisions that deny probation, impose conditions, or revoke probation. Such review should include determination of the following:

1. Whether the decision is consistent with statutory criteria.

2. Whether the decision is unjustifiably disparate in comparison with cases of a similar nature.

3. Whether the decision is excessive or inappropriate.

4. Whether the manner in which the decision was arrived at is consistent with statutory and constitutional requirements.

References

1. American Bar Association Project on Standards for Criminal Justice. *Standards Relating to Probation*. New York: Office of the Criminal Justice Project, 1970, and the authorities cited therein.
2. American Law Institute. *Model Penal Code: Proposed Official Draft*. Philadelphia: ALI, 1962.
3. *Legislative Guide for Drafting Family and Juvenile Court Acts*. Washington: U.S. Department of Health, Education, and Welfare, 1969.
4. *Legislative Guide for Drafting State-Local Programs on Juvenile Delinquency*. Washington: U.S. Department of Health, Education, and Welfare, 1972.
5. Nebraska Probation Administration Act, Neb. Rev. Stat. Sec. 29–2246 (Supp. 1971).
6. Note, *Columbia Law Review*, 67 (1967), 181.

* For commentary see Corrections pp. 578 - 580

Standard 16.14

Community-Based Programs *

Legislation should be enacted immediately authorizing the chief executive officer of the correctional agency to extend the limits of confinement of a committed offender so the offender can participate in a wide variety of community-based programs. Such legislation should include these provisions:

1. Authorization for the following programs:
   a. Foster homes and group homes, primarily for juvenile and youthful offenders.
   b. Prerelease guidance centers and halfway houses.
   c. Work-release programs providing that rates of pay and other conditions of employment are similar to those of free employees.
   d. Community-based vocational training programs, either public or private.
   e. Participation in academic programs in the community.
   f. Utilization of community medical, social rehabilitation, vocational rehabilitation, or similar resources.
   g. Furloughs of short duration to visit relatives and family, contact prospective employers, or for any other reason consistent with the public interest.

2. Authorization for the development of community-based residential centers either directly or through contract with governmental agencies or private parties, and authorization to assign offenders to such centers while they are participating in community programs.

3. Authorization to cooperate with and contract for a wide range of community resources.

4. Specific exemption for participants in community-based work programs from State-use and other laws restricting employment of offenders or sale of "convict-made" goods.

5. Requirement that the correctional agency promulgate rules and regulations specifying conduct that will result in revocation of community-based privileges and procedures for such revocation. Such procedures should be governed by the same standards as disciplinary proceedings involving a substantial change in status of the offender.

References

1. Carpenter, Lawrence. "The Federal Work Release Program," *Nebraska Law Review*, 45 (1966), 690.
2. Cohen, Fred. *The Legal Challenge to Corrections*. Washington: Joint Commission on Correctional Manpower and Training, 1969.
3. Council on the Diagnosis and Evaluation of Criminal Defendants. *Illinois Unified Code of Corrections: Tentative Final Draft*. St. Paul: West: 1971.
4. Empey, LaMar T. *Alternatives to Incarceration*. Washington: U.S. Department of Health, Education, and Welfare, 1967.
5. Federal Prisoner Rehabilitation Act of 1965, 18 U. S. C. Sec. 4082 (1965).
6. *Legislative Guide for Drafting State-Local Programs on Juvenile Delinquency*. Washington: U.S. Department of Health, Education, and Welfare, 1972.
7. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Corrections*. Washington: Government Printing Office, 1967.

* For commentary see Corrections pp. 585 - 586

STANDARDS AND GOALS

COMMUNITY CRIME PREVENTION:

YOUTH SERVICES BUREAUS

Standard 3.1

Purpose, Goals, and Objectives *

Youth services bureaus should be established to focus on the special problems of youth in the community. The goals may include diversion of juveniles from the justice system; provision of a wide range of services to youth through advocacy and brokerage, offering crisis intervention as needed; modification of the system through program coordination and advocacy; and youth development.

1. Priorities among goals should be locally set.

2. Priorities among goals (as well as selection of functions) should be based on a careful analysis of the community, including an inventory of existing services and a systematic study of youth problems in the individual community.

3. Objectives should be measurable, and progress toward them should be scrutinized by evaluative research.

References

1. Kahn, Alfred J., *Planning Community Services for Children in Trouble,* 1963.
2. Lemert, Edwin M., *Instead of Court: Diversion in Juvenile Justice,* 1971.
3. Martin, John M., *Toward a Political Definition of Delinquency Prevention,* 1970.
4. Norman, Sherwood, *The Youth Service Bureau: A Key to Delinquency Prevention,* 1972.
5. Underwood, William, *A National Study of Youth Service Bureaus,* 1972.
6. Youth Development and Delinquency Prevention Administration, *Delinquency Prevention Through Youth Development,* 1972.
7. Youth Services Bureau of Wake Forest University, 110 North Hawthorne Road, Winston-Salem, N.C. 27104.

* For commentary see Community Crime Prevention pp. 70 - 71

Standard 3.2

Decision Structure*

Youth services bureaus should be organized as independent, locally operated agencies that involve the widest number of people of the community, particularly youth, in the solution of youth problems. The most appropriate local mix for decisionmaking should be determined by the priorities set among the goals, but in no case should youth services bureaus be under the control of the justice system or any of its components.

1. A bureau should be operated with the advice and consent of the community it serves, particularly the recipients of its services. This should include the development of youth responsibility for community delinquency prevention.

2. A coalition, including young people, indigenous adults, and representatives of agencies and organizations operating in the community, should comprise the decisionmaking structure. Agency representatives should include juvenile justice policymakers.

References

1. *Delinquency Prevention Through Youth Development,* Youth Development and Delinquency Prevention Administration, 1972.

2. Martin, John M., *Toward a Political Definition of Delinquency Prevention,* 1970.

3. Polk, Kenneth, *Delinquency Prevention and the Youth Service Bureau,* 1970.

4. Youth Advocacy, 509 West Washington Street, South Bend, Ind. 46601.

5. Youth Services Bureau of Greensboro, Inc., P. O. Box 3428, Greensboro, N.C. 27402.

* For commentary see Community Crime Prevention pp. 72 - 73

Standard 3.3

Target Group *

Youth services bureaus should make needed services available to all young people in the community. Bureaus should make a particular effort to attract diversionary referrals from the juvenile justice system.

1. Law enforcement and court intake personnel should be strongly encouraged, immediately through policy changes and ultimately through legal changes, to make full use of the youth services bureau in lieu of court processing for every juvenile who is not an immediate threat to public safety and who voluntarily accepts the referral to the youth services bureau.

2. Specific criteria for diversionary referrals should be jointly developed and specified in writing by law enforcement, court, and youth services bureau personnel. Referral policies and procedures should be mutually agreed upon.

3. Diversionary referrals should be encouraged by continual communication between law enforcement, court, and youth services bureau personnel.

4. Referrals to the youth services bureau should be completed only if voluntarily accepted by the youth. The youth should not be forced to choose between bureau referral and further justice system processing.

5. The juvenile court should not order youth to be referred to the youth services bureau.

6. Cases referred by law enforcement or court should be closed by the referring agency when the youth agrees to accept the youth services bureau's service. Other dispositions should be made only if the youth commits a subsequent offense that threatens the community's safety.

7. Referring agencies should be entitled to and should expect systematic feedback on initial services provided to a referred youth by the bureau. However, the youth services bureau should not provide justice system agencies with reports on any youth's behavior.

8. Because of the voluntary nature of bureau services and the reluctance of young people who might benefit from them, the youth services bureau should provide its services to youth aggressively. This should include the use of hotlines and outreach or street workers wherever appropriate.

References

1. Duxbury, Elaine, *Youth Service Bureaus in California: Progress Report Number 3,* 1972.

2. Lemert, Edwin M., *Instead of Court: Diversion in Juvenile Justice,* 1971.

3. Norman, Sherwood, *The Youth Service Bureau: A Key to Delinquency Prevention,* 1972.

4. Pacifica Youth Service Bureau, 160 Milagra Drive, Pacifica, Calif. 94044.

5. Seymour, John, *Youth Services Bureaus,* 1971.

6. Underwood, William, *A National Study of Youth Service Bureaus,* 1972.

* For commentary see Community Crime Prevention pp. 74 - 75

Standard 3.4

Functions *

Youth services bureaus should, whenever possible, utilize existing services for youth through referral, systematic followup, and individual advocacy. Bureaus should develop and provide services on an ongoing basis only where these services are unavailable to the youth in the community or are inappropriately delivered. Services should be confidential and should be available immediately to respond skillfully to each youth in crisis.

1. A youth services bureau's programs should be specifically tailored to the needs of the community it serves. This should include consideration of techniques suitable for urban, suburban, or rural areas.

2. The youth services bureau should provide service with a minimum of intake requirements and form filling by the youth served.

3. Services should be appealing and accessible by location, hours of service availability, and style of delivery.

4. The youth services bureau should provide services to young people at their request, without the requirement of parental permission.

5. Case records should be minimal, and those maintained should be confidential and should be revealed to agencies of the justice system and other community agencies only with the youth's permission.

6. The youth services bureau should make use of existing public and private services when they are available and appropriate.

7. The bureau should maintain an up-to-date listing of all community services to which youth can be referred by the bureau. This listing should be readily accessible by all bureau staff.

8. Referrals to other community services should be made only if voluntarily accepted by the youth.

9. The youth services bureau should not refer youth to court except in cases of child neglect or abuse.

10. In referring to other community agencies for service, the youth services bureau should expedite access to service through such techniques as arranging appointments, orienting the youth to the service, and providing transportation if needed.

11. The youth services bureau should rapidly and systematically follow up each referral to insure that the needed service was provided.

12. The youth services bureau should have funds to use for purchase of services that are not otherwise available.

* For commentary see Community Crime Prevention pp. 76 - 77

References

1. Duxbury, Elaine, *Youth Service Bureaus in California, Progress Report Number 3*, 1972.

2. Gorlich, Elizabeth, *Guidelines for Demonstration Projects for Youth Service Bureaus*, 1969.

3. Norman, Sherwood, *The Youth Service Bureau: A Key to Delinquency Prevention*, 1972.

4. Underwood, William, *A National Study of Youth Service Bureaus*, 1972.

Standard 3.5

Staffing *

Sufficient full-time, experienced staff should be employed by the youth services bureau to insure the capacity to respond immediately to complex personal crises of youth, to interact with agencies and organizations in the community, and to provide leadership to actualize the skills of less experienced employees and volunteers.

1. Staff who will work directly with youth should be hired on the basis of their ability to relate to youth in a helping role, rather than on the basis of formal education or length of experience.

2. Staff should be sensitive to the needs of young people and the feelings and pressures in the community. They should be as sophisticated as possible about the workings of agencies, community groups, and government. Staff should be capable of maintaining numerous and varied personal relationships.

3. Indigenous workers, both paid and volunteer, adult and youth, should be an integral part of the youth services bureau's staff and should be utilized to the fullest extent.

4. Young people, particularly program participants, should be used as staff (paid or volunteer) whenever possible.

5. Volunteers should be actively encouraged to become involved in the bureau. Those working in one-to-one relationships should be screened and required to complete formalized training before working directly with youth. The extent of training should be determined by the anticipated depth of the volunteer-youth relationship.

6. Whenever possible, the youth services bureau should have available (perhaps on a volunteer basis) the specialized professional skills of doctors, psychiatrists, attorneys, and others to meet the needs of its clients.

* For commentary see Community Crime Prevention pp. 78 - 79

References

1. California Delinquency Prevention Commission, *Youth Service Bureaus: Standards and Guidelines*, 1968.

2. Scottsdale Youth Service Bureau, 6921 East Thomas Road, Scottsdale, Ariz. (volunteer training).

3. Spergel, Irving A., *Community Problem Solving: The Delinquency Example*, 1969.

4. Underwood, William, *A National Study of Youth Service Bureaus*, 1972.

5. Youth Services of Tulsa, 222 East 5th Street, Tulsa, Okla. 74103 (use of volunteers).

Standard 3.6

Evaluation of Effectiveness*

Each youth services bureau should be objectively evaluated in terms of its effectiveness. Personnel, clients, program content, and program results should be documented from the inception of the bureau.

1. Evaluation objectives and methods should be developed concurrently with the development of the proposed youth services bureau and should be directly related to the bureau's highest priority objectives.

2. Wherever possible, an evaluation to compare the effectiveness of several youth services bureaus should be implemented in order to increase knowledge of the impact of the bureaus.

3. Evaluation should focus more on changes in institutions' response to youth problems than on behavioral changes in individual youth.

4. Each youth services bureau should establish an information system, nevertheless, containing basic information on the youth served and the service provided, as well as changes in the manner in which the justice system responds to his behavior.

5. Trends in arrest, court referral, and adjudication rates should be analyzed for each youth services bureau placing a high priority on diversion.

References

1. Duxbury, Elaine, *Youth Service Bureaus in California: Progress Report Number 3,* 1972.

2. Norman, Sherwood, *The Youth Service Bureau: A Key to Delinquency Prevention,* 1972.

3. Reynolds, Paul Davidson and John J. Vincent, *Evaluation of Five Youth Service Bureaus in the Twin Cities Region,* 1972.

* For commentary see Community Crime Prevention pp. 80 - 81

Standard 3.7

Funding*

Public funds should be appropriated on an ongoing basis, to be available for continuing support for effective youth services bureaus. Private funding also should be encouraged.

* For commentary see Community Crime Prevention p. 82

APPENDICES

APPENDIX A

FEDERAL ANTICRIME FUNDS FOR JUVENILE DELINQUENCY PREVENTION

by Jerris Leonard and Thomas J. Madden*

Headnote

The sharply rising desire of States and communities to reduce crime through the prevention of juvenile delinquency has generated new calls for Federal funds to support those efforts. Fundamental questions have arisen about the use of funds from the Law Enforcement Assistance Administration (LEAA) to support programs which only remotely touch the juvenile justice system.

These programs may be meritorious, but does LEAA have the authority to support them? What was the intent of Congress in this regard? What interpretation should LEAA place on the basic statutes? What is the proper role of other Federal agencies in this area? How can Federal resources best be focused on the prevention of juvenile delinquency—which may prove to be one of the Nation's most important attacks on crime at all levels.

Introduction

Assume that a public school superintendent wants to establish an alternate remedial education program for high school dropouts who may, he thinks, tend to become juvenile delinquents.

Is that program eligible for funding from the Law Enforcement Assistance Administration (LEAA)? From some other Federal agency?

Is the situation any different if the dropouts have in fact been adjudicated as delinquent or are on probation?

Assume that a mayor wants to establish a program of professional counseling for any youths who seek it at community guidance centers.

Is that program eligible for LEAA funds? Is the situation any different if the counseling is directed at youths showing an early tendency to use drugs?

These are examples of typical program ideas that abound in the United States. All States and most communities are developing innovative approaches to the prevention of juvenile delinquency.

A central issue concerns the legal authority of LEAA to support such programs. Analysis of this issue depends upon an understanding of the intent of Congress in establishing LEAA, of the funding machinery operated by LEAA, of the statutory scheme Congress has enacted involving other Federal agencies, and of what is meant by "prevention" in the first place.

* The authors wish to acknowledge the invaluable research assistance of Patricia Trumbull of the Georgetown University School of Law.

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A precise differentiation among the many Federal agencies involved in juvenile delinquency clearly is desirable. Without a neat assignment of certain roles of certain agencies, there will be duplication of effort, wasted funds, and probably a number of missed opportunities in terms of support for worthy programs.

The stakes in this area are high. States and communities generally lack the financial resources to do an adequate job, and are looking to the Federal Government for financial assistance—if not for policy guidance and technical and expert advice.

Federal assistance is available in large measures. In fiscal year 1971, the Federal Government financed general youth development programs with funds totaling about $10.5 billion. Almost $1 billion was spent specifically on juvenile delinquency programs, including such programs as education and counseling services, community activities, juvenile correctional centers and rehabilitation efforts, and research and training.

LEAA alone spent about $100 million on juvenile delinquency programs in fiscal year 1972 and anticipates continuing to spend a large proportion of its funds in this area. The LEAA budget for fiscal year 1973 is $850 million.

LEAA has been criticized from both ends of the spectrum of juvenile delinquency prevention programming. Some critics say that it has been too restrictive in its interpretations of the law and in its policies, and that it could broaden its definition of juvenile delinquency. Other critics contend that LEAA has gone too far in allowing its funds to be used for programs not specifically related to juvenile offenders.

This paper explores the efforts of LEAA to meet this issue, it describes how the issue developed, and it proposes guidelines for eventual adoption by LEAA.

LEAA Definition of the Problem

LEAA has tried to devise a plan or set of standards that would delineate its funding authority in delinquency prevention. First, an attempt was made to define the problem and categorize the types of programs which were involved.

A study was made of the kinds of programs that conceivably could be employed in delinquency prevention. LEAA examined these program types to determine how involved the agency already was in each, and whether such involvement was tenable given the legislative mandate and goals. At this point thought was being given to using program typologies to guide funding.

As a result of this study, delinquency prevention programs were divided into four categories or levels: Level I, programs within the juvenile justice system; Level II, programs targeted solely for juvenile delinquents and/or potential delinquents; Level III, programs which service referrals from the juvenile justice system among others; and Level IV, programs which seek to prevent delinquency by attacking the known characteristics of juvenile delinquents. These levels represented the entire spectrum of delinquency programming in which LEAA might be involved or could envision itself being involved under Title I authority.

The order of the levels indicated the order of program types from the least controversial and most clearly fundable under Title I, to the most controversial and least clearly fundable.

Level I encompassed all those programs employed in conjunction with any aspect of law enforcement and the juvenile justice system, as long as the program was exclusively devoted to youths within the juvenile justice system. Level I would include all those programs, community-based or otherwise, to which a juvenile and/or his family is referred after official police contact, after contact with any youth division section of the police, or other intake officer, or any program, service, or facility employed by intake officers, social service officers, probation officers, courts, parole, and so forth.[1]

These programs are the most closely related to law enforcement and the criminal justice system, which are the prime areas of LEAA focus. Although greatly needed, however, these programs are not purely preventive in nature because they seek to service youth who are already within the juvenile justice system. They are, however, unquestionably fundable with LEAA money.

Level II encompassed a broader scope of programs. This level includes those programs directed toward youths who had given the community some reason to believe they were potential delinquents. In order to develop such programs, it was necessary to develop means of identification. It was thought that this identification could be done on either a case-by-case basis [2] or on an area basis.[3]

[1] Parole and correction programs and services are also eligible for funding, independent of the prevention mandate in Title I, under Part F, Grants for Correctional Institutions and Facilities, Title I, *supra* § 451 et. seq.

[2] Some credence is given to this approach by Virginia Burns and Leonard Stern in "The Prevention of Juvenile Delinquency," Task Force, *supra* at 353. They state that:

". . . we know enough about which danger signals require our attention. Some studies indicate that school failure—academic and behavior—is a reliable early warning sign, regardless of class and geography. Certain types of encounter with the police lead more frequently than others to continued and intensified delinquent acts. Older youths who are out of school and unemployed have a greater potential for delinquent involvement than others. Young people who have been through some part of the correctional system and have returned to the free society with the record and association of institutionalization have a significant rate of recidivism. And certain signs of disengagement and alienation may be precursors to delinquency."

[3] "In many census tracts of inner city slum areas, huge proportions—up to 70 percent or more—of all youth find themselves in trouble with the law at some point in their adolescence. Given this fact, we can assume that, in such areas, all youth are vulnerable, and prevention efforts based on such probabilities should provide services and opportunities across the board to all youth." *Id.* at 362.

[4] The theory of Level IV is that certain characteristics as education, employment, status, use of narcotics can be determined from present prison populations and that some cause and effect decisions may be deducible from this information. Note that any reference to programs which seek to alleviate the causes of crime is purposely avoided because the determination of crime or delinquency causes is considered even more tenuous than either prevention itself or a causal relationship between verifiable characteristics of offenders and the occurrance of the offense.

[5] H. R. Rep. No. 92-1072, *supra* (note 50).

[6] These categories were not intended necessarily to be sociologically acceptable but were intended only as illustration tools within LEAA. By way of this categorizing process, it was hoped that the problem LEAA was addressing could be more clearly delineated so that the agency could develop a position on prevention that would neither inhibit effective prevention techniques that might still be in the infant stage of development while at the same time would not allow rampant diffusion of LEAA money into areas addressed by other agencies and remotely connected with crime.

Level III programs were viewed as an alternative to Level II. Level III programs encompassed any program that serviced juveniles who were referrals from the juvenile justice system. With a determination of a certain percentage of such referrals, LEAA funds justifiably might be used to totally fund the program.

The final level, Level IV, encompassed all other programs that sought to stop delinquency before its occurrence by addressing characteristics of known juveniles.[4] This program area tended to be highly speculative without much empirical evidence in support. This is also the area on which other Federal agencies are focusing; therefore, LEAA involvement here has met with a great deal of criticism.[5] This is precisely the area around which the controversy over the scope of LEAA's prevention effort has revolved.

After delineating these categories,[6] a limited effort was made to see how delinquency prevention programs already funded in 1971 fitted into these four levels.

An intra-agency study based on a sampling (one State) of the 10 LEAA Regions,[7] indicated that out of approximately 110 juvenile programs, only 29 programs were not limited to Level I. Of the 110, only about seven did not involve youths determined by the respective States to be high risk or potential delinquents. Only five of the 110 did not include among their clientele youths referred from the juvenile justice system, even though the rest of the recipients were not even always high risk youth. This is a small sampling but it shows how cautious States have been in delinquency prevention. This is not to say that such caution is desirable, but it does illustrate an apparent lack of abuse.

This caution probably can be attributed to the unwritten policy that LEAA funds were to be used exclusively for activities within the criminal justice system. Prevention was viewed as recidivism prevention rather than delinquency prevention. Once a youth was in the juvenile justice system, LEAA money could be used without doubt for any program, service, facility, or equipment necessary. The few States that ventured into programs somewhat or completely outside the criminal justice system, although justifying their adventure as necessary to combat delinquency in their circumstances, did so at their own risk. Since in-house policy and legislative intent were and still are somewhat vague, these States might or might not be questioned about the propriety of using LEAA funds to support their programs.

The Block Grant Approach

LEAA's basic fund disbursement machinery, the block grant,[8] is premised upon a concept of regionalization and localization of government.

In 1967 the President's Commission on Law Enforcement and Administration of Justice indicated that much of the responsibility for effective crime reduction measures and criminal justice system im-

[7] The 10 States which were sampled were Massachusetts, New Jersey, Pennsylvania, Georgia, Kansas, California, Illinois, Texas, Washington, and Colorado. These States were picked only because they each represent one of the 10 regions into which the country is divided. The analysis of their programs came from their 1971 comprehensive State plans. All program analyses are based upon proposed programing under Part C and Part E of Title I. Discretionary grants were not considered.

[8] Block grant is the disbursement of a lump sum amount of money based upon a legislative formula which will be more specifically disbursed by the State.

provements must be borne by State and local governments with Federal aid.[9]

Partly in response to this report and partly in response to the overwhelming national need for an improved law enforcement and criminal justice system, Title I of the Omnibus Crime Control and Safe Streets Act [hereinafter Title I] was enacted.[10] This act created LEAA and a fund disbursement program which emphasized law enforcement improvement at the State and local level[11]

Pursuant to this regional concept, Title I established a matching grant-in-aid program under which LEAA makes annual block planning and action grants to the States.[12] The grants are called block grants because the funds are required by Title I to be allocated in lump sums among the States, on the basis of population. It was intended that funds distribution and expenditure be by the States and cities according to criteria and priorities determined by them.[13] Although 85 percent of action funds must be disbursed in the block grant program, LEAA also makes discretionary grants which may be directly distributed by LEAA to the States for categorical purposes.[14]

Block planning grants are utilized by the States to establish and maintain State Planning Agencies [hereinafter SPA's] which are appointed by and are under the jurisdiction of the chief executive of the State.[15] Each SPA determines its needs and priorities for the improvement of law enforcement throughout the State. It also defines, develops, and correlates programs—including juvenile delinquency prevention programs—to improve and strengthen law enforcement for its State and all the units of local government within it.

The accumulated information is then incorporated into a comprehensive statewide plan for the improvement of law enforcement and the reduction of crime in that State and the plan is submitted to LEAA for review and approval.[16]

When a State plan has been reviewed and approved, the State is eligible to receive its allocated block action grant for that fiscal year. It should be noted that LEAA is required by statute to make block action grants if the SPA has an approved comprehensive plan which conforms with the purposes and requirements of the Safe Streets Act,[17] and with rules, regulations and procedures established by LEAA consistent with the Safe Streets Act.[18]

None of the conditions or guidelines imposed by LEAA is in conflict with the basic principles of the block grant concept.

Given the block grant approach, with its virtual "hands off" character, LEAA's involvement in the implementation of juvenile delinquency prevention programs can be no more than vicarious. It is clear that LEAA cannot under this funding system dictate the program areas that must or should be pursued by the States. This funding method is a real, although desirable, limitation on this Federal agency's influence on the character of prevention programming.

With certain minimal limitations, the States are the sole determiners as to their program needs. They are to establish the extent of their delinquency problem and how best to combat the problem. Due to the degree of self-determination involved under this funding approach, LEAA has incurred an interesting problem unparalleled in any other area of criminal justice planning.

Prevention may encompass projects not immediately related to the occurrence of crime. Can such projects deemed worthy by the SPA's be funded with LEAA money? Does LEAA have the authority to limit the breadth of their prevention involvement? Assuming that it does, does LEAA want to limit the breadth of delinquency prevention programming?

Possible answers to these and other questions require an inquiry into the background of Title I for legislative guidance.

[9] President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society*, xi (1967).

[10] Act of June 19, 1968, P. L. 90-351, Title I, 82 Stat. 197 et seq.; amended by P. L. 91-644, Title I, January 2, 1971, 84 Stat. 1881 [hereinafter Title I].

[11] Title I, *supra*, § 100, Congressional Findings: "Congress finds further that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively.

It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement at every level by national assistance. It is the purpose of this chapter to (1) encourage States and units of general local government to prepare and adopt comprehensive plans based upon their evaluation of State and local problems of law enforcement; (2) authorize grants to States and units of local government in order to improve and strengthen law enforcement, and (3) encourage research and development directed toward the improvement of law enforcement and the development of new methods for the prevention and reduction of crime and the detection and apprehension of criminals."

[12] Title I, *supra*, § 201-205.

[13] Title I, *supra*, § 202.

[14] Title I, *supra*, § 306.

[15] Title I, *supra*, § 202, 203.

[16] Title I, *supra*, § 302.

[17] Title I, *supra*, § 201.

[18] Title I, *supra*, § 205.

Prevention Funding Authority Under Title I

This discussion focuses on those provisions concerning crime prevention generally, as well as provisions concerning juvenile delinquency prevention and control. This is done to give the reader a better idea of the role prevention plays in LEAA's mandate to reduce crime and delinquency.

Legislative Language

The language of Title I suggests that Congress envisioned the use of LEAA funds in some crime prevention activities. Examples of this language are contained in the following provisions: the Congressional Findings section, where Congress speaks of the need of coordinated and intensified efforts at all levels of government in order to prevent crime and assure the people's safety,[19] section 301(b)(1) authorizes the use of action grants for the implementation of methods and devices to improve law enforcement and reduce crime; [20] section 301(b)(3) addresses public education relating to crime prevention among other things; [21] section 301(b)(9) directly concerns the development and operation of community-based delinquency prevention programs; [22] and section 601(a) defines law enforcement as used throughout the Title, as any activity pertaining to crime prevention.[23]

These examples say nothing of the specific references to other prevention efforts relating to organized crime, civil disturbances, and community service officer directed neighborhood programs.[24]

There seems to be little doubt that Title I authorized the funding of crime and delinquency prevention programs. The basic question, however, is what is prevention as envisioned by Congress? How encompassing was crime prevention intended to be? This is especially relevant since prevention can be and has been interpreted by experts in the field as crossing through all segments of human life.[25]

Given the potential breadth of prevention, it is necessary to explore whether the prevention effort enunciated by Congress in this act was intended to allow the funding of activities remotely or indirectly related to actual crime and the system which deals with criminal law violators.

Legislative History

The language of Congressional Findings section and sections 301(b)(1) and (3) concern the objectives of the 1968 act, which are further explained by way of delineation of specific program areas and include crime prevention. These objectives changed little during the act's historical development, as evidenced by the similarity of the language of section 301 in both the House and Senate bills.[26] Thus, it can be assumed that from the beginning, crime prevention was intended by Congress to be a key aim of the act. During hearings in the House, the Attorney General testified that the proposed

[19] Title I, *supra*, Congressional Findings:
"Congress finds that the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens. To *prevent crime* and to insure the greater safety of the people, law enforcement efforts must be better coordinated, intensified, and made more effective at all levels of government. (Emphasis added.)

[20] Title I, *supra*, § 301(b)(1):
"The Administration is authorized to make grants to States having comprehensive State plans approved by it under this subchapter for—(1) Public protection, including the development, demonstration, evaluation, implementation, and purchase of *methods, devices, facilities,* and *equipment* designed to improve and strengthen *law enforcement* (see § 601(a)) and *reduce crime* in public and private places." (Emphasis added.)

[21] Title I, *supra*, § 301(b)(3):
"(3) Public education relating to *crime prevention* and encouraging respect for law and order, including education programs in schools and programs to improve public understanding of and cooperation with law enforcement agencies." (Emphasis added.)

[22] Title I, *supra*, § 301(b)(9):
"(9) The development and operation of community based *delinquent prevention* and correctional programs, emphasizing halfway houses and other community based rehabilitation centers for initial preconviction or postconviction referral of offenders; expanded probationary programs, including paraprofessional and volunteer participation; and community service centers for the guidance and supervision of potential repeat youthful offenders." (Emphasis added.)

[23] Title I, *supra*, § 601(a):
"'Law Enforcement' means any *activity* pertaining to *crime prevention*, control, or reduction or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies, activities of corrections, probation, or parole authorities and programs relating to *prevention*, control, reduction of *juvenile delinquency* or narcotic addiction." (Emphasis added.)

[24] Title I, *supra*, § 30' (b)(5)-(7).

[25] "For 'crime' is not a single simple phenomenon that can be examined, analyzed, and described in one piece. It occurs in every part of the country and in every stratum of society. Its practitioners and its victims are people of all ages, incomes, and backgrounds. Its trends are difficult to ascertain. Its causes are legion. Its cures are speculative and controversial. An examination of any single kind of crime, let alone of 'crime in America,' raises a myriad of issues of the utmost complexity." President's Commission on Crime Report, *supra*, at 1.

[26] The language of § 301(b)(1), (3), and (7) is very similar and in the case of § 301(b)(1) is identical to the lan-

grant program would include, among other things, crime prevention programs in schools, colleges, welfare agencies, and other institutions.[27]

Further evidence of the intent that prevention programs be funded can be seen in the supplemental comments by Representatives William McCullock and Charles McC. Mathias, Jr., in the House report indicating that they supported Title I because they envisioned it as a moderate, progressive approach combining improvements in law enforcement and criminal justice along with advances in rehabilitation and prevention. This they felt was a desirable alternative to an approach that focused on social ills or an approach which fostered a "police state" system.[28]

These comments give weight to the idea that although LEAA is to be involved in crime and delinquency prevention, it was not intended that it become involved in the sociological aspects of prevention which are not somehow related to the criminal justice system.

The Senate Report (1968) indicates that the act's purpose was:

1. to encourage States and local governments to adopt comprehensive plans to increase the effectiveness of their law enforcement (which includes prevention);
2. to authorize grants to States and local governments to improve and strengthen their law enforcement;
3. to encourage research and development toward strengthening law enforcement, and the development of new prevention methods;
4. to control and eradicate organized crime; and
5. to control and prevent riots.[29]

As explicit as this enumeration of purpose is, it still fails to shed light on what was intended or even anticipated when prevention funding was authorized.

In the 1971 amendments to Title I, the House proposed to change the definition of law enforcement as follows:

> . . . all activities pertaining to the administration of criminal justice, including, but not limited to, police efforts to prevent crime and to apprehend criminals, activities of the criminal courts and related agencies, and activities of corrections, probation, and parole.[30]

The Senate rejected this definition because it was not broad enough. It was then revised in the Senate Judiciary Committee:

> . . . to make sure that the term would remain as broad in coverage as it is under the present Act.

The language finally agreed upon covers ". . . all activities pertaining to crime prevention or reduction and enforcement of the criminal law." [31]

The Senate's rejection and the final agreement on the present definition as amended indicate that the intended concept of prevention was broader than just police efforts to prevent crime. It is thus reasonable to assume that LEAA's prevention mandate is broader than the criminal justice system, and LEAA's funding authority in regard to juvenile delinquency prevention, though not explained, also is not so limited by legislative language or history.

The legislative history of section 301(b)(9), added by the 1971 amendments, indicates that it was intended to act as an incentive for the States to initiate community-based prevention and rehabilitation facilities for juveniles, although such facilities had always been fundable under the act.[32] It appears that Congress was mainly concerned with the community-based rehabilitation aspect and it once again left the prevention aspect unexplained—and unlimited.

Subsequent to the enactment of Title I and its amendments, the use of LEAA funds in prevention activities became the subject of congressional criticism.[33] In a House Committee on Government Operations' report, LEAA funded programs that were outside the criminal justice system, but were theoretically related to the grantee's delinquency prevention needs as determined by them, were considered by the Committee as misallocations of funds for activities outside the funding purview of Title I.

This criticism, whether accurate or not, resulted in a chain reaction cry from the SPA's for more

guage of H.R. 5037, *supra*, and S. 917, *supra*, the original bills. Neither the House Judiciary Committee nor House amendments changed the objectives of H.R. 5037. Though the Senate Judiciary Committee made slight changes in S. 917's objectives, the subsequent Amendment No. 715, *supra*, did not alter them. See Remarks of Senator Hruska, 114 Cong. Rec. S5349 (daily ed., May 10, 1968). This means that all stages of the legislative history regarding the objectives can be given greater credibility.

[27] H. Rep. No. 488, 90th Cong., 1st Sess. 10 (1967).

[28] Supplemental Comments of Congressman William McCullock and Charles McC. Mathias, Jr., H. Rep. No. 488, *supra*, at 24.

[29] S. Rep. No. 1097, 90th Cong., 2d Sess. 30 (1968).

[30] H.R. 17825, § 8(1)(a), 91st Cong., 2d Sess., June 30, 1970.

[31] S. Rep. No. 1270, 91st Cong., 2d Sess., 37 (1970).

[32] S. Rep. No. 91-1253, 91st Cong., 2d Sess. 30, 31 (1970).

[33] House Committee on Government Operations, Block Grant Programs of the Law Enforcement Assistance Administration, H.R. Rep. No. 92-1072, 92nd Cong. 2d Sess. (1972).

direction as to what is eligible for delinquency prevention projects. This, of course, put pressure on LEAA to interpret a broad prevention mandate with little or no relevant history in an area that has no definable parameters of its own, and in such a way so as not to impinge on the "hands-off" nature of the block grant.

LEAA was specifically criticized for allowing the use of its funds for a learning disability workshop for preschoolers and an employment project.[34] Regardless of whether these projects are fundable under Title I, the Committee legitimately pinpointed a problem that is inherent in prevention program funding: What is prevention? As shall be seen, this is not easily answered and Congress never attempted to answer it in either Title I or the legislative history of the act. If prevention does include such things as education and employment, should LEAA fund these activities, especially when other agencies are purposely authorized and funded to concentrate on these activities?

Juvenile Delinquency Prevention Act

In 1968 Congress passed the Juvenile Delinquency Prevention and Control Act. The purpose of this act was to enable the Department of Health, Education, and Welfare (HEW) to assist and coordinate the efforts of public and private agencies engaged in combating juvenile delinquency.[35]

Unlike Title I, this act was a categorical grant program. Its thrust, however, was similar to that of LEAA's prevention mandate. The Juvenile Delinquency Act was intended to cover a whole spectrum of activities which LEAA, under its general mandate, also could fund. This seeming duplication became more pronounced after enactment of the 1971 amendments to Title I, when community-based juvenile delinquency prevention programming was specifically included as an action grant area.

Yet Congress evidently did not intend that the two programs work at odds with each other, or even duplicate the same efforts. Congress saw the Juvenile Delinquency Act as only a part of a larger, comprehensive effort to solve the problems of delinquency. As described by the Senate Report, this legislation:

> . . . will achieve its maximum potential only if administered as a part of an enlightened network of antipoverty, antislum, and youth programs. It should not just be another categorical program that is administered in relative isolation from much larger efforts such as Community Action Program, Model Cities, and the Manpower Development and Training Act. Moreover, the committee amendment requires effective coordination with Justice Department programs in the delinquency area.[36]

Although Congress may not have intended duplication, potential duplication was created. This potential was recognized and criticized at the time the legislation was drafted. Senator Javits pointed out that the overlapping and duplication of Federal programs was what he considered the major problem with the Juvenile Delinquency Prevention and Control Act.[37] He said, "The key to controlling crime in this country is to prevent juvenile crime and to provide effective rehabilitation of juvenile offenders." [38] Given this need and LEAA's goal-oriented mandate to reduce crime, it is clear that regardless of HEW's authority to invest in delinquency prevention, LEAA must also be involved in fulfilling this need to some extent.

After 1968, there was at least a rhetorical rivalry between HEW and LEAA as to their roles in juvenile delinquency prevention programming. An effort to delineate the roles of these two agencies was made in an exchange of letters between the Attorney General and the Secretary of HEW in 1971. It was agreed that the agencies must work in concert. It was also acknowledged that, as a practical matter, HEW would concentrate on prevention while LEAA concentrated on rehabilitation.[39]

More importantly, however, these letters gave official agency recognition to the need for coordination. This exchange also resulted in an agreement to combine State planning efforts so that the requirements of both agencies were fulfilled with one plan.

Because LEAA has been more adequately funded than the Youth Development and Delinquency Prevention Administration (YDDPA) of HEW, LEAA has become more dominant in this area, which has not tended to reduce the confusion about the agen-

[34] H. R. Rep. No. 92-1072, *supra*, at 62.

[35] "It is therefore the purpose of this act to help State and local communities strengthen their juvenile justice and juvenile aid systems, including courts, correctional systems, police agencies, and law enforcement and other agencies which deal with juveniles, and to assist communities in providing diagnosis, treatment, rehabilitative, and preventive services to youths who are delinquent or in danger of becoming delinquent." Juvenile Delinquency Prevention and Control Act of 1968, P.L. 90-445; 82 Stat. 462, Findings and Purpose [hereinafter J.D. Act].

[36] S. Rep. No. 1332, 90th Cong., 2d. 2832 (1968).

[37] Supplemental Comments by Senator Jacob K. Javits, S. Rep. No. 1332, *supra*, at 2, U. S. Code Cong. & Ad. News 2851 (1968).

[38] S. Rep. No. 1332, *supra*, at 2, U. S. Code Cong. & Ad. News 2833 (1968).

[39] Letter from the Secretary of Health, Education, and Welfare to the Attorney General and letter from the Attorney General to the Secretary of Health, Education, and Welfare in response, May 25, 1971.

cies' roles.[40] This funding reality, coupled with LEAA's authority and willingness to become involved in delinquency prevention, have contributed to State and local reliance on LEAA funds for these efforts.

In 1971, the Juvenile Delinquency Prevention and Control Act of 1968 was amended and extended.[41] The amendments established an Interdepartmental Council to Coordinate All Federal Juvenile Delinquency Programs. The Attorney General is chairman of the Council, but he delegated that function to the Administrator of LEAA. This council is currently involved in four major areas. First, it is developing program, evaluation, and management data. Second, it is sponsoring a joint effort by the member agencies to coordinate their programs. Third, it is developing coordinating mechanisms at the Federal, State, and local levels. Finally, it is preparing for public hearings in which it will seek recommendations from private and public interest groups on implementing coordination goals.[42]

On August 14, 1972, Congress renewed and amended the Juvenile Delinquency Act.[43] The purpose and emphasis of this act was changed to reflect a division of responsibility between HEW and LEAA. The focus of the new act is the prevention of delinquency in youths by assisting States and local education agencies and other public and nonprofit private agencies to establish and operate community-based programs, including school programs.[44] One of the discernible differences, however, is that the emphasis in the act is on school-related programs. Although LEAA conceivably can, and has funded prevention programs concerning the schools, it is fair to say that the school has not and probably should not be the focal point for LEAA prevention efforts.

The 1972 amendments to the Juvenile Delinquency Act constituted an attempt to define the roles of HEW and LEAA in delinquency programming by specifically delineating HEW's role.[45] Some members of Congress saw LEAA as involved only in those areas of prevention encompassed by the criminal justice system, while they saw HEW as covering presystem programs, especially those operating in concert with the schools.

There is little doubt that the congressional framers of the Juvenile Delinquency Act and the congressional critics of LEAA have in mind a definite division in functions between the two agencies. Even so, the limitation on LEAA's authority that would result from this division is not warranted either by the language or legislative history of Title I.

Yet, considering all of these difficulties, good management and planning dictate that duplication in effort without increased dividends is not desirable. Duplication alone, however, may not be undesirable if the expected return is valuable, and if any one agency cannot sufficiently impact the area to produce the return. Basically, what is needed is not a division of labor or a jurisdictional stand-off, but a cooperative effort to achieve the specified goals. If one agency can more effectively treat an area than another agency, then it benefits all for the first agency to apply its expertise to that area. If, however, there are occasions for overlap, because such overlap has been deemed necessary to achieve a common desired goal, like the prevention of delinquency, then such overlap, if based on sound planning may not be so abhorrent.

With such a broad legislative mandate, LEAA must be and is in the process of designing guidelines, standards, and planning mechanisms which hopefully will impact delinquency without engaging itself or encouraging its grantees to engage in wasteful duplication, while still being able to fund whatever the State and local authorities find necessary to improve their system and reduce crime.

Prevention: The State of the Art

Much confusion about the kinds of delinquency prevention programs LEAA can and should fund stems from the fact that the state of the art of prevention is underdeveloped.

Legally, juvenile delinquency can consist of two things. It can be the violation of a criminal statute for which adults are also prosecuted.[46] Uniquely, however, it can also be the violation of certain

[40] Senate Committee on the Judiciary, The Juvenile Delinquency Prevention and Control Act Amendments of 1972, S. Rep. No. 92-867, 92d Cong., 2d Sess., 6 (1972).

[41] Juvenile Delinquency Prevention and Control Act Amendments of 1971, P. L. 92-31.

[42] Jerris Leonard and Thomas Madden, *The Role of the Federal Government in the Development of Juvenile Delinquency Policy*, ALA L. R. (1972).

[43] Juvenile Delinquency Prevention Act, P. L. 92-381; 86 Stat. 532 (August 14, 1972).

[44] P. L. 92-381, *supra*, § 101, Statement of Purpose.

[45] "The bill also attempts to sort out the typical administrative mess of such programs by limiting the use of funds to projects outside the traditional court system, leaving that area to the Justice Department, which administers the Omnibus Crime Control and Safe Streets Act." 118 Cong. Rec. H6546 (daily ed., July 17, 1972), Remarks by Congressman Harrington.

[46] See D. C. Code, § 16-2301(6), (7):

"(6) The term 'delinquent child' means a child who has committed a delinquent act and is in need of care or rehabilitation.

behavioral prescriptions which apply only to children—that is, the status offenses.[47]

There are arguments for questioning the soundness of status offense legislation.[48] Some of these arguments are legally based and have constitutional implications.[49] Some are practical and sociologically based.[50] As far as LEAA is concerned, however, the status offenses are simply offenses for which children are adjudicated and detained as delinquents. All of these youths enter the system much as a criminal law violator does; unfortunately, they probably leave the system much as a criminal law violator does, as well.

LEAA's legislative goal is to reduce crime, and status offenders are not often thought to be engaged in crime, or at least not the type of crime that " . . . threatens the peace, security, and general welfare of the Nation and its citizens." [51] It might be said, therefore, that LEAA funds should not be expended in the prevention of youth deviancy culminating in status offenses such as truancy, waywardness, or failing to obey the reasonable commands of a parent.

To take such a position, however, denies reality. Whether criminal or not, these youthful offenders are treated as criminals and their respective jurisdictions have designated them as law violators. It seems reasonable that jurisdictions should be able to dedicate money and efforts toward diverting all youthful offenders. Any success in diverting these juveniles from the criminal justice system can be viewed as crime prevention; experience has proven that a large percentage of correctional system service recipients will return.[52] These juveniles would be better serviced by some other community agency without exposing them to the stigma and harshness of the criminal justice system.

If it is legitimate to use LEAA funds for juvenile delinquency prevention programs at all, therefore, it should be sound policy to extend such programs to include youths caught up in status offense violations.

With juvenile delinquency thus defined, it is appropriate to discuss the state of the art of juvenile delinquency prevention.

Crime prevention is a socially attractive goal, yet little is known about what it entails. There is still debate on whether crime can even be prevented.[53] As Peter Lejins points out, society is dealing here with something moralistically desirable, politically ripe, and scientifically undeveloped.[54]

(7) The term 'delinquent act' means an act designated as an offense under the law of the District of Columbia, or of a State if the act occurred in a State, or under Federal law. Traffic offenses shall not be deemed delinquent acts unless committed by an individual who is under the age of sixteen."

See also California Welfare and Institutions Code, § 602.

See also The President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Juvenile Delinquency and Youth Crime*, 25-26 (1967) [hereinafter Task Force].

[47] See D. C. Code, § 16-2301(8) (1971):

"(8) The term 'child in need of supervision' means a child who—

(A) (i) is subject to compulsory school attendance and habitually is truant from school without justification;

(ii) has committed an offense committable only by children; or

(iii) is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; and

(B) is in need of care or rehabilitation."

See also, Task Force, *supra*, at 23, and California Welfare and Institutions Code, § 601.

[48] See Edwin M. Lemert, *The Juvenile Court—Quest and Realities*, Task Force Report, *supra*, at 99 and 100 where Mr. Lemert points out that status offenders statutes risk the making of juvenile delinquents through the labeling process. These statutes also invite the use of the court to resolve conflicts that are not ordinarily handled in the criminal justice system. Also see Edwin M. Lemert, *Instead of Court, Diversion in Juvenile Justice*, National Clearinghouse 91 (1971), where Mr. Lemert calls for the annihilation of special classes of children's offenses.

[49] See *E.S.G.* v. *State*, 447 S. W. 2d 225 (Tex. App. 1969); and *Smith* v. *State*, 444 S. W. 2d 941 (Tex. App. 1969).

[50] Stigma is always a problem when anyone enters the criminal justice system but is an unjustified problem when children by legislative definition are stigmatized without even having engaged in criminal conduct.

[51] Title I, *supra*, Congressional Findings section.

[52] See generally McKay, Report on the Criminal Careers of Male Delinquents in Chicago, Task Force Report, *supra*, at 107. In recognition of the recidivism problem the Congress placed special emphasis on upgrading the correctional system when it passed the 1971 amendments, P. L. 91-644, *supra*.

Congressman Nedzi, in support of these amendments, stated, "The youth offender constitutes the largest and most virulent portion of the danger on the streets of our cities. His recidivism rates are enormously high.

"We *simply must get them off the streets, then do a* better job of saving them once they are off the streets." Cong. Rec. H6207 (daily ed., June 30, 1970).

[53] Harlow, Prevention of Crime and Delinquency, A Review of the Literature, citing Durkheim, The Rules of the Sociological Method (1938), in 1 National Council on Crime and Delinquency, *Information Review on Crime and Delinquency* 2 (1969).

[54] The field of prevention is by far the least developed area of criminology: Current popular views are naive, vague, *mostly erroneous*, and for the most part devoid of any awareness of research findings; there is a demand for action on the basis of general moralistic beliefs, discarded

There is a diversity of opinion among the social scientists about what direction prevention must take to be successful. One position, supported by the President's Commission on Law Enforcement and Administration of Justice in 1967, is that juvenile delinquency and youth crime are symptoms of a community's failure to provide services for itself.[55] The recommended response to this problem is to engage in comprehensive programing tending to upgrade the community services in hopes that the delinquency problem would also be solved.[56] The Commission recommended that three areas be considered: employment, education, and community services. The Commission advocated an " . . . opportunity to develop the necessary abilities and skills to participate meaningfully in society, and thereby to gain a sense of personal dignity and competence." [57]

Other theories stress the importance of addressing specifically identifiable areas of youth crime and delinquency, such as auto theft and burglary.[58] Supporters of these theories are skeptical that comprehensive programing can be implemented successfully in "the face of high mobility and social change in the inner city area." [59] They are concerned that the target population will be missed completely or that other variables will intercede and preclude successful prevention.[60]

One analysis of the varied concepts of prevention is provided by Peter Lejins in The Field of Prevention.[61] He identifies three kinds of prevention: punitive, corrective, and mechanical.

The theory behind punitive prevention is deterrence; forestalling delinquency by threatening punishment. This can be broken down into special and general prevention. Special prevention seeks to deter further criminal conduct by punishing the offender for past conduct. General prevention relies on vicarious punishment; it seeks to deter the individual by assuring the punishment of others who commit crime.[62]

The second type of prevention is corrective prevention. "Here prevention is based on the assumption that criminal behavior, just as any other human behavior, has its causes, is influenced by certain factors and is the result of a certain motivation . . . " [63] These prevention efforts concentrate on attacking causes, factors, or motivations before delinquency occurs.[64] This is the type of prevention most commonly advocated today even though its successful implementation is still primitive.

The third type of prevention is mechanical. This involves placing obstacles so that delinquent activity cannot be successfully performed. There is no attempt to affect personalities, motivations, or community deficiencies. The emphasis is on such things as increased police protection and better security devices. Crime is prevented by making criminal conduct more difficult.[65]

The two types of prevention most often funded by the States with LEAA funds are the latter two. Punitive prevention is legislative in nature and not of the type generally envisioned by Title I. Corrective prevention is perhaps the more popular. Mechanical prevention is an area in which LEAA funds are employed enthusiastically. Improved crime detection, police surveillance, high intensity lighting, and public security systems are apt subjects of LEAA funding.

The majority of delinquency prevention work is being done in the areas of symptom detection and treatment and of servicing high crime areas. The potentials for involvement are vast. Assuming that it is possible to identify characteristics common to delinquents by determining the common characteristics of youths who have already come into contact with the criminal justice system, it must still be decided if there is a reasonable correlation between these characteristics and antisocial behavior and what can be done to correct negative characteristics so that juveniles not yet within the system can be kept out of it. It must also be determined whether the program has achieved a reduction in delinquency.

The Task Force report on Youth Crime and Delinquency reinforces the pervasiveness of prevention with its recommendations for improvements in such institutions as the family, the community, the school, and the job,[66] especially in the inner city areas where the crime rate is high. This is Lejins' idea of corrective prevention at work. Most of the States with which LEAA works share this idea of prevention. Thus, LEAA as a matter of practical policy must establish how involved it can or should become in education, employment, family, and community services.

LEAA recognizes the elusive nature of prevention, especially corrective prevention, and the necessity for investment in this area. The goal is the reduction of crime. It is not the improvement of the Nation's education system, employment opportunities, or standard of living. If involvement in these areas can impact directly on crime and delinquency, then LEAA can allow its grantees to invest in this type of program. The key is the impact on delinquency either hypothetical—if previously untested—or real.[67]

Developing New LEAA Guidelines

Regardless of the evident reluctance to fund prevention programs outside the system, an increasing number of States have requested authority to fund what they consider legitimate delinquency prevention programs which focus on youth and youth problems prior to any contact with the system. This coupled with congressional criticism has led to the drafting of what LEAA considers minimum standards on the eligibility of juvenile delinquency prevention programs for LEAA funding.

After breaking the area down into the levels already discussed, the agency decided that any type of program typology—that is, listing fundable programs, programs that might be obviously ineligible for funding, and programs that would fall in the middle depending upon the circumstances—was an undesirable strategy given LEAA's "special revenue sharing" nature. It also was an undesirable method because due the state of the art, it could be unnecessarily inhibiting, locking the States into programing which could become quickly outmoded. Rather than a list of "do's" and "don'ts," what was really needed was a process approach.

LEAA is now developing and trying to implement a planning process whereby the SPA's will learn to be able to identify their crime problem with greater accuracy, therefore enabling them to develop law enforcement and crime prevention projects which are specifically calculated to impact on the crime problem as it exists in their state.

This process is known as crime-specific planning. Its basic premise is that a planner should know the nature of his crime problem. Such things as the type of crime (burglary, rape, etc.), the victim (stranger to stranger, etc.), the frequency of occurrence, the time of occurrence, the criminal justice system response to the crime, the geographic area in which the crime is committed, and the characteristics of the offender must be documented before a criminal justice planner can adequately plan programs and projects of access needs and improvements in law enforcement and prevention.

Given this information, the planner can then make intelligent decisions as to the strategies required to combat crime. He can justify his decisions based upon his data and he can maximize his impact on the crime problem because he will know exactly what he is attacking and why, with some expectations as to the specific impact.

Since this process is aimed only at improving criminal justice planning and not at dictating specific program strategies, the "hands-off" character of LEAA's block grant approach is not jeopardized or undermined by Federal (LEAA) interference in State and local government programming decisions.

The appeal of this process approach as opposed to a program typology approach in the delinquency prevention area is obvious. As we have seen, juvenile delinquency is a multi-dimensional problem. There are many theories as to how to go about preventing delinquency, even though some of the theories are as of yet unproved. There are many agencies working in the general area of youth problems, therefore without definable parameters there is a great deal of potential overlap without a corresponding impact on crime. There is an obvious danger in locking the States into only certain approaches, not to mention the fact that such a static approach violates the spirit if not the letter of the block grant methodology. Therefore, the crime-specific planning approach is aptly suited to the needs of the SPA's in the area of juvenile delinquency prevention programming.

By implementing this planning process LEAA has drawn up tentative minimum standards for all LEAA grantees to help them in deciding whether their prevention programs and strategies are eligible for LEAA funding. The implementation of this

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criminological theories of bygone days, and other equally invalid opinions and reasons. In scientific and professional circles the subject of prevention has received remarkably little serious attention. There has been very little theory-building, and attempted research under such circumstances has failed to produce any significant result." Lejins, The Field of Prevention, *supra* at 1-2.

[55] Wheeler, Cottrell, and Romasco, Juvenile Delinquency—Its Prevention and Control in Delinquency and Social Policy 428 (Peter Lejins ed. 1970).

[56] *Id.*

[57] *Id.* at 429.

[58] *Id.* at 430.

[59] *Id.* at 431.

[60] *Id.*

[61] Lejins, The Field of Prevention, *supra*.

[62] *Id.* at 3.

[63] *Id.* at 4.

[64] *Id.*

[65] *Id.* at 5.

[66] Task Force, *supra*, 41-56.

[67] Congressman Smith aptly summed up the problem and articulated the need in his dialogue with Jerris Leonard in the 1973 House Appropriations Hearings: "It seems to me that this is where the weakness in the whole program is. We need money for law enforcement, but it's going to turn people off if you don't use it in a way that will do the most good." Hearings on 1973 Appropriations Before the Subcommittee on Departments of State, Justice, and Commerce, The Judiciary, and Related Agencies of the House Committee on Appropriations, 92d Cong., 2d Sess., pt. 1, at 1126.

process also assures LEAA and Congress that LEAA money is only being used for those prevention projects which are calculated to impact on delinquency. The key is the objective, "[t]o prevent crime and to insure the greater safety of the people . . ." [68]

If prevention programs are reasonably premised upon preventing delinquency, based upon tangible data, and cost effectiveness analyses, then the program can hardly be questioned as being outside the purview of Title I. Such a process approach also allows the programming to progress with the progress in the state of the art of prevention.

It also allows States to progress with LEAA funding at a rate commensurate with their sophistication. It takes LEAA out of the position of overseeing the type of project or program proposed. If there are any doubts LEAA need only ask why and if crime-specific planning has been implemented the SPA should have no problem showing LEAA why.

The standards as proposed are as follows:

1. Juvenile delinquency prevention programs exclusively within the criminal justice system.

The following types of programs or projects are generally not considered problematical when funded by Part C action funds. It should be noted, however, that these programs are not always desirable in and of themselves, because all programs should be the result of careful, goal-oriented planning. Thus, any program which is implemented without addressing a need, or which is not able to meet or achieve the envisioned prevention goals, is not desirable from a practical planning standpoint, and it does not work to achieve the overall goal of LEAA to reduce crime.

Programs which are devised and operated to service youths who have already come into the system through arrest or complaint (these contacts are considered to be prior to petitioning or prior to the decision to hold over for judicial action) are obviously fundable under Part C or Part E in whole or in part depending upon the character of the recipient population. Therefore, it is considered that community services or institutional services to which juveniles are referred by the police (this may even encompass those referral services employed by individual policemen in jurisdictions where they have the discretion to dispose of a juvenile prior to formal police action), by youth service divisions of police, by other intake officers, social service officers within the system, probation officers, courts, parole, corrections and etc. This could include both mandatory and voluntary programs.

[68] Title I, *supra*, Congressional Findings section.

These programs are all considered programs well within the juvenile justice system and as long as they are reasonably designed to reduce delinquency or the recurrence of delinquency and/or to improve the criminal justice system, they are of the type of program envisioned by Congress as eligible for action grants.

2. Delinquency prevention programs outside the criminal justice system.*

For programs which are intended to deal with the is programs which are intended to deal with the prevention of delinquency as opposed to the treatment of juveniles already considered delinquent, the following crime-oriented planning methodology must be employed. This approach is particularly appropriate for determining the eligibility of programs geared toward servicing what are commonly considered high risk youth, or youth who, although not yet involved in the system, are for some well reasoned, researched and documented reason considered on the verge of entering the system.

Necessary elements for planning an eligible program outside the criminal justice system.

a. Crime or delinquency analysis—A State or local government must know how its delinquency problem manifests itself. It should know all characteristics of the problem it seeks to solve.

b. Quantified objectives—Ideally, program or project objectives should be stated in terms of the anticipated impact on crime during a specified period of time and by a measurable amount. If, during crime analysis, the case can be made to establish more immediate quantified objectives that are not stated in crime impact terms, such objectives are acceptable if they meet the following criteria:

(1) The sequential relationship between attaining the short-range objective and crime reduction is established.

(2) The significance—when compared to other possible causative factors—of the behavioral or procedural circumstance to be impacted upon must be documented (e.g., truancy or narcotics use or court delay).

c. Adequate data—Determining the adequacy of data will always be subjective, but the following list of questions will suggest the range and volume of data necessary for good program development:

(1) Have you documented the juvenile crime problem in your jurisdiction by the type of crime?

* Part C funds only may be used for these programs. Part E funds are bound by the additional requirement of use only within the criminal justice system.

(2) For each priority offense, what can you say about the event, the target or victim, the offender, and the criminal justice response to the event?

(3) Does the data support the program alternative when compared against other programs that have different short-range objectives as well as programs that have similar objectives?

(4) Is the program cost effective?

(5) Can the program be effectively evaluated?

d. Maintenance of supporting data—Supporting documentation should be on file at the SPA for LEAA monitoring or audit.

As a rule, if current data is inadequate or unavailable, the program should include a component that is designed to supply relevant usable data.

The key to this planning approach is two-fold. At all times the planner should be goal or objective oriented. These questions must always be asked and answered: Will this program impact on our delinquency problem? Why do we believe it will achieve this goal? In order to answer these questions the planner must know his problem and the reason for his chosen solution.

Since much confusion currently exists concerning the eligibility or appropriateness of LEAA funding juvenile delinquency prevention efforts that are ordinarily undertaken by agencies which lie outside of the criminal justice system, it is important that the cited crime-specific planning approach be faithfully implemented. The field of delinquency prevention is still new and sometimes still experimental, therefore any programming or funding decision which is based on less information than outlined above comes perilously close to an unauthorized diffusion of LEAA funds without any significant return in terms of improving law enforcement or reducing crime and delinquency, which is the goal for which LEAA money is appropriated.

Another factor which is not to be slighted is the need for coordination. Delinquency prevention is not an effort which can be successfully implemented with the money of any one agency or State. The delinquency prevention effort is broad and by necessity is the subject of many Federal and State agency funded programs. LEAA money alone cannot sufficiently solve the problem of delinquency, therefore all criminal justice planners should be cognizant of other funding and expertise potentials. LEAA grantees should make a concerted effort to seek funds from those other agencies whose normal scope of activities encompass areas which may be the focus of delinquency prevention programs.

In this way the delinquency prevention effort benefits from the increased source of funds, the wide variety of experts, and the comprehensive impact. The most obvious example of this cooperative need is in the area of education. The potentialities for delinquency prevention programs in the schools are vast. HEW is the Federal expert in education, and HEW also has its own delinquency prevention authority, therefore programming involving education must be coordinated with HEW. Absence of such coordination jeopardizes additional fund sources and expert insights unique to other agencies.

3. Innovative delinquency prevention programming.*

This final category is intended to recognize the need for new untried approaches to delinquency prevention. Since the whole area of crime and delinquency causation and prevention is still developing there are necessarily programs and approaches designed by sophisticated criminal justice planners which may be so novel as to be dubiously eligible for funding by LEAA because of their apparent remoteness to the actual incidents of crime.

So as not to completely preclude the innovative initiation and implementation of programs which seek to reduce delinquency through treating symptoms of delinquency or characteristics of delinquents in youth who are not yet even considered high risk youth, such programs can be conceivably funded with LEAA money provided the following criteria are met:

a. All of the planning and data requirements of section 2 must be met.

b. The reduction of delinquency must be the goal and there must be a reasonable basis supported by documented data for the cause and effect relationship between the goal and the program.

c. There must be an extensive evaluation of the alternative programs along with a justification for the one chosen.

d. The program must be coordinated with other funding agencies which might also have cognizance of the program area.

e. There must be a cost effectiveness analysis.

f. The funding request should be approved by an affirmative vote of a majority of the SPA supervisory-board, so that the individual States have the responsibility of determining

* Part C funds only may be used for these programs. Part E funds are bound by the additional requirement of use only within the criminal justice system.

whether the program complies with the criteria envisioned in crime-specific planning.

g. The supporting justifications must be maintained on file with the SPA for monitoring or audit by LEAA.

Conclusion

Through crime-specific planning LEAA can effectively assure that those delinquency prevention programs which are funded under Title I will indeed impact the rate of youth crime. Even though there is some possibility that activities outside the juvenile justice system can be funded under this planning process, the goal of LEAA, fighting crime, will still be realized.

The minimum standards outlined by this agency stress that the problem of youth crime is not one which any one agency, State, or locality can combat alone. A comprehensive effort is necessary, therefore, LEAA grantees are compelled to seek out assistance, both monetary and technical from other agencies which are experts in the fields of employment, education, housing, recreation, and so forth.

LEAA must work to prevent juvenile delinquency within the parameters of the block grant concept and Title I. But that is not to say that this agency will be blind to the changing state of the art. Fighting crime is LEAA's mandate, therefore:

> LEAA's job is to impact immediately on crime itself. LEAA is not in the business, it is not charged with by Congress, and it wasn't established for the purpose of dealing with root causes.
>
> That does not mean that we're not concerned about them because we, in the criminal justice system, like everybody else, recognize that the criminal justice system deals with somebody else's failures. So we are interested in what the educational community and the welfare community, the entire social spectrum, are doing in the root cause area.[69]

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[69] Jerris Leonard at a press conference in Portland, Oreg., June 19, 1972.

APPENDIX B

RECOMMENDATIONS: COMMUNITY CRIME PREVENTION

Recommendation 4.10: Drug Abuse Prevention Programing

The Commission recommends for drug abuse prevention the following:

1. The roles of educating and informing youth about drugs should be assumed by parents and teachers in the early stages of a child's life. It is from these sources that a child should first learn about drugs. Information should be presented without scare techniques or undue emphasis on the authoritarian approach. Parental efforts at drug education should be encouraged before a child enters school and teachers should receive special training in drug prevention education techniques.

2. Peer group influence and leadership also should be part of drug prevention efforts. Such influence could come from youth who have tried drugs and stopped; these youth have the credibility that comes from firsthand experience. They first must be trained to insure that they do not distort their educational efforts toward youth by issuing the kind of double messages described previously.

3. Professional organizations of pharmacists and physicians should educate patients and the general public on drug abuse prevention efforts and should encourage responsible use of drugs. The educational efforts of these organizations should be encouraged to include factual, timely information on current trends in the abuse of drugs and prescription substances.

4. Materials on preventing drug abuse should focus not only on drugs and their effects but also on the person involved in such abuse. That person, particularly a young one, should be helped to develop problem-solving skills.

5. Young people should be provided with alternatives to drugs. The more active and demanding an alternative, the more likely it is to interfere with the drug abuser's lifestyle. Among such activities are sports, directed play activities, skill training, and hobbies, where there is the possibility of continued improvement in performance.

Recommendation 5.1: Expansion of Job Opportunities for Youth

The Commission recommends that employers and unions institute or accelerate efforts to expand job or membership opportunities to economically and educationally disadvantaged youth, especially lower income minority group members. These efforts should include the elimination of arbitrary personnel selection criteria and exclusionary policies based on such factors as minimum age requirements and bonding procedures.

Employers and unions should also support actions to remove unnecessary or outdated State and Federal labor restrictions on employing young people. Finally, employers should institute or expand training programs to sensitize management and supervisors to the special problems young people may bring to their jobs.

Recommendation 5.2: After-School and Summer Employment

The Commission recommends that each community broaden its after-school and summer employment programs for youth, including the 14- and 15-year-olds who may have been excluded from such programs in the past. These programs may be sponsored by governmental or private groups, but should include such elements as recruitment from a variety of community resources, selection on the basis of economic need, and a sufficient reservoir of job possibilities. The youth involved should have the benefit of an adequate orientation period with pay, and an equitable wage.

Local child labor regulations must be changed wherever possible to broaden employment opportunities for youth. Nonhazardous jobs with real career potential should be the goal of any legislation in this area.

Recommendation 5.3: Pretrial Intervention Programs

The Commission recommends that community-based, pretrial intervention programs offering manpower and related supportive services be established in all court jurisdictions. Such programs should be based on an arrangement between prosecutors or courts and offenders, and both should decide admission criteria and program goals. Intervention efforts should incorporate a flexible continuance period of at least 90 days, during which the individual would participate in a tailored job training program. Satisfactory performance in that training program would result in job placement and dismissal of charges, with arrest records maintained only for official purposes and not for dissemination.

Other program elements should include a wide range of community services to deal with any major needs of the participant. Legal, medical, housing, counseling, or emergency financial support should be readily available. In addition, ex-offenders should be trained to work with participants in this program, and court personnel should be well informed about the purpose and methods of pretrial intervention. (See the Commission's Report on Courts for a detailed discussion of this issue.)

Recommendation 6.1: The Home As A Learning Environment

The Commission recommends that educational authorities propose and adopt experimental and pilot projects to encourage selected neighborhood parents to become trained, qualified, and employed as teachers in the home.

A variety of methods and procedures could be adopted to attain this goal. Among these are the following:

1. Legislation to enable the establishment and continuation of home environment education as a permanent accessory to existing educational systems.
2. Programs designed to determine the most effective utilization of parents in educational projects in the home setting. A logical departure point for such projects would be to increase the level of active involvement of selected neighborhood parents in formal school operations. A carefully designed program of this sort would also benefit preschool children in the home.
3. The development of short-term and follow-through programs by teacher-training institutions to prepare parents for instructing their children.
4. The joint development by parents and school staffs of techniques and methods for using the home as a learning environment.
5. School district and State educational programs to train parents to use situations and materials in the home as a means of reinforcing the efforts of formal schooling.
6. Provision of instructional materials by school districts for use in home-teaching programs.
7. The expansion of programs to train and use parents as aides, assistants, and tutors in regular school classrooms.

Recommendation 6.2: The School as a Model of Justice

The Commission recommends that school authorities adopt policies and practices to insure that schools and classrooms reflect the best examples of justice and democracy in their organization and operation, and in the rules and regulations governing student conduct.

Recommendation 6.3: Literacy

The Commission recommends that by 1982, all elementary schools institute programs guaranteeing that every student who does not have a severe mental, emotional, or physical handicap will have acquired functional literacy in English before leaving elementary school (usually grade 6), and that special literacy programs will be provided for those handicapped individuals who cannot succeed in the regular program.

A variety of methods and procedures could be established to meet this goal. Such methods and procedures could include the following:

1. Training of teachers in methods and techniques demonstrated as successful in exemplary programs involving students with low literacy prognosis;
2. Training and employment of parents and other community persons as aides, assistants, and tutors in elementary school classrooms;
3. Replacement of subjective grading systems by objective systems of self-evaluation for teachers and objective measures of methods and strategies used;
4. Provision of privately contracted tutorial assistance for handicapped or otherwise disadvantaged students;
5. Redistribution of resources to support greater input in the earlier years of young people's education; and
6. Decentralized control of district finances to provide certain discretionary funds to site principals and neighborhood parent advisory committees for programs directed to the special needs of the students.

Recommendation 6.4: Improving Language Skills

The Commission recommends that schools provide special services to students who come from environments in which English is not the dominant language, or who use a language in which marked dialectal differences from the prevailing version of the English language represent an impediment to effective learning.

A variety of methods and procedures could be established to meet this goal. Among these are the following:

1. Bilingual instructors, aides, assistants, and other school employees;
2. Instruction in both English and the second language;
3. Active recognition of the customs and traditions of all cultures represented at the school;
4. Hiring school staff from all racial, ethnic, and cultural backgrounds; and
5. Special efforts to involve parents of students with bicultural backgrounds.

Recommendation 6.5: Reality-Based Curricula

The Commission recommends that schools develop programs that give meaning and relevance to otherwise abstract subject matter, through a teaching/learning process that would simultaneously insure career preparation for every student in either an entry level job or an advanced program of studies, regardless of the time he leaves the formal school setting.

A variety of methods and procedures could be established to meet this goal. Among these are the following:

1. Adoption of the basic concepts, philosophy, and components of career education, as proposed by the Office of Education;
2. Use of the microsociety model in the middle grades. Where this model is adopted, it will be important to realize that its central purpose is to create a climate in which learning is enhanced by underlining its relevance to the larger society outside the school;
3. Awareness, through experiences, observations, and study in grades kindergarten through 6, of the total range of occupations and careers;
4. Exploration of selected occupational clusters in the junior high school;
5. Specialization in a single career cluster or a single occupation during the 10th and 11th grades;
6. Guarantee of preparation for placement in entry-level occupation or continued preparation for a higher level of career placement, at any time the student chooses to leave the regular school setting after age 16;
7. Use of community business, industrial, and professional facilities as well as the regular school for career education purposes;
8. Provision of work-study programs, internships, and on-the-job training;
9. Enrichment of related academic instruction—communication, the arts, math, and science—through its relevance to career exploration; and
10. Acceptance of responsibility by the school for students after they leave, to assist them in the next move upward, or to reenroll them for more preparation.

Recommendation 6.6: Supportive Services

The Commission recommends that the schools provide programs for more effective supportive services—health, legal placement, counseling, and guidance—to facilitate the positive growth and development of students.

A variety of methods and procedures could be established to meet this goal. Among these are the following:

1. Greater emphasis on counseling and human development services in the primary and middle grades;
2. Personnel who understand the needs and problems of students, including minority and disadvantaged students;
3. An advocate for students in all situations where legitimate rights are threatened and genuine needs are not being met;
4. The legal means whereby personnel who are otherwise qualified but lack official credentials or licenses may be employed as human development specialists, counselors, and advocates with school children of all ages; and
5. Coordination of delivery of all child services in a locality through a school facilitator.

Recommendation 6.7: Alternative Educational Experiences

The Commission recommends that schools provide alternative programs of education. These programs should be based on:

1. An acknowledgment that a considerable number of students do not learn in ways or through experiences that are suitable for the majority of individuals.
2. A recognition that services previously provided through the criminal justice system for students considered errant or uneducable should be returned to the schools as an educational responsibility.

A variety of methods and procedures could be established to meet this goal. Among these are the following:

a. Early identification of those students for whom all or parts of the regular school program are inappropriate; and

b. Design of alternative experiences that are compatible with the individual learning objectives of each student identified as a potential client for these services, including:

(1) Shortening the program through high school to 11 years;

(2) Recasting the administrative format, organization, rules of operation, and governance of the 10th and 11th grades to approximate the operation of junior colleges;

(3) Crisis intervention centers to head off potential involvement of students with the law;

(4) Juvenile delinquency prevention and dropout prevention programs;

(5) Private performance contracts to educational firms; and

(6) Use of State-owned facilities and resources to substitute for regular school settings.

Recommendation 6.8: Use of School Facilities for Community Programs

The Commission recommends that school facilities be made available to the entire community as centers for human resource and adult education programs.

A variety of methods and procedures could be established to meet this goal. Among these are the following:

1. Scheduling of facilities on a 12-month, 7-day-a-week basis;
2. Elimination or amendment of archaic statutory or other legal prohibitions regarding use of school facilities; and
3. Extended use of cafeteria, libraries, vehicles, equipment, and buildings by parents, community groups, and agencies.

Recommendation 6.9: Teacher Training, Certification, and Accountability

The Commission recommends that school authorities take affirmative action to achieve more realistic training and retention policies for the professionals and paraprofessionals they employ.

A variety of methods and procedures could be established to meet this goal. Among these are the following:

1. Teacher training based on building competency through experience;
2. Latitude for districts to base certified employment on the basis of performance criteria alone;
3. Inservice training of professional staff to include specific understanding of district, program, and community goals and objectives; and
4. Latitude for districts to hire other professionals and paraprofessionals on bases of competency to perform specialized tasks, including the teaching of subject matters.

Recommendation 7.1: Use of Recreation to Prevent Delinquency

This Commission recommends that recreation be recognized as an integral part of an intervention strategy aimed at preventing delinquency; it should not be relegated to a peripheral role.

1. Recreation programs should be created or expanded to serve the total youth community, with particular attention devoted to special needs arising from poor family relationships, school failure, limited opportunities, and strong social pressures to participate in gang behavior.
2. Activities that involve risk-taking and excitement and have particular appeal to youth should be a recognized part of any program that attempts to reach and involve young people.
3. Municipal recreation programs should assume responsibility for all youth in the community, emphasizing outreach services involving roving recreation workers in order to recruit youths who might otherwise not be reached and for whom recreation opportunities may provide a deterrent to delinquency.
4. New mechanisms for tolerance of disruptive behavior should be added to existing recreation programs and activities so as not to exclude and label youths who exhibit disruptive behavior.
5. Counseling services should be made available, either as part of the recreation program or on a referral basis to allied agencies in the community, for youths who require additional attention.
6. Recreation programs should allow participants to decide what type of recreation they desire.
7. Recreation as a prevention strategy should involve more than giving youth something to do; it should provide job training and placement, education, and other services.
8. Individual needs rather than mass group programs should be considered in recreation planning.
9. Communities should be encouraged, through special funding, to develop their own recreation programs with appropriate guidance from recreational advisers.
10. Personnel selected as recreation leaders should have intelligent and realistic points of view concerning the goals of recreation and its potential to help socialize youth and prevent delinquency.
11. Recreation leaders should be required to learn preventive and constructive methods of dealing with disruptive behavior, and they should recognize that an individual can satisfy his recreational needs in many environments. Leaders should assume responsibility for mobilizing resources and helping people find personally satisfying experiences suited to their individual needs.
12. Decisionmaking, planning, and organization for recreation services should be shared with those for whom the programs are intended.
13. Continual evaluation to determine whether youth are being diverted from delinquent acts should be a part of all recreation programs.
14. Parents should be encouraged to participate in leisure activities with their children.
15. Maximum use should be made of existing recreational facilities—in the afternoons and evenings, on weekends, and throughout the summer. Where existing recreational facilities are inadequate, other community agencies should be encouraged to provide facilities at minimal cost, or at no cost where feasible.

Recommendation 9.5: Auto Theft Prevention Programs and Legislation

The Commission recommends that States enact legislation to require:

- Assigning of permanent State motor vehicle registration numbers to all motor vehicles;
- Issuing of permanent license plates for all vehicles that will remain in service for a number of years; and
- Affixing of more identifying numbers on automobiles to curb the automobile stripping racket.

END