

**JUVENILE CONFINEMENT INSTITUTIONS  
AND CORRECTIONAL SYSTEMS**

**HEARINGS**

BEFORE THE

**SUBCOMMITTEE TO INVESTIGATE  
JUVENILE DELINQUENCY**

OF THE

**COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE**

**NINETY-SECOND CONGRESS**

**FIRST SESSION**

PURSUANT TO

**S. Res. 32**

**Section 12**

**INVESTIGATION OF JUVENILE DELINQUENCY IN THE  
UNITED STATES**

**JUVENILE CONFINEMENT INSTITUTIONS AND CORRECTIONAL  
SYSTEMS**

**MAY 3, 4, 5, 16, AND 18, 1971**

Printed for the use of the Committee on the Judiciary



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## EXHIBITS

1. Text of Senate Resolution 32, 92d Congress, first session, dated March 1 (legislative day, February 17), 1971, authorizing expenditures for the Subcommittee To Investigate Juvenile Delinquency -----	Page	1
2. Letters dated April 6, April 14, and May 4, 1971, from Hon. Birch Bayh to Morris W. Raley, chief probation officer, El Paso, Tex., and reply of Morris W. Raley, dated April 20, 1971 -----	Page	87
3. Letter dated May 4, 1971, from Hon. Birch Bayh to Hon. Edwin F. Berliner, juvenile court judge, El Paso, Tex., and reply of Judge Berliner, dated May 11, 1971 -----	Page	89
4. Copy of Texas minimum standard law for jails, effective August 23, 1957, submitted by John A. Corcoran -----	Page	92
5. Survey entitled "Juvenile Justice: A Study of Court, Law Enforcement, Probation, Detention, and Community Services for Juveniles in El Paso County, Tex.," prepared by the National Council on Crime and Delinquency, dated September 1971; to be found in the files of the subcommittee -----	Page	96
6. Grant application to the Law Enforcement Assistance Administration, Department of Justice, from the Department of Correction, State of Indiana -----	Page	132
7. Pamphlet entitled "Two Strikes * * * But Not Out! A Look at Dignity House of Indianapolis," submitted by Rev. Luther C. Hicks -----	Page	185
8. Studies on the effect of probation compared with institutional commitment submitted by the National Council on Crime and Delinquency -----	Page	250
9. Report on the New York State Training School System, findings and recommendations from the Citizens' Committee for Children of New York, Inc., dated December 15, 1969 -----	Page	385
10. Report entitled "A Dream Deferred—Child Welfare in New York City," prepared by the Citizens' Committee for Children of New York, Inc., dated 1971 -----	Page	390
11. Report entitled "Juvenile Detention Problems in New York City," prepared by the Citizens' Committee for Children of New York, Inc., dated December 21, 1970 -----	Page	407
12. Memorandum to the Interagency Council on Child Welfare from Sister Mary Paul regarding definition of objectives regarding the care of children placed away from home -----	Page	413
13. Editorial from the New York Times, dated May 16, 1971, entitled "The Ultimate Crime" -----	Page	442
14. Letter dated December 21, 1971 from Joseph R. Rowan, executive director, John Howard Association to William Mooney -----	Page	455
15. Report prepared by the Kentucky Commission on Law Enforcement and Crime Prevention entitled "Delinquency in Kentucky," dated 1969; to be found in the files of the subcommittee -----	Page	470
16. Article entitled "Mandel Tries To Save Juvenile Funds," from the Baltimore Sun; April 1, 1971 -----	Page	610

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Pamphlet entitled "Survey of Judicial Procedures Available to Delinquent Persons Between the Ages of 7 and 21," prepared by Malcolm S. Goddard, Esq., executive assistant to the New York State Division for Youth -----	Page	619
Report entitled "The Juvenile Court and Individualized Treatment," prepared by Michael H. Langley, assistant professor, Department of Sociology and Anthropology, University of Tennessee at Chattanooga -----	Page	637
Report entitled "An Inquiry into the Juvenile Centers Operated by the Office of Probation," city of New York, prepared by Hon. Joseph Stone, judge of the Criminal Court of the city of New York, chairman; Hon. Robert Ruskin, commissioner of investigation of the city of New York; and Donald Goff, general secretary of the Correctional Association of York, dated January 20, 1971 -----	Page	648
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## JUVENILE CONFINEMENT INSTITUTIONS AND CORRECTIONAL SYSTEMS

MONDAY, MAY 3, 1971

U.S. SENATE,  
SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY  
OF THE COMMITTEE ON THE JUDICIARY,  
Washington, D.C.

The subcommittee (composed of Senators Bayh, Hart, Burdick, Kennedy, Byrd, Cook, Hruska, Fong, and Mathias), met, pursuant to recess, at 10:45 a.m., in room 318, Old Senate Office Building, Hon. Birch Bayh (chairman of the subcommittee) presiding.

Present: Senator Bayh.

Also present: Lawrence Speiser, staff director, and chief counsel; Mathea Falco, deputy chief counsel; William C. Mooney, Investigator; Peter Freivalds, research director; John M. Rector, deputy chief counsel; Hannah Hunt, secretary to the director; Mary Jolly, chief clerk; Nancy Smith, research assistant; Elizabeth Marten, secretary; and Cheryl Wolf, assistant chief clerk.

Senator BAYH. The committee will please reconvene. I would like to insert at this point in the record the enabling resolution of this subcommittee.

(The document was marked "Exhibit No. 1" and is as follows:)

### EXHIBIT NO. 1

[S. RES. 32, Rept. No. 92-11 92d Cong., first Sess.]

RESOLUTION Authorizing additional expenditures by the Committee on the Judiciary for inquiries and investigations.

*Resolved*, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on the Judiciary, or any subcommittee thereof, is authorized from February 1, 1971, through February 29, 1972, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The Committee on the Judiciary, or any subcommittee thereof, is authorized from February 1, 1971, through February 29, 1972, to expend not to exceed \$3,861,300 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution. said funds to be allocated to the respective specific inquiries and to the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(1) of the Legislative Reorganization Act of 1946, as amended) in accordance with such succeeding sections of this resolution.

(1)

SEC. 3. Not to exceed \$325,500 shall be available for a study or investigation of administrative practice and procedure, of which amount not to exceed \$2,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 4. Not to exceed \$778,100 shall be available for a study or investigation of antitrust and monopoly, of which amount not to exceed \$5,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 5. Not to exceed \$228,500 shall be available for a study or investigation of constitutional amendments.

SEC. 6. Not to exceed \$280,000 shall be available for a study or investigation of criminal laws and procedures, amount not to exceed \$3,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 7. Not to exceed \$210,000 shall be available for a study or investigation of criminal laws and procedures.

SEC. 8. Not to exceed \$9,500 shall be available for a study or investigation of Federal charters, holidays, and celebrations.

SEC. 9. Not to exceed \$243,500 shall be available for a study or investigation of immigration and naturalization.

SEC. 10. Not to exceed \$259,400 shall be available for a study or investigation of improvements in judicial machinery.

SEC. 11. Not to exceed \$820,000 shall be available for a study or investigation of internal security, of which amount not to exceed \$3,900 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 12. Not to exceed \$308,300 shall be available for a study or investigation of juvenile delinquency, of which amount not to exceed \$5,800 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 13. Not to exceed \$140,000 shall be available for a study or investigation of patents, trademarks, and copyrights.

SEC. 14. Not to exceed \$59,900 shall be available for a study or investigation of national penitentiaries.

SEC. 15. Not to exceed \$155,000 shall be available for a study or investigation of refugees and escapees.

SEC. 16. Not to exceed \$63,600 shall be available for a study or investigation of revision and codification.

SEC. 17. Not to exceed \$180,000 shall be available for a study or investigation of separation of powers between the executive, judicial, and legislative branches of Government, of which amount not to exceed \$14,800 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 18. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 29, 1972.

SEC. 19. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the committee.

Senator BAYH. We open these hearings as a continuation of the Juvenile Delinquency Subcommittee's inquiry regarding the quality of juvenile and criminal justice in the Nation and particularly regarding the conditions in confinement institutions for young offenders.

Our specific purpose is to develop Federal legislation to improve the correctional facilities for juveniles and youthful offenders.

There is dramatic need to take some decisive action in this area. From what I have learned thus far, in many instances, instead of rehabilitation young people are subjected to correctional neglect, mistreatment, and abuse.

About 50 percent of persons arrested for serious crimes are juveniles, as we tried to point out in the first set of hearings that we had.

Young people also show the highest recidivism rate of any age group. One study has shown that of those offenders under 20 released from institutions in 1963, 74 percent were rearrested by 1969. This is not surprising when we consider that less than 5 percent of the per-

sonnel in correctional institutions have the minimum qualifications required for rehabilitative treatment and the general philosophy is more often than not, one simply of incarceration, rather than rehabilitation.

Every major study and every investigation by this subcommittee has pointed up the utter inadequacy of correctional personnel training, qualifications, and standards.

By no means do I want to indict all the people in this field, since many are sincere and conscientious and are as horrified by the deficiencies in the facilities and programs to which juveniles are assigned as I am. However, we have found that incompetents, near illiterates, and even sadists have been placed in charge of handling young offenders on some occasions.

As we will learn in the course of these hearings, there have been gross miscarriages of justice under some juvenile procedures. Many young people are placed behind bars who are not delinquent or criminal.

Some are denied legal counsel and incarcerated without even a court appearance.

Many are beaten, brutalized, and exposed to vicious sexual attacks.

Punishment, isolation, neglect, and abuse seem to be the hallmarks of institutional life. This includes harassment, affront to human dignity, and the gross denial of human rights.

Almost as a rule, confinement institutions are closed systems inaccessible to public inspection, inaccessible even to judicial review.

The result is a strange society behind bars. Here, a hardening of human feelings and human emotion are characteristic features which affect both the inmates and the guards. The young inmates are often treated as if they were slaves, while the guards, too often, become unchallenged tyrants, who can send children to the "hole" on mere whim or fancied slight. The guard's word is law, not to be challenged or questioned.

The treatment and correction of offenders that should take place does not occur. At best, such programs are inadequate; at the worst, they are nonexistent.

We have seen places where even the most elementary medical care is not available to confined offenders, not to speak of psychiatric care for emotionally disturbed youngsters.

In these situations, attempted suicides by desperate children are handled through disciplinary measures as infractions of institutional rules.

In some cases it appears that juvenile institutions are run as going business concerns that must be filled to capacity to justify their existence and to provide employment for the administration and the staff.

Through these hearings we hope to determine more fully how bad some institutions really are and what to do about them.

Hopefully, we will find ways to make correctional institutions capable of achieving rehabilitation rather than capable only of turning out more confirmed criminals and delinquents.

Today, too many young people are thrown into custodial institutions who should be handled in the community. We want to find ways to establish meaningful alternatives in incarceration

Even existing alternatives such as probation services are weak and inadequate in most instances. We want to find ways to make them better.

Children in trouble need help. They were not born delinquent. They were made delinquent by defects in our human, social, and economic systems.

Punishment alone will not help them. Many of these children have received too much punishment already from chance or circumstance and often from unthinking adults who did not care or did not know how to raise them and love them.

It is the purpose of these hearings and of this subcommittee to help these children.

It is our purpose to make the public care and make the Government care. Only then can we build a juvenile justice system which develops and corrects, rather than destroys and corrupts.

Our first witness today is Dr. Richard Korn, Ph. D., in sociology, New York University. I have here a long list of accomplishments. So as not to embarrass Dr. Korn I will ask unanimous consent to put it in the record and ask him to join us at the witness table.

#### BIOGRAPHICAL SKETCH OF DR. RICHARD KORN

Dr. Richard Korn has a Ph. D. in Sociology from New York University. He has served as Director of non-medical treatment at the New Jersey State Prison, Director of group therapy at Rikers Island and the Weeks School Correctional Institution in Vermont and Director of Aftercare at the Berkshire School for Boys.

He has taught Social Psychology and Criminology at New York City College and New York University.

He is presently on the faculty of the School of Criminology, University of California at Berkeley.

Over recent years he has conducted correctional confrontation or psycho-drama conferences in various parts of the country under the sponsorship of the National College of State Trial Judges.

Senator BAYH. I appreciate very much the trouble Dr. Korn has gone through to be with us and we are really anticipating the expertise which he brings to our study.

#### STATEMENT OF DR. RICHARD KORN, SCHOOL OF CRIMINOLOGY, UNIVERSITY OF CALIFORNIA, BERKELEY, CALIF.

Senator BAYH. Presently, as we understand it, you are with the School of Criminology at the University of California in Berkeley.

Dr. KORN. Thank you, Senator Bayh. What I have done is put down everything important I know about this subject and I am going to ask you, when I have reached 30 minutes, just to stop me wherever I am. I am not going to read my entire statement, because it is really a resource paper and I would like to get extemporaneous in my last 5 minutes.

Senator BAYH. You are free to handle this any way you want. I will ask unanimous consent that the entire statement be put in the record. Then we will include other extemporaneous remarks not contained in your statement, if that meets with your approval.

Dr. KORN. Thank you.

Senator BAYH. Do you want the alarm clock to go off at 25 or 30 minutes?

Dr. KORN. I appreciate it. Because the way to communicate is not particularly in this language, although it is important to read and I would like to be able to be interrupted by questions and to extemporize a little bit.

Senator BAYH. Fine.

Dr. KORN. When you honored me by inviting me here, you suggested a number of issues I might address. The question raised by these issues are challenging. They are very nearly identical to those which I and my colleagues have been asking for many years. Nevertheless, I am going to begin by asking you to pardon me for setting them temporarily aside.

For almost 20 years I have been a student, a practitioner, and a teacher of the class called criminology. We criminologists specialize in trying to understand why other people misbehave. And we try to figure out what noncriminals can do about them.

It occurs to me that for the last 20 years I have been involved in a number of highly questionable intellectual and practical enterprises. It occurs to me what I have been involved in is not criminology but a species of demonology.

The essential is this: I have thought about and dealt with those who might be essentially similar to me as if they were essentially different.

Having done that I and my colleagues treat them very differently than we ourselves would wish to be treated in like circumstances.

We persist in these activities in the face of incontrovertible evidence that we are failing. Even so, this failure does not result in the loss of our exclusive confession, our monopoly we defend against all competition, especially from the private citizens. Our field is almost unique in that failure is a virtual guarantee of greater prestige, power—and more money. I can think of no other business in which the failure of the product has been so successfully used as an argument for more of the same operations which produced it.

Finally, in spite of all the trouble we take, and all the suffering we inflict, the security and peace of the citizenry—who are the victims of crime—continues in jeopardy. And that jeopardy appears to be growing.

But we try now to flesh out the bones of this oblique argument with some evidence on each point.

Though I can succeed very well in mystifying myself about why delinquents and criminals misbehave—and what can be done about it.

I know that when I am frustrated I become hostile and aggressive. When I feel deprived I become demanding. When I feel threatened I tend to attack. And when—correctly or incorrectly I feel unfairly treated, I become enraged, vengeful, and self-righteous.

In all of this I am no different than those I call delinquent or criminal. At what point do the differences arise? The difference is certainly not that I swallow my frustration, that I do nothing destructive at my anger, that I do nothing to remedy my situation. It cannot be said that I do not mistreat or injure those who threaten me. Or that I invariably refrain from doing something to another that I would not want done to me.

Perhaps the main difference lies in the fact that I can express my resentment effectively—without violating the rules.

Partly because I am convinced, from experience, that the rules are

for me in the first place. In those two situations, the rules are on my side: They are not roadblocks, they are highways. I not only feel that I can use them: I feel I have a part in negotiating them.

But what do I do in the relatively infrequent situation when I come up against a rule which seems clearly in opposition to my needs or legitimate interests? I know very well what I do. I either demand that the rule be suspended in my uniquely deserved or unusually trying circumstances—or that the rule itself be renegotiated.

In view of this, it would seem particularly specious to exhibit myself as a self-sacrificing servant of law or morality—or to claim that I "made it in life because I followed the rules of the game." It would be far more accurate to say that I made sure that the rules of the game were on my side in the first place.

It follows that the well-favored individual does not have to defy the law. He can achieve his objectives by negotiating with authority, and enlisting it on his behalf. And it is equally clear that the successful person does not get apparent freedom from the well-known fact that his constraint is not a function of his submission to the law, but the reverse.

Neither of these conditions hold for the person at the bottom of the social scale. The well-behaved poor obey the rules: Nevertheless, their conformity does not enable them to renegotiate their fate. For the very meaning of being at the bottom is to be constrained by circumstances, including rules, which are not of one's choosing, which are indifferent or hostile to one's best interests, and which cannot be altered in the direction of one's needs.

But let us come to the present case. Let us assume that I cannot get the rule suspended or renegotiate it. Suppose that in my desperation I violate it. Take it one step further: Suppose that I violate a rule that I think is right and do something which appalls even me. What is it that I need and want now from my friends, my neighbors, my fellow citizens? Is it justice? Is it punishment? Or is it rather compassion, mercy, understanding, and help?

And what is their likely response to me, after years of mutual service and good fellowship? Do they indict me—do they indict my circumstances? Do they not take into account my achievements and service—sitting there as witnesses on my behalf? And seeing me plunged in self-rejection, in guilt, with my whole world crumbling, are they not more likely to indict themselves, saying, "where were we, what were we doing, when he drifted into this? Why didn't we act in time, before he came to this pass? What can we do now to help him?"

They treat me, in a word, as they would wish that I would treat them. Instead of the justice we both demand for the outcast, we offer each other assistance and—if the damage has been done—a chance to make restitution.

And this is what works, and what has always worked, among people who care for each other, and who give each other offense. The offense is viewed as a joint responsibility. It is taken as a critique—perhaps a necessary critique—the relationship—not as proof that only one is cotidal. The offense is taken as a symptom that something is drastically wrong—and something decisive is needed to correct it.

It is in the face of this knowledge that I cannot continue to see myself as intrinsically different from the criminal. Our differences lie in

our circumstances. He, with probably good reason, had come to see others as indifferent and hostile to him. I, more fortunate, had my faith in others restored soon after I lost it. What restored it was their readiness to take part of the burden of responsibility and reconciliation. They did not punish me further, adding to that injury the incredible insults that they were doing it for my own good.

But there is a further step we must take. To understand how mutual restitution brings about reconciliation is not to explain why forceful correction fails. Of all forms of enforced correction, institutionalization is the most drastic malpractice, except for capital punishment—and even here, the argument can be made that the difference between them is more of degree than kind. Our lives consist of the time allotted to us: days, months, years. Executing a man exhausts his allotment at once; imprisonment depletes it gradually. In these terms, penal servitude is not so much an alternative to capital punishment but a refinement of it: imprisonment, the experience of exclusion from life, from whatever is precious in life, must be endured day by day.

But the question remains: why do men resist it, resent it? Why do they fail in such large numbers to profit from it? Particularly for the youthful offender, which is well-documented? In a study covering a longer period of postrelief time on the street, the FBI in 1969 reported that of all offenders under 20 released from Federal institutions since 1963, 73.3 percent had been rearrested within 5 years.

What is the reason? Perhaps the roots of the problem lie in the human condition itself: our rage and hopelessness and helplessness. We are vulnerable, and, in the end, doomed by forces over which we have no control—incurable disease, natural catastrophe, death. And impersonal rule, backed by irresistible force, is nearly a restatement of his impotence. Coercion, whether exercised by natural or by human forces, has the same effect: it reduces man to a thing.

We achieve what dignity we have by negotiating with the forces of our fate. If one cannot negotiate with human power as a relative equal, he has only a limited number of alternatives. He can submit, and become an object. He can resist, and become an outlaw. There is another alternative, more seductive and, in the end, infinitely more corrupting: He can become force. He can set himself up as the fate of other men: He can ape destiny and play at being God, using others as he feared they might use him. It may well be that the will to coercive power is, itself, rooted in the fear of power: We seek to become masters in order to still the fears that we at the bottom are slaves.

Consistent with these promises, the impetus to reduce others to objects may be located at two extremes of the human condition: Powerlessness, which makes negotiation impossible, and excessive power, which makes negotiation unnecessary.

We thus derive a bimodal theory of the generic conditions under which some men seek to compel, intimidate, and exploit others. The theory also suggests a program of remedy. In order to win the outlaws back from violence, we must convince them that they can achieve negotiating power. In order to convince the excessively powerful to reject coercion, we must demonstrate to them that negotiation is in their own best interest. Each of these twin objectives can be promoted by aiding the powerless to obtain that kind of countervailing power against their coercers sufficient to persuade them that continued oppression is ineffective or dangerous.

Perhaps the essential point here is this: A demand for submission is an ultimately hostile act. The penal law, based on a relative monopoly of force, justice based on a meting out of punishment—these institutions characterize relations between enemies. "Justice" is what I render the outcast: It is not what I render to or expect from my peers.

We are now in a position to suggest at least a plausible answer to the question, why do offenders resist forcible correction? It may well be that offenders resist forcible correction for the same reason that the victims of crime resist crime. So both have the same essential element in common: They reduce the victim to passivity; they demand that he renounce direction of his own future. And each serves as an implacable reason for the other. The resistance of the unreconciled offenders becomes the justification for the use of severer punishment. Unless it breaks them, this increased punishment inspires the offender to greater defiance. And so it escalates with each party providing his point by means of the reaction he provokes in the other.

For those of us in correction, a recognition of our part of the responsibility for this can be very painful. Unless we are ready to admit that a few hundred thousand largely poverty stricken, socially ineffect persons have more power to endanger our society than we have to protect it, we cannot avoid accepting the greater part of that responsibility. But something even more painful must be faced. To grasp the fact that our correctional process is founded on the same principle used by the offender is to acknowledge that we are dealing with the criminal in the same way he deals with the victim. The ideology of a force has won out. The sickness is in charge of the treatment. As a philosopher put it many years ago, "we are not the doctors, we are the diseased."

With apologies for an excessively long prolog, I will attempt to deal now with the specific issues raised.

Senator BAYH. I am anxious to get to these specific issues. And very interestingly, the final conclusion of the prolog is something I certainly need to emphasize. You suggest that we deal with the juvenile delinquent, or the one who violates the law, however you care to describe it, in the same terms he deals with society, that this is not the right way to try to change his attitudes and his conduct.

Dr. KORN. Essentially. The delinquent may stick a knife in your gut, stop your progress, treat you as an object. We turn around, we stick a sentence on him, a club in his stomach. We say "Stop, you, too, are an object." And that is the principle of crime itself, to treat a person as a thing. And he reacts to that treatment just as we the victims of crime react to him.

This is the principle in charge. We will be getting to a completely alternative way.

Senator BAYH. Fine, please proceed.

Dr. KORN. The benefits and damages resulting from institutionalization. Everything we know about the genesis of ordinary criminal careers tells us that the young criminal in the street progressively isolates himself from the law abiding, spending more and more time with other delinquents. Our response to this fact is to entrap him in a situation where his only intimate associates are other offenders.

After his release the offender will be required to do his own planning: Whatever guidance he is offered, he will in the end, have to depend on himself. How do we prepare him for self-sufficiency? By keeping him almost totally dependent and by making most of his important decisions for him.

Once he is in the street, the offender must control himself, he has to be his own guardian. This task is difficult enough for the rest of us who do not have to depend on an external policeman, because of all the jailors known, the one inside the head is the most vigilant.

By contrast, the prisoner in custody learns to enjoy a peculiar kind of internal freedom. Because it is understood that others are available to control his behavior, he labors under no internal obligation to do so. When he transgresses too blatantly, he can count on others to punish him. Because he is continually being judged, he is not condemned to judge himself.

Moreover, to begin with, he is free to do what few of us can do—he can exploit his illicit impulses without fear of losing his good reputation. And there is something more. On most occasions, his punishment will exceed what he thinks he deserves. To know that one will be sinned against more than one has sinned confers a certain moral superiority. "I have paid for my crimes," says the prisoner to us. "Have you paid for yours?"

Our situation is very different. We know that we have sinned more than we have been sinned against, but we carry our guilt in secret. What if we are found out? The prisoner has already been found out. He is no longer a moral fugitive.

But what probably is most decisive in preventing guilt is the claim that the suffering inflicted upon him is also for his own good. An executed multiple murder gives voice to the fury this pretense inspires.

There is recently a book called "The Killer." It is a diary of a Federal prisoner:

I started doing time when I was 11 years old and have been doing practically nothing else since then. What time I haven't been in jail I have spent either getting out or getting in again.

What you have done and are doing to me, you are also doing to others. What I have done to you, many others also do to you. Thus, we do each other as we are done by.

I have done as I was taught to do. I am no different from any other. You taught me how to live my life, and I have lived as you taught me. If you continue teaching others as you taught me, then you as well as they must pay the price, and the price is very expensive. You lose your all, even life.

Now, you who do not know me or my wishes, you decide without consulting me in any way . . . I tell you now that the only thanks you or your kind will ever get from me for your efforts on my behalf is that I wish you all had one neck and that I had my hands on it.

I have no desire whatever to reform myself. My only desire is to reform people who try to reform me. And I believe that the only way to reform people is to kill 'em.

I may leave here at any time for some big house, mad house or death house, but I don't give a damn where they put me. They won't keep me long because no power on earth can keep me alive and in jail for very much longer. I would kind of like to finish writing this whole business in detail before I kick off so that I can explain my side of it even though no one ever hears or reads of it except one man. But one man or a million makes no difference to me. When I am through I am all through, and that settles it with me.

In my lifetime I have murdered 21 human beings, I have committed thousands of burglaries, robberies, larcenies, arsons and last but not least I have committed sodomy on more than 1,000 male human beings. For all of these things I am

not the least bit sorry. I have no conscience so that does not worry me. I don't believe in man, God nor Devil. I hate the whole damned human race including myself.

If you or anyone else will take the trouble and have the intelligence or patience to follow and examine every one of my crimes, you will find that I have consistently followed one idea through all of my life. I preyed upon the weak, the harmless and the unsuspecting.

This lesson I was taught by others: might makes right.

We have mentioned some of the moral consequences of imprisonment. The psychological consequences may be equally disabling. One of these might be called decompression syndromes. Very similar to what happens when you bring a diver up too quickly from the pressure of the sea. From the time of his first days in the institution the prisoner dreams of the day of his release. In his fantasy the outside world takes on the color of a paradise. The realities of the world he could not survive—the bleak streets, the rooming houses, the cheap restaurants, the cold stares—these images gain luster as he contrasts them with the numbing realities of the cell.

Then finally, he walks through the gate. How long does the fantasy last? Perhaps a few days—perhaps a week. Then shockingly the disparity between the prison fantasy and the reality come home to him. The streets do not glow with diamonds; the sunset looks dirty through the window; the voices are shrill. And he is older—one may not know one is growing older until one sees how his friends have aged. As for them, they have gotten along well enough without him. The freedom he longed for does not long for him.

Then a new process begins. While he was in prison, society was locked away from him: he could not break out. Now his problem is to break in. Physically free, he may find himself locked out of society as completely as he was locked into the prison. At this point he may begin a new dream: the dream of escaping from the new confinement. The memory of prison fades: the reality of the present emptiness swallows it up. And he starts dreaming again about that one "big score" that will buy his ticket back into the world he imagines is there.

Let's talk about the benefits, presumed benefits of institutionalization. And the images used are likely images of sanitation, contaminated human material is removed from the mainstream of society, is treated to a special decontamination process in the reformatory, and then recycled harmlessly back to the main stream.

The first of these arguments is refuted by the exceptionally high rate of criminal relapse, particularly by returned young prisoners. The second argument is simply blind to the realities of institutional life. The underlife of a penal institution is totally contaminated by criminality and brutality: trapped within it, the young offender has one of two choices: to become a victimizer of other prisoners, or to be victimized by them. The third argument is similarly vulnerable to the facts. Among "susceptible" youth in the street, the returned prisoner is more likely to be a hero than an outcast. A "jolt in the joint" confers status. The former novice has passed his test: he has "done his bit."

Senator BAYH. Why is that?

Dr. KORN. The formula for delinquent kids is to be stand up and say "No," and take the consequences, to have heart. A kid that has done that and goes to the "joint" and comes back to the street, the other

children are very concerned and very interested about what this has done to him. For him to admit that he has been "gotten to" by this process, would be a terrific loss of face.

These children are in effect saying, "I can't be broken." And they have talked to the "big shots" in the "joint," they have taken the worst that can be thrown at them. They are literally heroes.

You get this picture again and again in stories of returned offenders. Claude Brown's story, "Manchild in the Promised Land," the young person is given status by his peers. It doesn't make sense to us, but it is like a returning prisoner of war who was not forced to recant by the enemy.

Senator BAYH. I can see that aspect of it, but does the average kid on the street, in the block, in the community, look forward to similar treatment himself?

Dr. KORN. Pardon me?

Senator BAYH. Does the average kid on the street, who might worship and idolize a person who has been to the "joint," look forward to that kind of treatment himself?

Dr. KORN. Nobody looks forward to it. It is one of the hazards of the "war," because it is very much like a war. He doesn't look forward to it, but it is a matter of honor not to demean yourself—if you are caught, not to demean yourself by avoiding it. For example, in the jargon of the ghetto, to say he is a "bad guy" is a compliment. You know he is really evil. What they have done, they have reversed the ethics. They see us as hypocrites. So to be good is to be a "sissy." To be good is to submit. To have heart is to be a big, bad man.

Now, I think they learn this—not necessarily from each other, but also from us.

Talking about specific problems of institutional life, you hear all sorts of horror stories. The only thing unusual about these horror stories is they get pushed, they are the rule rather than the exception. I wanted to go over some of the processes underlying what explains the horror. And I cited three processes.

First is the war, overt and covert, between the captives and their keepers. Now, I think perhaps this might explain a little bit about the last question.

Institutionalization is an ultimate form of social rejection; the offender has been cast as unfit to live among decent people. He has this agonizing psychological problem; he can agree with those who cast him out and brand himself unfit—or he can reject those who have rejected him, thereby saving his own self-esteem.

First of these choices is psychologically suicidal. Those who embrace it become the pariahs of inmate society. The second choice offers the chance for a revival of the self-respect which was damaged by the fact of apprehension and the ritual of courtroom degradation. It is also the way to win and maintain the respect of one's peers, the other captives. The price is a continuation of resistance.

They keep fighting. The biggest heroes in the prisons, just as in the streets, are the resisters, the tough kids, the most defiant kids.

How does the staff respond? The escalation process. In order to remain effective, punishments must continually become more severe. This is perhaps the most tragic process in the whole system.

The participants in the drama are trapped by a tragic limitation.

The rewards they can offer each other are severely curtailed by forces beyond their control.

It has been said that more men have been tamed by hope than by fear. To have something to hope for is to have something one can lose. To have less and less to hope for is to have less and less to lose. Men with little to lose can become difficult to deal with—particularly if those who deal with them cannot offer them hope of gaining what they need.

The alternative is to make them more miserable, in the hope that the previously unbearable situation will seem more tolerable by comparison. This is the essential rationale of a punitive system: deterrents through the fear of worse rather than the hope of better.

It fails to take into account, however, man's capacity to adapt. An inmate from Folsom put it thus:

"The first time they put me in the hole they kept me only for three days. But the next time they kept me too long: ten days. Now I can spin around on the head of my—down there and be a better man than the captain. I don't give a damn.

This man became a hero of the prison resisters.

It is the adaptation process which ultimately defeats any punishment short of extreme physical torture and, of course, death.

Each step in this escalation can proceed with perfect logic. At the outset, the correcting agent may be honestly convinced that he has the best interest of the client at heart. He wants the young offender to make it in life. Take a common case.

A young man refuses to go to school. We know that he won't make it in life unless he gets an education. Our objective now is to get him to go to school. He rejects persuasion, so we place him on probation in order to induce him to accept persuasion. But he refuses to see his probation officer. So we place him in an institution, in order to make sure that he cannot escape our attempt to give him counseling. But even in the institution he resists seeing his counselor. So our objective now is to force him to see the counselor. But when we come for him in his room, he violently resists and, in order to fulfill our original objective, we must now first subdue him. We can't help him if we are injured ourselves. Our immediate goal, therefore, is to render him incapable of injuring us—using whatever force the situation requires. Step by step, from this original plan of "let's make it in life together," we get into this particular situation, where it is his life or ours. This is the madness of it.

The internal logic of this process seems unassailable, once the first step is taken. Once committed to it, we are involved in a process in which the failure of milder forms of force is taken as proof that severer methods are required in order to give the offender an incentive to respond to those milder forms which originally failed. Of course, it becomes a contest of wills.

Perhaps the most awful part of institutionalization and the one you least hear about is the victimization of inmates by other inmates. The process is essentially this: To be deprived of an essential commodity is to be hungry for it. Young people deprived of their sense of autonomy seek ways to reassert it. In males and in young men, especially, to be deprived of autonomy is experienced as an assault on manliness, on masculinity.

Senator BAYH. You asked that I intervene. It is now 29 minutes. We have your whole testimony in the record.

I wish time permitted a continuation of this because I think it is very enlightening. You wanted to be able to extemporize a bit.

Dr. Korn. I would like to now.

(The prepared statement of Dr. Richard R. Korn follows:)

PREPARED STATEMENT OF RICHARD R. KORN, PH. D.

Mr. Chairman: When you honored me by inviting me here, you suggested a number of issues I might address. The questions raised by these issues are challenging. They are very nearly identical to those which I and my colleagues have been asking for many years. Nevertheless, I am going to begin by asking you to pardon me for setting them temporarily aside.

For almost twenty years, I have been a student, a practitioner, and a teacher of the craft called "criminology." We criminologists specialize in trying to understand why other people misbehave. And we try to figure out what non-criminals can do about them. Our answers have been tragically inadequate. I am increasingly persuaded that the reason lies somewhere in the questions themselves. They may not go deep enough. To build an edifice of answers and actions upon them is to risk the collapse of our whole enterprise. The evidence of that collapse is all around us. Let me, therefore, begin not with an exploration of how we might better rehabilitate delinquents but rather with an acknowledgment of how we in criminology might start correcting ourselves.

It occurs to me that for the last twenty years I have been involved in a number of highly questionable intellectual and practical enterprises:

1. I have thought about and dealt with those who might be essentially similar to me if they were essentially different.

2. Having done that, I and my colleagues treat them very differently than we ourselves would wish to be treated in like circumstances.

3. We persist in these activities in the face of incontrovertible evidence that we are failing. Even so, this failure does not result in the loss of our exclusive concession, our monopoly we defend against all competition, especially from the private citizen. Our field is almost unique in that failure is a virtual guarantee of greater prestige, power—and more money. I can think of no other business in which the failure of the product has been so successfully used as an argument for more of the same operations which produced it.

4. Finally, in spite of all the trouble we take, and all the suffering we inflict, the security and peace of the citizenry—who are the victims of crime—continues in jeopardy. And that jeopardy appears to be growing.

This last point seems crucial. Our concern for the clients of correction is legitimate; the responsibility for those in our power is inescapable. But we will not be permitted to carry out our humane mandate toward our incarcerated young at the sacrifice of the well-being of the community. The ultimate victim of correctional failure is the citizen. And if we are ready to take the credit for those cases in which we appear to succeed, we must be equally ready to take our part of the blame for that larger number of cases among youthful offenders in which we fail.

Let me try now to flesh out the bones of this bleak argument with some evidence on each point.

1. Though I can succeed very well in mystifying myself about why delinquents and criminals misbehave—and what can be done about it—I cannot escape understanding why and when I misbehave—and what can and should be done about that.

I know that when I am frustrated I become hostile and aggressive. When I feel deprived I become demanding. When I feel threatened I tend to attack. And when—correctly or incorrectly—I feel unfairly treated, I become enraged, vengeful and selfrighteous.

In all of this I am no different than those I call delinquent or criminal. At what point do the differences arise? The difference is certainly not that I swallow my frustration, that I do nothing destructive with my anger, that I do nothing to remedy my situation. It cannot be said that I do not mistreat or injure those who threaten me. Or that I invariably refrain from doing something to another that I would not want done to me.

Perhaps the main difference lies in the fact that I can express my resentments effectively—without violating the rules. Partly because I am convinced, from experience, that the rules are there to serve me in the first place. In most situations, the rules on are my side: they are not roadblocks, they are highways. I not only feel that I can use them: I feel I had a part in negotiating them.

2. But what do I do in the relatively infrequent situation when I come up against a rule which seems clearly in opposition to my needs or legitimate interests? I know damn well what I do. I either demand that the rule be suspended in my uniquely deserving or unusually trying circumstances—or that the rule itself be renegotiated.

Nor am I in any way hesitant to do this. Since I have had every reason to believe that the rules and institutions of society were made for the benefit of people, and not for their harm, I take the fact that a particular rule is harmful to me as a proof that the rule is wrong, and should be changed. And I use whatever weight or influence I have to get it changed.

In view of this, it would seem particularly specious to exhibit myself as a self-sacrificing servant of law or morality—or to claim that "I made it in life because I followed the rules of the game." It would be far more accurate to say that I made sure that the rules of the game were on my side in the first place.

As a well-favored member of the community, the issue of conformity-against-my-own interest rarely arises, for the simple reason that those rules are designed to serve my interests from the start. Far from it being the case that I and my friends conform to the rules, the actual case is that the rules conform to us. And rightly so, since we jointly made them.

It follows that the well-favored individual does not have to *defy* the law. He can achieve his objectives by negotiating with authority, and enlisting it on his behalf. And it is equally clear that the successful person's apparent freedom from the realm of social constraint is not a function of his submission to the law, but the reverse.

Neither of these conditions hold for the person at the bottom of the social scale. The well-behaved poor obey the rules; nevertheless, their conformity does not enable them to renegotiate their fate. For the very meaning of being at the bottom is to be constrained by circumstances, including rules, which are not of one's choosing, which are indifferent or hostile to one's interest, and which cannot be altered in the direction of one's needs.

But let us come to the test case. Assume that I cannot get the rule suspended or renegotiated. Suppose that in my desperation I violate it. Take it one step further: suppose that I violate a rule I think is right—and do something which appalls even myself. What is it that I need and want now from my friends, my neighbors, my fellow citizens? Is it justice? Is it punishment? Or is it rather compassion, mercy, understanding and help?

And what is their likely response to me, after years of mutual service and good fellowship? Do they indict me—or do they indict my circumstances? Do they not take into account my achievements and acts of service—citing these as witnesses on my behalf? And seeing me plunged in self-rejection, in guilt, with my whole world crumbling, are they not more likely to indict themselves, saying, "Where were we, what were we doing, when he drifted into this? Why didn't we act in time, before he came to this pass? What can we do now to help him?"

They treat me, in a word, as they would wish that I would treat them. Instead of the justice we both demand for the outcast, we offer each other assistance and—if damage has been done—a chance to make restitution. My tragedy was that I had been thrust out of the realm of choice and delivered up to the tyranny of circumstances—and that, in striking out desperately against my situation, I became a collaborator in my own destruction.

But because they felt for me, and identified with me, and could share the horror of that condition—and more, because they felt me entitled to their help and concern in the first place, they saw my violation not merely as an indication of my bad character, not as an indictment exclusively of me, but also as an accusation of their own indifference and neglect. Their assistance is their restitution. My readiness to make good the injury I caused, once I get back on my feet, is mine.

3. And this is what works, and what has always worked, among people who care for each other, and who give each other offense. The offense is viewed as a joint responsibility. It is taken as a critique—perhaps a necessary critique—of the relationship—not as proof that only one is culpable. The offense is taken as a symptom that something is drastically wrong—and that something decisive is needed to correct it. Crime as a form of social criticism: restitution and mutual service as instruments of reconciliation—these are the ways in which offenses are dealt with among friends, good neighbors, among those with the kind of conscience which demands that they treat others as they themselves would wish to be treated.

It is in the face of this knowledge that I cannot continue to see myself as intrinsically different from the criminal. Our differences lie in our circumstances: he, with probably good reason, had come to see others as indifferent and hostile to him. I, more fortunate, had my faith in others restored soon after I lost it. What restored it was their readiness to take part of the burden of responsibility and reconciliation. They did not punish me further, adding to that injury the incredible insult that they were doing it for my own good.

But there is a further step we must take. To understand how mutual restitution brings about reconciliation is not to explain why forceful correction fails.\* Of the various forms of enforced correction, institutionalization is the most drastic now practiced, except for capital punishment—and even here, the argument can be made that the difference between them is more of degree than kind. Our lives consist of the time allotted to us: days, months, years. Executing a man exhausts his allotment at once; imprisonment depletes it gradually. In these terms, penal servitude is not so much an alternative to capital punishment but a refinement of it: in prison the experience of exclusion from life, from whatever is precious in life, must be endured day by day, and indefinitely prolonged.

But the question remains: why do men resist it, resent it, even in small installments, if it is defined, by the best authorities, as intended for their betterment? Or—rejecting that premise as the hollowest pretence—if they find it so painful and damaging, why do so many return to it? Why do they fail, in such large numbers, to profit from it? Specifically, what is it they are resisting, and how are we to understand that resistance?

Perhaps the roots of the problem lie in the human condition itself: man's rage at his helplessness in the face of indifferent necessity. Man is vulnerable and, in the end, doomed by forces over which he has no control: incurable disease, natural catastrophe, death. An impersonal rule, backed by irresistible force, is merely a restatement of his impotence. Coercion, whether exercised by natural or by human forces, has the same effect: it reduces man to a thing.

We achieve what dignity we have by negotiating with the forces of our fate. Just as we seek to bend natural forces to our needs, so we seek to employ human power for our ends or, failing that, to keep it at bay. If one cannot negotiate with human power as a relative equal, he has only a limited number of alternatives. (1) He can submit, and become an Object. (2) He can resist, and become an Outlaw. (3) There is another alternative, more seductive and, in the end, infinitely more corrupting: he can become Force. He can set himself up as the fate of other men: he can ape destiny and play at being God, using others as he feared they might use him. It may well be that the will to coercive power is, itself, rooted in the fear of power: we seek to become masters in order to still the fear that, at bottom, we are slaves. There is, of course, another alternative, on which our hopes may well rest (4)—and this is based on the recognition that Force itself is the enemy—and that the only deliverance from it is to safeguard man's capacity to negotiate rather than compel.

Consistent with these promises, the impetus to reduce others to Objects may be located at two extremes of the human condition: *powerlessness* (which makes negotiation impossible) and *excessive power* (which makes negotiation unnecessary). Once the powerless person comes to believe that continued compliance will not change his condition, he may decide to evade or defy the threat of coercion. At the point he acts on this decision he becomes an outlaw in the eyes of the authority he resists. The conventional delinquent and criminal falls largely into this category. His is typically poor, lacking in social, economic and political influence. His instruments are, perforce, crude: he exploits or attacks persons and their property directly: he robs, assaults, kills the single individual in his path.

At the other end of the continuum is the wielder of immune force. He operates by gaining control of the legitimate force which the community creates to protect itself from real or imagined enemies. So long as he feels himself immune from retaliation, he sees no need to negotiate with those who oppose him and with those he seeks to exploit. He believes he can gain his ends simply by the threat or exertion of force, or by control of the circumstances and the information essential for effective resistance to him.

\*The fact of that failure—particularly for the youthful offender—even under the most (comparatively) advanced correctional systems, such as the federal system is well documented. Even in his markedly optimistic study of the Federal Correctional and Parole system, Glaser found a post-release failure rate of 51% for offenders released at 10 years or under. In a study covering a longer period of post-release time on the street, the F.B.I. in 1969 reported that of all offenders under 20 released from federal institutions since 1963, 73.3% had been re-arrested within five years.

We thus derive a bi-modal theory of the generic conditions under which some men seek to compel, intimidate and exploit others. The theory also suggests a program of remedial action. In order to win the outlaws back from violence, we must convince them that they can achieve negotiating power. In order to convince the excessively powerful to reject coercion, we must demonstrate to them that negotiation is in their own best interest. Each of these twin objectives can be promoted by aiding the powerless to obtain that kind of countervailing power against their coercers sufficient to persuade them that continued oppression is ineffective or dangerous.

The model is the old American principle of balance of power. All parties have a vested interest in the rules when no party is in a position to use those rules to the detriment of others. To attain this objective, a rough degree of social, economic and political equity seems indispensable. Between equals—those roughly equal in their ability to affect each other—enforcement based on compulsion is not a viable process. Coercion is effective only when power is unequal. The point of danger is reached when the balance is lost and seems irretrievable: when the powerless become disenchanted and see rebellion as their only alternative. Then the question becomes: under what circumstances can the cycle of resistance and counter-terror be broken? How may negotiation be established?

The most primitive way is to seek a balance of terror. But this balance is intrinsically unstable: it can be upset at any point at which one of the parties becomes strong enough to believe his attack can destroy the possibility of reprisal. It seems essential that the parties discover a better reason to avoid injuring each other. One such reason is interdependence: the parties discover they have something of value to exchange. They make something as hard-headed as an honest business agreement to exchange goods or services. Most of the peaceful business of the world is conducted on this basis. Nevertheless, even this is intrinsically unstable. One of the parties may become self-sufficient: the other may fall on hard times. If personal self-interest is the only basis for negotiation, the other party loses his value and his right to my consideration whenever he can no longer serve my interest.

It seems essential to find a basis more stable than the circumstantial mutuality of self-interest. There is a level of human relating which is well known to all of us, and which transcends each of these lower levels entirely. At bottom it has something to do with affection, and is based on mutual identification. I place myself in your position: in a sense, I see myself in you. To hurt you or misuse you at this point would be to hurt myself. Since we are part of each other, my well-being is linked to yours; to promote your welfare is also to protect my own. Between friends and lovers, contracts are no longer necessary: the realm of negotiation is transcended.

Perhaps the essential point here is this: mere conformity to rules is probably not what keeps the human world at peace. A demand for submission is an ultimately hostile act: it does not invite the other to achieve his needs: it seeks to compel him to satisfy mine. The penal law, based on a relative monopoly of force, justice based on a meting out of punishments—these institutions characterize relations between enemies. "Justice" is what I render the outcast: it is not what I render to or expect from my peers.

We are now in a position to suggest at least a plausible answer to the question. Why do offenders resist forcible correction? This answer confronts us with an agonizing paradox. *It may well be that offenders resist forcible correction for the same reason that the victims of crime resist crime.* For both have the same essential element in common: they reduce the victim to passivity: they demand that he renounce direction of his own future. And each serves as an implacable reason for the other. The resistance of the unreconciled offender becomes the justification for the use of severer punishment. Unless it breaks him, this increased punishment inspires the offender to greater defiance. And so it escalates, with each party proving his point by means of the reaction he provokes in the other.

For those of us in correction, a recognition of our part of the responsibility for this can be very painful. Responsibility is proportionate to power. Unless we are ready to admit that a few hundred thousand largely poverty-stricken, socially impotent persons have more power to endanger our society than we have to protect it, we cannot avoid accepting the greater part of that responsibility. But something even more painful must be faced. To grasp the fact that our correctional process is founded on the same principle used by the offender is to acknowledge that we are dealing with the criminal in the same way he deals with his victim. The ideology of force has won out. The sickness is in charge of

the treatment As Alexander Herzen put it many years ago: "We are not the doctors: we are the disease."

With apologies for an excessively long prologue, I will attempt to deal now with the specific issues raised.

#### 1. THE BENEFITS AND DAMAGES RESULTING FROM INSTITUTIONALIZATION OF YOUNG OFFENDERS

We are immediately plunged into a welter of paradoxes. The objective of institutionalization is that the offender becomes self-sufficient in the free community, negotiating his career and making his way in life without victimizing others. Everything we know about the genesis of ordinary criminal careers tells us that the developing criminal in the street progressively isolates himself from the law-abiding, spending more and more time with other offenders. Our response to this fact is to entrap him in a situation where his only intimate associates are other offenders.

After his release the offender will be required to do his own planning: whatever guidance he is offered, he will, in the end, have to depend on himself. How do we prepare him for self-sufficiency? How do we foster his creativity? By keeping him almost totally dependent—and by making most of his important decisions for him.

Once he is in the street the offender must negotiate the hazards of freedom. If he is to keep himself straight, he will have to control himself: he will have to become his own guard. That task is difficult enough for those of us who have never had to depend on an external policeman. Of all the jailors known, the one inside the head is the most vigilant, the most omnipresent. It can be numbed by drugs or alcohol, but it sleeps only when we sleep. Even then, it may follow us in our dreams.

By contrast, the prisoner in custody learns to enjoy a peculiar kind of internal freedom. Because it is understood that others are available to control his behavior, he labors under no internal obligation to do so. When he transgresses too blatantly he can count on others to punish him—and external punishment, however painful, is morally neutral. Because he is continually being judged, he is not condemned to judge himself. His fantasies of self-indulgence can have free reign: whenever he has an opportunity to enact them, he can calculate the cost with accuracy: so many years for a given offense, so many days in the hole for a transgression in prison.

Moreover, knowing that he is considered evil to begin with, he is free to do what few of us can do: he can exploit his illicit impulses without fear of losing his good reputation. And there is something more: on most occasions, his punishment will exceed what he thinks he deserves. To know that one will be sinned against more than one has sinned confers a certain moral superiority. "I have paid for my crimes," says the prisoner to us. "Have you paid for yours?"

Our situation is very different. We know that we have sinned more than we have been sinned against, but we carry our guilt in secret. What if we are found out? The prisoner has already been found out: he is no longer a moral fugitive. (In the sense that their crimes have not yet been discovered and punished, all free men are fugitives. Because their crimes have been found out, the prisoners are internally free.)

The philosopher Nietzsche puts the case with compelling power: . . . If we stop to consider the millennia of prehistory, we may say with some assurance that it is precisely punishment that has most effectively retarded the development of guilt feelings, at any rate in the hearts of the victims of punitive authority. For we must not underestimate the extent to which the criminal is prevented, by the very witnessing of the legal process, from regarding his deed as intrinsically evil. He sees the very same actions performed in the service of justice with perfectly clear conscience and general approbation: spying, setting traps, outsmarting, the whole tricky system which police, prosecutors and informers have developed among themselves; not to mention the cold-blooded legal practices of despoiling, insulting, torturing and murdering the victim.

But what probably is most decisive in preventing guilt is the claim that the suffering inflicted upon him is also for his own good. An executed multiple murderer gives voice to the fury this pretence inspires:

I started doing time when I was eleven years old and have been doing practically nothing else since then. What time I haven't been in jail I have spent either getting out or getting in again.

What you have done and are doing to me, you are also doing to others. What I have done to you, many others also do to you. Thus, we do each other as we are done by.

I have done as I was taught to do. I am no different from any other. You taught me how to live my life, and I have lived as you taught me. If you continue teaching others as you taught me, then you as well as they must pay the price, and the price is very expensive. You lose your all, even life.

Now, you who do not know me or my wishes, you decide without consulting me in any way. . . . I tell you now that the only thanks you or your kind will ever get from me for your efforts on my behalf is that I wish you all had one neck and that I had my hands on it.

I have no desire whatever to reform myself. My only desire is to reform people who try to reform me. And I believe that the only way to reform people is to kill<sup>1</sup> em.

I may leave here at any time for some big house, mad house or death house, but I don't give a damn where they put me. They won't keep me long because no power on earth can keep me alive and in jail for very much longer. I would kind of like to finish writing this whole business in detail before I kick off so that I can explain my side of it even though no one ever hears or reads of it except one man. But one man or a million makes no difference to me. When I am through I am all through, and that settles it with me.

In my lifetime I have murdered 21 human beings, I have committed thousands of burglaries, robberies, larcenies, arsons and last but not least I have committed sodomy on more than 1,000 male human beings. For all of these things I am not the least bit sorry. I have no conscience so that does not worry me. I don't believe in man, God nor Devil. I hate the whole damned human race including myself.

If you or anyone else will take the trouble and have the intelligence or patience to follow and examine every one of my crimes, you will find that I have consistently followed one idea through all of my life. I preyed upon the weak, the harmless and the unsuspecting.

This lesson I was taught by others: might makes right.

CARL PANZRAM. No. 31614.

We have mentioned some of the moral consequences of imprisonment. The psychological consequences may be equally disabling. One of these might be called the "decompression syndrome." From the time of his first days in the institution the prisoner dreams of the day of his release. In his fantasy the outside world takes on the color of a paradise. The realities of the world he could not survive—the bleak streets, the rooming houses, the cheap restaurants, the cold stares—these images gain luster as he contrasts them with the numbing realities of the cell.

Then, finally, he walks through the gate. How long does the fantasy last? Perhaps a few days—perhaps a week. Then, shockingly, the disparity between the prison fantasy and the reality come home to him. The streets do not glow with diamonds; the sunset looks dirty through the window; the voices are shrill. And he is older. (One may not know one is growing older until one sees how his friends have aged.) As for them: they have gotten along well enough without him. The freedom he longed for does not long for him.

Then a new process begins. While he was in prison, society was locked away from him: he could not break out. Now his problem is to break in. Physically free, he may find himself locked out of society as completely as he was walled into the prison. At this point he may begin a new dream: the dream of escaping from the new confinement. The memory of prison fades: the reality of the present emptiness swallows it up. And he starts dreaming again about that one "big score" that will buy his ticket back into the world he imagines is there.

#### *The presumed benefits of institutionalization*

Proponents of compulsory institutionalization have traditionally cited three benefits: (1) Protection of the community. (2) Protection of the offender himself by (a) removing him from a criminal street environment and (b) exposing him to a more positive social climate. (3) Protection of other susceptible youth in the community from contamination. Each of these arguments invokes something analogous to the notion of social sanitation. Contaminated human material is removed from the mainstream of society, treated to a special decontamination process, and then recycled harmlessly back to the mainstream.

The first of these arguments is refuted by the exceptionally high rate of criminal relapse, particularly by returned young prisoners. The second argument is simply blind to the realities of institutional life. The underlife of a penal institution is totally contaminated by criminality and brutality: trapped within it, the young offender has one of two choices: to become a victimizer of other prisoners, or to be victimized by them. The third argument is similarly vulnerable to the facts. Among "susceptible" youth in the street, the returned prisoner is more likely to be a hero than an outcast. A "jolt in the joint" confers status. The former novice has passed his test: he has "done his bit" and has survived. The "weight" is now on the others. Do they have his kind of "heart"?—or are they "chicken"?

#### *Specific problems of institutional life*

From time to time the public is shocked by revelations of horrible prison incidents: homosexual rapes by inmates, excessive brutalities by staff, extortion rings, special instances of favoritism and abuse. Typically, these incidents are dismissed as extraordinary. Like the atrocities of war, they are seen as deviations from the ordinary pattern, not intrinsic to the fabric itself.

Rather than to detail still another collection of institutional horror stories, it would be more appropriate to document the far more serious case: far from being atypical, these incidents which occasionally surface to public consciousness are the rule, rather than the exception. The only thing that is exceptional is their infrequent revelation.

a. *Rejecting the Rejectors.*—The overt and covert war between the captives and their keepers.

Institutionalization is an ultimate form of social rejection: the offender has been cast out as unfit to live among decent people. He has this agonizing psychological problem: he can agree with those who cast him out and brand himself unfit—or he can reject those who have rejected him, thereby saving his own self-esteem.

The first of these choices is psychologically suicidal. Those who embrace it become the pariahs of inmate society. The second choice offers the chance for a revival of the self-respect which was damaged by the fact of an apprehension and the ritual of courtroom degradation. It is also the way to win and maintain the respect of one's peers, the other captives. The price is a continuation of resistance, for which the penalty is even greater punishment within the institution—and an even greater opportunity to demonstrate one's toughness, one's stoicism and unbreakable spirit.

A prison riot is merely the most extreme manifestation of the continual warfare between inmates and staff, a war conducted on all levels, on both sides, and with every psychological weapon—from deception to pretended compliance to outright defiance. On the course of this warfare, the participants on both sides are brutalized by each other and by their own excesses.

b. *The Escalation Process.*—In order to remain effective punishments must continually become more severe.

The participants in the drama are trapped by a tragic limitation: the rewards they can offer each other are severely curtailed by forces beyond their control. The greatest reward the prisoner can hope for is his release—but this lies, first, within the hands of the judge who fixed his minimum term, and secondly, within the authority of the paroling agency.\* The best the staff can hope for is the prisoner's compliance and cooperation—which is largely passive, involving an agreement to go along with a program laid out for him—and not making trouble. But inmates who merely "go along" risk rejection by their peers.

It has been said that more men have been tamed by hope than by fear. To have something to hope for is to have something one can lose. To have less and less to hope for is to have less and less to lose. Men with little to lose can become difficult to deal with—particularly if those who deal with them cannot offer them hope of gaining what they need.

The alternative, when they become uncontrollable, is to make them more miserable, in the hope that the previously unbearable situation will seem more tolerable by comparison. This is the essential rationale of a punitive system: deterrence through the fear of worse rather than the hope of better.

\*Admittedly, the institutional authorities in juvenile settings typically have a relatively greater influence on the paroling process. But this advantage tends to be vitiated by the lower frustration-tolerance of the young. For a hyper-active 16 year-old, "next month" can seem like "years from now".

But the theory fails to take into account man's capacity to adapt. An inmate from Folsom put it thus:

The first time they put me in the hole they kept me only for three days. . . .

But the next time they kept me too long: ten days. Now I can spin around on the head of my penis down there and be a better man than the captain. I don't give a damn. . . .

It is the adaptation process which ultimately defeats any punishment short of extreme physical torture and, of course, death. Because the increased dosages of suffering also increase the victim's tolerance; the level must be continually raised. And while the victim is hardening himself to endure it, those inflicting it are likewise hardening themselves in order to be able to do it. In the process they must destroy their capacity to feel a sense of common humanity with the sufferer. In order to protect oneself from feeling the pain one is inflicting, it is essential to look at the victim as intrinsically different—a non-Self. Any lingering sense of identification unsteals the heart: the human capacity for empathy must be overcome by reducing the victim to a non-human status as expediently as possible. Severe punishment can accomplish this objective in two ways: it converts the other into an enemy—enabling one to invoke the "Kill-or-be-killed" formula—and it reduces the victim to a state one does not dare to identify with: in the last analysis, to a corpse.

Moreover, each step in this escalation can proceed with perfect logic. At the outset, the correcting agent may be honestly convinced that he has the best interest of the client at heart. He wants the young offender to make it in life. Take a common case.

A young man refuses to go to school. We know that he won't make it in life unless he gets an education. Our objective now is to get him to go to school. He rejects persuasion, so we place him on probation in order to induce him to accept persuasion. But he refuses to see his probation officer. So we place him in an institution, in order to make sure that he cannot escape our attention, to give him counseling. But even in the institution he resists seeing his counselor. So our objective now is to force him to see the counselor. But when we come for him in his room, he violently resists and, in order to fulfill our original objective, we must now first subdue him. (We can't help him if we are injured.) Our immediate goal, therefore, is to render him incapable of injuring us—using whatever force the situation requires, including (in the extreme case) disabling him physically in order to save ourselves.

The internal logic of this process seems unassailable, once the first step is taken. Once committed to it, we are involved in a process in which the failure of milder forms of force is taken as proof that severer methods are required in order to give the offender an incentive to respond to those milder forms which originally failed. The impulse to help is immediately converted into a contest of wills—and unless one or the other quits, the end is catastrophe.

c. *The victimization of inmates by other inmates.*—To be deprived of an essential commodity is to acquire an insatiable hunger for it. People deprived of food and water can do nothing but think of food and water. Men deprived of their sense of autonomy seek ways to re-assert it. In males, and in young men especially, deprivation of autonomy is experienced as an assault on manliness, on masculinity. When this condition is exacerbated by the absence of sexual partners of the opposite sex, the situation is doubly explosive.

Homosexuality—rampant in all sexually segregated institutions—is endemic in youth institutions: it pervades the atmosphere, it is the subtle undercurrent of every conflict. The most satisfying way to overcome the feeling of being victimized by superior force is to find another victim: tyrannizing over another can momentarily give relief to the sense of personal impotence.

The physical and sexual intimidation of others serves, simultaneously, to satisfy two powerfully frustrated needs in one act. Virtually the first thing a new inmate learns is that he will have to choose between one of two roles: the "jockey" and the "punk". Few, very few are strong enough to stand above one or the other of these choices. (It is significant, in this context, that while many inmates will vehemently deny their own personal involvement in homosexual activities, most will insist that practically every one else was involved.)

The need for outlets to the healthy aggressiveness of young people in confinement is exacerbated by the rigor of that confinement. Extortion, bullying, blackmailing are common outlets. And there is another condition which aggravates the plight of the victims: the universal loathing of the "squealer". The only tolerable response to an insult or attack by an inmate is to respond in kind. Turning to the institutional authorities for assistance can be disastrous: the "rat" is

fair game for anyone. Thus, the inmate society not only has an available pool of victims of crime, but an almost foolproof immunity all but the most direct discovery. (Sophisticated correctional officers, even after they have stopped a fight, know that it is dangerous to the victim to punish only the aggressor. Typically, both are punished, in order to protect the victim from further reprisals.)

We come now to the ultimate paradox of the institution: the answer to the question, "Who really controls the lives of the inmates?" To deal with that question, one need only compare the sanctions available to those in the inmate and those in the official world:

<i>Inmates:</i>	<i>Officials</i>
Abasement -----	Transfer.
Ostracism -----	Loss of privileges.
Extortion -----	Loss of "good time".
Physical punishment -----	Punitive segregation.
Execution -----	Deferment of release.
	New criminal charges.

### 3. INSTITUTIONAL STAFF AND PROGRAMS

*Objectives.*—Whatever disputes there are about ways and means, there is general agreement about the ultimate mission of correctional programs. The goal is to enable offenders to learn how to succeed in life without doing harm to themselves and others. It follows that the one inarguable criterion of the success of a correctional program is the behavior of the offender after his release. Since, after his release, he will be required to do his own planning, it would seem to follow that the ideal design for institutional living would be that which most accurately anticipates his problems and opportunities in the community. If he values self-determination as much as the rest of us do, he will seek to follow ways of his own making. And, like the rest of us who demand the rights of free navigation, he will encounter the hazards of free navigation.

Thus, in the last analysis, a correctional policy stands or falls not on what the correctional officials do but on what the released offenders will do. But it is precisely at this point that the paradoxes emerge.

For, in the usual situation, the client has as little to say about the program designed to help him as he had about the conditions which compelled or immobilized him in the first place. The typical helping situation has little or no place for his initiative, his creativity and, all too often, little recognition for his dignity as an autonomous individual. What services he is afforded must be paid for by the same passivity, the same sacrifice of self-determination he is accused of demonstrating in the face of his original troubles. Just as he is seen as yielding to the force of the circumstances which oppressed him, now he must yield to the force of the institutional arrangements designed to "assist" him. In addition to the psychological damage which an acceptance of this definition may do him, it seems difficult to understand how the same process which led to his immobilization can result in his recovery of mobility.

Much of what has been said about the clients of conventional service organizations applies with equal effect to the lower and middle echelons of its own workers. How free are those at or near the ground level of contact with the client to exert their own creativity? To what extent is the agency responsive to their perceptions of its operations? To what extent can they function as exemplary models of self-determination? Or are they, more typically, clients-at-one-remove from the client himself: more or less "programmed" and almost as passive as he is? At some risk of overemphasis of the extreme case, one has the impression of robots operating on robots—for the purpose of helping them overcome the status . . . of robots.

The democratic model of human relations presupposed a reciprocity of influence: it assumes that those who are affected by the acts and intentions of others can, in turn, affect them. The model is not one of unidirectional control but rather of a two-way negotiation. The citizens of a democracy are not called clients: they are called *constituents*. It may well be that one of the more fundamental difficulties presented by our social agencies is that those they serve are viewed as clients in the first place, rather than as constituents. (The word "client" itself has a foreboding historical connotation: it refers to the dependents of Roman patricians. During the decline of Rome the clients were bound to the land—and became serfs.)

In another presentation the writer sought to differentiate various roles of the helping agent, and to relate these to anticipatable consequences for those being helped:

ALTERNATIVE MODELS OF THE SOCIAL EXPERT

	Expert as operator	Expert as prescriber	Expert as colearner
Action of expert.....	Does to the client what the client cannot do.	Does for the client what the client cannot do for himself.	Does with the client what the client can ultimately do for himself.
Role of client.....	Passivity, client as object.....	Dependency, client as dependent.	Reciprocity, client as colleague.
Relational aspects.....	Dominance-submission.....	Superiority-inferiority.....	Equality Role exchange.
Typical statuses.....	Surgeon, body of patient.....	Leader-follower, parent-child.	Friends, brothers.
Expert's skills are.....	Magical, uncommunicable; forbidden to client.	Translated only into directives.	Fully shared.

We are dealing at bottom with the fateful consequences of three different attitudes toward the Other. We can do things TO him, in which case he becomes an Object. We can do things FOR him, in which case he becomes a Dependent. We can do things WITH him, in which case he has the opportunity to become an Agent. Whatever the content or intent of the action, it is the relationship between the actors that is crucial—and that defines the difference between domination, dependency and self-realization in the political, economic and social realms, as well as in the interpersonal.\*

In the typical correctional institution staff is usually divided in terms of two major missions: *treatment* and *custody*, with ultimate authority resting in the chief custodian, the Warden or Superintendent. And, whatever the official titles of the personnel, their images in the eyes of those who live and work there, reflect the different kinds of authority exercised. In the institution the "real men" are the men of power—those who can exert force. In the official system, the "Man" is the person who carries the keys and has access to the weapons. In the inmate world, it is the prisoner who is willing to use the knife. In both worlds, it is the person who can act forcefully who represents the male principle.

In contrast to the custodian who carries the keys, and who *acts*, the institutional therapist carries a notebook, and *talks*. He advises, he comforts, he may even threaten—but the "real action" comes from the custodians and the inmates.

In a human situation in which demonstrable power is the highest value, a person who can act only through the agency of others is essentially a deviant. In the inmate world he represents the female principle, epitomized by the passive homosexual, the "punk." Something analogous to this unenviable status is occupied by the treatment man in the official system. Treatment personnel are the little old ladies of any institution. Like the Chaplain, they are useful to those who carry the keys and the weapons to remind them that institutional management is not wholly a matter of brute coercion. The warden requires his counselors, his social workers and his teachers to clothe his authority with an aura of reason, sweet reasonableness and humanity.

But no one is under any misapprehension about where the real power and the real status is located. An inmate once put it with disarming candor: "You guys (treatment men) are their faggots, punks and queers. That's why nobody really talks to you. We use you." The institutional therapist is typically viewed as a professional snitch, a sob-sister—a soft glove over the horny male hand of custody. A buffer between the two armed camps, he is typically exploited by both—and derogated by each.\*\*

\*It is at least an arguable proposition that many of our social problems are exacerbated by the decrease of situations enabling reciprocity on a give-and-get equal basis with our fellow men. It is also arguable that the role of patient, in its passivity, dependency and lack of mutuality, contributes to the perpetuation of the illness. Studies of institutional adjustment, whether in the prison, the hospital or the clinic suggest that situations which limit the possibilities of reciprocity between the cared-for and the caring contribute powerfully to the continuance of the need for care. *It may well be that the status of patient is half the disease.* ("The Private Citizen, the Social Expert and the Social Problem," by Richard Korn, in *MASS SOCIETY IN CRISIS* by Rosenberg, Gerver and Howton (Eds.) New York: Macmillan, 1964.)

\*\*Researchers have sought to identify which correctional employees have what kinds of impacts on inmates. On questionnaires containing such items as "Who do you really talk to?" "Who has helped you?" shop supervisors typically rank high or highest and treatment personnel lowest—significantly lower than the Custodians. (See Daniel Glaser, "The Effectiveness of a Prison and Parole System," Indianapolis: Bobbs-Merrill, 1964.)

## THE IMPACT OF INSTITUTIONAL PROGRAMS

To the extent that they can transcend the pressures of institutional living, the interests and activities of inmates are oriented toward release. They want to do whatever can help them toward the earliest possible parole. Much of their participation in programs is therefore based on their assessments of what will impress the Parole Board. If the Board is "hot" on therapy or on schooling, they will flock in large numbers to the counselors and teachers. If there is an influential "Bible-Back" on the Board they will try to make an impressive record of church attendance.

The most appropriate assessment of programs, however, must relate to the post-release utilization and impact of programs—and here the record, while not conclusive, is not reassuring. Among the successful (non-recidivist) releases from federal institutions studied by Daniel Glazer, only 17% reported employment on jobs for which they were trained in institutions. The findings for school attendance were actually negative: a greater percentage of those enrolled in institutional educational (as opposed to vocational) training failed on parole than did those who were not enrolled. (Glazer reports himself puzzled by this finding. An unsympathetic reviewer of his book—a former Director of Correctional Education—remarks that "a little more information about what the boys in the back rows were doing might have shed more light on the question." Institutional classrooms are often ideal places for making contacts and transacting business not related to academic concerns.)

In general, Glazer's assessment of the effect of institutional programs was not comforting. The post-institutional adjustment of released offenders appeared to depend much more on the offenders resources in the community (both before and after release) than on any activity during confinement.

## 4. RECOMMENDATIONS FOR ADMINISTRATIVE AND ORGANIZATIONAL CHANGES

Since I heartily endorse the recommendations of recent presidential commissions dealing with juvenile justice procedures, I will confine myself here to necessary changes in the organization and administration of juvenile corrections, and corrections in general.

The root problem seems to be presented by the model of organization itself. In order to give that model the fairest possible assessment, I raised the question, "Is the government engaged, at any other level, in any other kind of compulsory program designed or intended to prepare children to succeed in life?" The public school system comes instantly to mind. Whatever stigma attaches to the reformatory seems to be absent from the public school. Parents, for the most part, strive to keep their children out of the reformatory, at any age. But many, if not most parents seek to enter their children into public school as early as possible. And they expect those children to be changed—changed from illiterate, irresponsible and unskilled dependents into responsible, knowledgeable and self-sufficient young adults. Finally, they expect the government to assume the major and controlling role in this process. All of the foregoing permits us to take the public school situation as the most favorable test of any large-scale, state-operated program intending to prepare its clients to succeed in life.

In the June and July issues (1970) of the ATLANTIC, Charles Silberman published an advance version of his book "Crisis in the Classroom." I will now cite it at some length, with a minimum of commentary.

The most important characteristic that nearly all schools share is a preoccupation with order and control. And one of the most important controls is the clock. Things happen because it is time for them to occur. This means that a major part of the teacher's role is to serve as traffic manager and timekeeper, either deciding on a schedule himself or making sure that a schedule others have made is adhered to.

... Administrators tend to be even guiltier of this . . . adherence to routine for the sake of routine . . . Most schools are organized and run to facilitate order: the principal or superintendent is considered, and considers himself, a manager whose job is to keep the organization running as efficiently as possible. This preoccupation with efficiency, which is to say, with order and control, turns the teacher into a disciplinarian as well as a timekeeper and manager. In the interests of efficiency, moreover, discipline is defined in simple but rigid terms: the absence of noise and movement.

The result, of course, is that the classroom becomes a battleground, with students and teachers devoting an inordinate amount of energy to the search for

ways of outwitting each other. (Silberman next quotes from a National Education Association manual titled "Discipline in the Classroom"):

"... Plan the lesson. Be ready to use the first minute of class time. If you get Johnny right away, he has no time to cook up interesting ideas that do not fit into the class situation.

"Avoid standing with your back to the class for any length of time. If you do, you may invite disorderly conduct . . ."

In the straightforward language of the Manual, the image of the school-as-prison finally clothes itself in the appropriate rhetoric. "Johnny must be gotten right away"—lest he "cook something up." (Swift apprehension is the first rule of law enforcement.) "If you turn your back, they may become disorderly." (Rigorous surveillance is essential for crime prevention.)

#### *The military model of human organization*

The public school system represents merely one instance of a particular model of human organization in wide, if not universal, use in our society. Various called "hierarchical," "pyramidal," or simply "bureaucratic." It identifies a structure in which authority is exercised by superiors over subordinates by means of directives which must be obeyed "or else."

It is one of the perfections of this model of human organization that it tends to confirm its own predictions in action. The belief that people must be forced to do what they should do rarely fails to validate itself, once force is applied. Since most persons do, in fact, resent—and, where they feel they can, resist or subvert—compulsion, the threat of appearance of that resistance is always available as an argument for the necessity of compulsion. In his article on the school system Silberman spoke of an atmosphere of distrust and regimentation which envelops the teacher as well as the students. He writes:

"There is an atmosphere of meanness and distrust in which teachers work; they punch time clocks like clerks or factory workers and are rarely, if ever, consulted about things that concern them most: the content of the curriculum, the selection of textbooks and so forth.

This description suggests that, at the ground level of contact, those who are required to carry out the program of repression are almost as denigrated and regimented as those whom they oppress.

To the extent that this picture is generally accurate, it would go far toward making sense of a phenomenon which seems generally characteristic of human service organizations—a phenomenon we might characterize as a "flight from the client." Despite the fact that the rhetoric of all service agencies places the needs and the welfare of its clients above all other organizational priorities, there is a general tendency of most employees to remove themselves as far and as quickly from the client as possible. On closer examination the reasons seem clearer.

Any organization structured along hierarchical lines is essentially a custodial institution housing two classes of inmates: prisoners and trustees. The lowest level of trustees—those in direct, daily contact with the sentenced prisoners—are called "line-workers." The higher level of trustees are called supervisors or administrators. But all levels, except the highest within the organization, are regimented by those above them.

The line-worker chafes at his low status, but he has one compensation which can make his servility bearable. As he wears out the purgatorial time of service at the bottom, he can dream and work for the day when he will be less of slave and more of a master. He can look forward to the moment when he too has line-workers beneath him—and between him and the prisoners. And on each occasion of promotion, the number of these buffers increases, and the opportunity for the exercise of that precious, self-restoring power, authority, becomes greater. Eventually he may even be able to forget what he once was.

In trying to understand the dilemmas of large-scale organizations operating according to this model, outsiders are often at a loss. Their distance cuts them off from discovery of a secret which is a matter of open knowledge to every clerk, every stenographer and, probably, every client who has had the patience to try to understand why an organization presumably devoted to assisting him is constantly frustrating and embittering him.

A clear understanding of the problem should be available to anyone who has ever been subjected to manipulation by and authority of power which he, himself, could not influence. To have endured such an experience is to be in a position at least to grasp a basic social truth. Non-reciprocal human influence, whatever the objective, whatever the need, is, in itself, corrupting and brutalizing to those subjected to it or dependent upon it. It is itself an abomination, per-

haps the original abomination spoken of in the ancient theologies—and expressed in the warning that me who set themselves up as gods inevitably become demonic, and create little hells around them.

It was the deep understanding of this fact that inspired the philosopher-politicians who created our present framework of government—and it probably would be a cause of wonder for them to discover that the official agencies which have been created for the ostensible purpose of realizing their libertarian mandate are structured according to precisely that model which they originally overthrew.

Unlike us, they were well aware that neither benevolence, professionalism nor expertise were adequate to cope with the social and political diseases of unreciprocated human influence. They understood that any instrument or organ of authority could be protected from venality and excess only by means of countervailing influence by those who could be affected by it. They understood that rights are empty promises in the absence of remedies against their abuse—and they also knew that these remedies must never be permitted to fall into the hands of those in a position to withhold them. And they were well acquainted with the consequences of disregarding these principles.

They knew, on their own skins, that unchecked police power leads to the destruction of the civil power—that any power not directly regulated by those directly subject to it leads to a kind of tyranny. Had they been able to anticipate that the state would one day find itself involved in every sphere of human activity they might very well have thought of ways to insure that a fully reciprocal model of organization would prevail in these spheres as well.

And quite probably, being sensitive to such issues, they would have figured out that the present-day "relationship" between the agency functionary and his client is essentially identical to their former relations, as colonists, with the agents of the Crown. The term "internal colonialism"—coined by a modern sociologist—as applicable to most of the human service agencies and "anti-poverty" programs—would not have startled them. Though the rhetoric has changed, and with it, the titles, they would have recognized the face and manner of impost collector in the face and manner of the welfare worker, the social worker—the human service functionary of any kind.

I have dwelt with this issue at such length because it seems to me absolutely fundamental. It is not to be solved by in-service training, by seminars, by sensitivity groups—the latest rage among progressive administrators. It is the worm inside the core of the apple—and no amount of polishing and pairing will deal with it. It is the principle, the ideology itself which lies at the core of the dilemma; it is that ideology and not merely its outward forms which must be changed.

#### 5. NEW MODELS OF HUMAN INTERVENTION IN CORRECTIONS

In two appended papers I have referred to examples of some basically new approaches to the challenge of juvenile correction. Rather than summarize these, it would seem more appropriate to cite the fundamental operational principles which govern them. I attempted to outline these in a paper advocating the employment of successful ex-offenders in essentially new kinds of intervention programs.

In summary, if the presently prevailing theoretical, ideological, organizational, and operational foundations of conventional corrections are unsound, it would seem to follow that many of the present difficulties in corrections stem not so much from deficiencies in the numbers of personnel as from deficiencies in what the personnel are doing. If this is the case, then it is not merely the careerists who must be new or changed, but the careers—as well. I should like briefly to suggest what some of these changes might be.

*Ideological.*—A transformation of the governing ethic from an ethic of revenge-through-disablement and mutual alienation into an ethic of mutual reconciliation based upon mutual restitution, including some system of compensation to the victims of crime. This ideological shift would be based on the moral recognition that guilt—and hence accountability—is social as well as individual, universal as well as isolable.

*Theoretical.*—Recognition of the fact that crime is a social as well as an individual product, and that necessary changes in the individual can be neither substitutes for nor alternatives to necessary remedial social changes.

*Organizational.*—Recognition of the fact that programs aimed at the promotion of self-sufficiency through acceptable exertion of individual initiatives are incompatible with control through large-scale organizational structures whose

sheer size and complexity must necessarily sacrifice autonomy at ground levels to system-needs of coordination. In such structures the "iron law or oligarchy" must be enforced as a condition of the system's survival. Though it is theoretically possible to locate and in some sense to individually "equalize" accountability, it has not been found possible to tolerate similar forms and latitudes of personal initiative. In this context a useful distinction might differentiate power-as-control from power-as-facilitation.

*Operational.*—Recognition that the kinds of techniques appropriate for the manipulation of materials and events in the physical world by the total control of external forces and internal situations may be inappropriate in programs whose goals include creativity and self-liberation. It would seem to follow from this that the reduction of the skills of human influence to a standardized technology which can be routinized and impersonally applies is inherently inimical to the interpersonal conditions of satisfying human relations. A person who makes it a profession to vend love-making skills impersonally to strangers is recognizably engaging in a mutual collusion known as prostitution. Persons who are engaged in the sale and purchase of friendship may be said to be involved in an equally voluntary and mutually rewarding collusion. But when the transaction is not voluntary but obligatory, at least on one side, and where the rewards are not mutually apparent, the collusion reaches a level of inauthenticity and bad faith which can hardly avoid damaging the personal integrity of all concerned.

Summarizing the implications of this citation of suggested changes in correctional careers, it would appear that the work of the new careerist would, or should, be:

1. Community-based and internally autonomous rather than institution-based and bureaucratically controlled.
2. Informal and personal rather than formal and professional.
3. Evocative, enabling, and creative rather than repressive, inhibitory, corrective, or "therapeutic".
4. Mutually contractual rather than unilaterally obligatory.

One of the outstanding recommendations for the indigenous new careerist is that his typical life style already incorporates many of these attributes—attributes which have not been "trained out" of him by a process which "trains in" a professional incapacitation for dealing with others on mutually intimate terms.

Ironically, few, if any, of these suggested "innovations" are either radical or new. A program which in effect envisages an informally organized, unofficial system of correctional alternatives, paralleling but rarely intersecting the official system, has in fact operated for many years. At this moment it is none other than the program now employed by the well-to-do on behalf of their deviant members. The civil settlement of wrongs which could be prosecuted as crimes has long employed restitution to the victim as an alternative to imprisonment of the offender.

A wholly private and unofficial system of correctional treatment has long been available to the violent scions of the socially fortunate. In every middle-class and upper-class community there are psychiatrists specializing in the treatment of the errant youth of the well-heeled, frequently with the full approval of the police and judicial authorities. Should private out-patient treatment prove inadequate, there is a nationwide network of relatively exclusive residential facilities outside the home community. Every Sunday the New York Times publishes two pages of detailed advertisements by private boarding schools catering to the needs of "exceptional youth" who are "unreachable" by means of "conventional educational methods."

It would be wrong-headed and disingenuous to cite these facts as instances of dishonest official connivance with wealth or privilege. If anything, they reflect an honest recognition that the private, unofficial treatment of offenders is vastly superior to most available public programs. Keeping children out of reformatories is a widely approved and worthy objective, irrespective of whether the children are rich or poor. The scandal lies in the fact that such alternatives are denied to the poor, through nothing more deliberate than the incidental fact of their inferior economic position. The inequity of this situation provides one of the strongest moral grounds for overcoming it. Once it is recognized that the "new" approaches advocated for the correctional treatment of all are essentially similar to those already serving the well-to-do, the ethical argument for making these services universally available becomes virtually unassailable.

## 6. THE PROBLEM OF IMPLEMENTATION

Given a promising new direction, the question arises: how can we go there from where we are now? In corrections the question is a particularly urgent and perplexing one. At its highest and most influential levels, corrections is now completely professionalized. It is in every sense, an "establishment" with high prestige, commanding the confidence of the government and the public.

Nevertheless—in spite of this or, as I personally believe *because* of it—fundamental change-from-within has been impossible to accomplish. There appear to me to be three basic reasons for this:

1. The exclusion of the private citizen from knowledgeable influence and participation.
2. The exclusion of the correctional consumer—the offender—from responsible participation.
3. The attribution of exclusive expertise on the part of the correctional establishment, which has a virtual monopoly control over correctional resources.

In recent years the public has spent millions in a search for alternatives to the prison. Many experiments have been funded; a few have been strikingly successful. But none have been implemented on any large scale, and none have brought about a basic change. An expanding correctional establishment continues to call for funds to develop alternatives. The citizenry might well ask to know why the already proven alternatives have not been implemented.

What is the typical fate of a successful innovation in correction? And what is the typical fate of the innovator? Like the modern Church, the modern correctional establishment no longer burns its heretics. Its methods are more subtle and businesslike. Instead of neutralizing them by martyring them, it subverts their efforts by rewarding or diverting them. Modern bureaucracy has discovered that its bureaucratic Yes can be infinitely more effective than its No.

To cite some cases in point: The founder of one of the most promising innovations in recent years—a half-way house program for serious delinquents who might otherwise be incarcerated—was rewarded, first, by promotion to the wardenship of the state's archaic prison and, finally, by appointment to the post of commissioner of all of the institutions of the state. He is now fully occupied in administering several of the programs his innovation might have replaced. Although his reward reflects a well-merited recognition of his earlier achievement, his present preoccupation with administering traditional prisons and mental hospitals makes about as much sense as rewarding the developer of an anti-smog device by putting him in charge of all the old-fashioned blast furnaces in the area. During his tenure only a handful of new half-way houses have been built. But a massive expansion of the state's reformatory system is now under way.

A few years ago another outstanding innovator launches a program which trained and employed adult felons as correctional therapists. A grand total of 18 men went through the whole program; two years later, 16 were still usefully employed in the community and a few had made correction their career. The creator of this program is no longer employed in his state's correctional service. He is now hard at work developing another promising innovation under other auspices. After permitting him to demonstrate the success of his "new careers" program, the state abandoned it. This case illustrates another technique of neutralization. The innovator is eased from the center to the periphery of influence and given a harmless new toy to occupy himself with.

The basic reason these projects were abandoned is that they offered a genuine alternative to present practices: it was their success, not their failure, that doomed them. In its primordial wisdom the establishment sensed that an implementation of the new ideas would require a root and branch transformation of penal policy. A program of social reconciliation through restitution and service was threatening to replace the old ideology of social alienation through segregation and suffering. In neutralizing the new idea the establishment confirmed the old observation: "There is nothing more embarrassing to the Bishop than a saint in the neighborhood."

We began this inquiry with the question, why is fundamental innovation so difficult to achieve in correction? Why is an establishment committed to the reformation of others unable to reform itself?

In seeking to account for this we cited three general causes: the invalid attribution of exclusive expertise, the exclusion of the ordinary citizens' indispensable contribution, and the exclusion of the offender's meaningful participation in his own rehabilitation. The end result has been that those most dependent on one another for the success of each have been isolated or alienated from each other.

The same causes which prevent correction from achieving its mission prevent it from reforming itself.

Like the ancient kingdom of China which has always absorbed its conquerors, correction has always neutralized the individual efforts of those seeking to change it. The thought stimulates sober reflection about the doctrine of gradualism. The force required to move a massive rock from a roadway cannot be divided. Each of ten thousand men singly pitting his strength against it day after day will not be able to move it. The huge inertia of the obstacle, which might yield to the concentrated strength of ten, will absorb the isolated strengths of ten thousand. The roadblock will remain, to be pointed out by succeeding generations of the defeated, as a monument to the futility of human effort.

In the face of the crisis created by a correctional apparatus which can neither direct nor correct itself, it seems essential that the other interest groups possessing latent but unexercised influence be dynamically re-introduced into the universe. These groups would include, above all, the citizenry, the responsible members of the communications media, and the offenders. In this reform-and-rescue operation, the legislature and the judiciary have indispensable roles to play as well. Finally, once the executive has liberated himself from the legend that any group of experts can do the job themselves—and once the experts have freed each other of the same notion—each can cooperate with the other in an atmosphere in which honesty has been restored and mistakes, being acknowledged, can be corrected.

To accomplish these objectives, a massive and intensive program of re-education is indispensable for all concerned. Experience with traditionally abstract techniques of lecture-and-book teaching suggests that this re-education must have considerably more impact than any used heretofore. The writer and his associates have recently participated in an experiment in which more intensive methods of re-education were tested on a participating audience containing all of the actors in the correctional drama.

This eight-day workshop experiment brought convicts, judges, citizens, policemen, prosecutors, probation officers, professionals, and correctional officers together for a sustained series of encounters in which they could test and discard their stereotypes, exchange their roles, and, above all, confirm and acknowledge their mutual sincerity and vastly intensify their motivation. At this juncture I will merely attempt to extract some operational principles as guides for future practice in such sessions.

1. The re-education process must maximize the personal internalization of feedback by bringing all participants into a no-holds-barred encounter which continues until mutual misconceptions are worked through and good faith is demonstrated by the frank exposure and genuine resolution of differences.

2. The program must involve all those in a position either to initiate change or to impede it and those who could be influential in promoting change but are currently indifferent.

3. The participants should emerge with an articulated plan for concerted action, after which they should move toward concrete preparations for implementing their plan. Ideally, the same persons who participated in the planning should be associated in attempting to carry it through.

4. The program should be implemented in a situation in which change can be independently initiated and sustained. The participants should operate in a community or region which is large enough to sustain their efforts and yet small enough for their innovations to pervade the implicated universe as a whole.

5. The retroflexive model of human influence should be employed. In this model, the participants develop their programs in concert both with those who would administer them and those who would be served by them. People listen most closely to what they themselves say; men are most committed to what they themselves had a hand in making.

6. Although the initial "faculty members" (resource persons) must be drawn from sources other than the participants, future workshop programs should recruit their leaders from former participants.

A variety of procedures is available for the recruitment and circulation of the participants through the various phases of the total program. Selected offenders might be offered fellowships to participate as trainees (workshop members) and later they would work with other participants (judges, probation officers, etc.) in an action program designed by all. Ultimately they would return as members of the faculty or members of the selection committee recruiting for new workshops.

## 7. PUBLIC AND GOVERNMENTAL SUPPORT FOR REFORM

The crucial decision is between reform and replacement.

It is one of the ironies of correctional history that its most pernicious instrument, the mass institution, has repeatedly been reprieved by the well-meaning intervention of penal reformers.

Involuntary penal incarceration is a social cancer. It is not only an evil; it is an unnecessary evil.

Until involuntary institutionalization is replaced by alternatives already tested and already available (albeit on a timidly small scale), public and governmental agencies ought to restrict their involvement to the rigorous maintenance of standards of inmate welfare and humane treatment. At present, the level of physical, medical and psychological care is, with few known exceptions, disgracefully below even the minimal standards cited by the National Council on Crime and Delinquency. This is particularly true of jails, lock-ups, youth detention facilities and county institutions generally. State-level institutions are superior only by invidious comparison, for the most part.

The expenditure of money on new capital construction, or the patching up of decrepit facilities is wasteful and diversionary. No amount of physical improvement can alter the essential character of a penal institution: enforced isolation of offenders from the community. A prison is any place which one cannot leave, and within which one cannot materially affect the conditions of his own existence. Whether the place itself is a hovel or a hotel is (except for considerations of physical health) essentially irrelevant.

## 8. RECOMMENDATIONS FOR FEDERAL LEGISLATION

Over 98% of all persons now incarcerated—and virtually 100% of all juveniles now in confinement will eventually be released.

With respect to the question, "Of those presently confined, what percentage require confinement for considerations of their own or the public safety?" I have never encountered an estimate higher than 25%—even from prison authorities themselves. An average of the estimates would be closer to 12%. And the majority of these were seen as requiring care in mental hospitals.

The Federal government should begin, on a large-scale, to sponsor development of community alternatives to the penal institution, for all ages and at all levels of the correctional process. These institutions should include not only half-way houses of the traditional model, but Community Service Centers and Crisis-Intervention Centers manned, in part, by talented and well-motivated ex-offenders. The offender should be given an opportunity to serve his community, while being supported by it.

In the interim, the Federal government should take the lead in sponsoring the training and preparation of those with leadership potential in (and from) high delinquency target areas (including those persons now in custody) for participation in crime-control, crime prevention and treatment programs within their communities.

The rationale and technology for such programs is well established and presently available.

A word of caution. The development of these alternatives, designed to divert offenders from institutions by means of community alternatives, should not be controlled by those presently in command of conventional correctional systems. Decisive participation by the private sector is indispensable. True alternatives are competing alternatives: the correctional establishment is poorly prepared, both by tradition and ideology, to nurture its own replacement. The surest way to defeat such a program would be to place it under the control of those who have been unable either to acknowledge or to correct their own fundamental errors.

On the other hand, the most powerful incentive for improvement of traditional correctional systems and institutions would be created by a situation of true competition. With the reduced institutional populations made possible by the use of the community facilities, the traditional correctional establishment will have an opportunity, under the most favorable conditions, to test its principles and procedures experimentally.

The opposition of those presently in charge can be counted upon. That opposition must be resisted and overcome. Traditional correction has been a massive failure. A history of failure confers no credential for determining the future. A discredited past can only reproduce itself: it cannot create something new.

Respectfully submitted.

RICHARD R. KORN.\*

\*I must acknowledge the support and guidance of two colleagues who have been associated with me for a number of years in attempts to test new ways of implementing innovation in this field: Dr. David Fogel, newly appointed Commissioner of Corrections in Minnesota, and Mr. Douglas Rigg, formerly Warden of the Minnesota State Prison. Our efforts in this direction would not have been possible without the strong support of the National College of State Trial Judges, lead by Dean Laurence Hyde, and the generous support of the Federal government.

## APPENDIXES

### APPENDIX 1.—SEXUAL ASSAULTS IN THE PHILADELPHIA PRISON SYSTEM AND SHERIFF'S VANS<sup>1</sup>

(By Alan J. Davis)<sup>2</sup>

#### A NOTE ON THIS REPORT

This article is based on the results of a 3-month investigation conducted jointly by the Philadelphia District Attorney's office and the Police Department, under the supervision of the author. It culminated in a 103-page report submitted to Judge Alexander F. Barbieri and the public on Sept. 11, 1968. More than half of the report contains detailed recommendations for controlling sexual assaults and for the general reform of the Philadelphia prison system. Many of these recommendations are now being implemented by the city administration. This article relates only to those portions of the report analyzing sexual assaults and comparing the physical and psychological characteristics of the victims and aggressors.

In the summer of 1968, Joseph F. Mitchell, a slightly built 19-year-old, was brought to trial before Alexander F. Barbieri, judge of the Court of Common Pleas No. 8 in Philadelphia County. Mitchell's lawyer, Joseph E. Alessandrone, told Judge Barbieri that his client, while being transported in a sheriff's van, had been repeatedly raped by a gang of criminals. A few weeks later, Alessandrone informed the judge that George DiAngelo, a slender 21-year-old whom Barbieri had committed to the Philadelphia Detention Center merely for presentence evaluation, had been sexually assaulted within minutes of his admission.

Judge Barbieri thereupon appointed me, then Chief Assistant District Attorney of Philadelphia, to investigate these allegations. Police Commissioner Frank L. Rizzo started a parallel investigation; then these two investigations were merged.

In the Philadelphia prison system there are three facilities: the Detention Center, Holmesburg Prison, and the House of Correction. The period we chose to study was from June 1966 to July 31, 1968—a little over two years. Out of the 60,000 inmates who passed through the prison system in those 26 months, we interviewed 3,304—virtually all of them inmates during the period of our inves-

<sup>1</sup> Trans-Action, December 1968.

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tigation. We also interviewed 561 out of the 570 custodial employees. We took 130 written statements from those who had given us important information, and gave polygraph ("lie-detector") examinations to 45 of them. We asked 26 employees to take polygraph tests: 25 refused, and the one employee who took the test "passed." We asked 48 inmates: seven refused, and of the 41 remaining, 10 failed the test and 31 passed. (We ignored the statements of those prisoners and employees who either would not take the test or who failed it.) In addition, we interviewed several people whom we believed had special information, and we reviewed all of the reports dealing with homosexuality issued by the prison system since June 1966. Finally, we made a number of detailed personal inspections of the prison facilities and of the sheriff's vans.

In brief, we found that sexual assaults in the Philadelphia prison system are epidemic. As Superintendent Henrick and three of the wardens admitted, virtually every slightly-built young man committed by the courts is sexually approached within a day or two after his admission to prison. Many of these young men are repeatedly raped by gangs of inmates. Others, because of the threat of gang rape, seek protection by entering into a homosexual relationship with an individual tormentor. Only the tougher and more hardened young men, and those few so obviously frail that they are immediately locked up for their own protection, escape homosexual rape.

After a young man has been raped, he is marked as a sexual victim for the duration of his confinement. This mark follows him from institution to institution. Many of these young men return to their communities ashamed, and full of hatred.

This, then, is the sexual system that exists in the Philadelphia prisons. It is a system that imposes a punishment that is not, and could not be, included in the sentence of the court. Indeed, it is a system under which the least hardened criminals, and many men later found to be innocent, suffer the most.

A few typical examples of such sexual assaults may convey the enormity of the problem. In an early draft of our report, an attempt was made to couch this illustrative material in sociological, medical, and legal terminology less offensive than the raw, ugly language used by the witness and victims. This approach was abandoned. The incidents are raw and ugly. Any attempt to prettify them would be hypocrisy.

A witness describes the ordeal of William McNichol, 24 years old and mentally disturbed:

"That was June 11th, I was assigned to E Dorm. Right after the light went out I saw this colored male, Cheyenne—I think his last name is Boone. He went over and was talking to this kid and slapped him in the face with a belt. He was saying come on back with us and the kid kept saying I don't want to. After being slapped with the belt he walked back with Cheyenne and another colored fellow named Horse. They were walking him back into E Dorm. They were telling him to put his hand down and stop crying so the guard will not know what is going on. I looked up a couple of times. They had the kid on the floor. About 12 fellows took turns with him. This went on for about two hours.

"After this he came back to his bed and he was crying and he stated that 'They all took turns on me.' He laid there for about 20 minutes and Cheyenne came over to the kid's bed and pulled his pants down and got on top of him and raped him again. When he got done Horse did it again and then about four or five others got on him. While one of the guys was on him, raping him, Horse came over and said, 'Open your mouth and suck on this and don't bite it.' He then put his penis in his mouth and made him suck on it. The kid was hollering that he was gagging and Horse stated, 'you better not bite it or I will kick your teeth out.'

"While they had this kid they also had a kid named William in another section in E Dorm. He had his pants off and he was bent over and they were taking turns on him. This was Horse, Cheyenne, and about seven other colored fellows. Two of the seven were brothers.

"Horse came back and stated, 'Boy, I got two virgins in a night. Maybe I should make it three.' At this time he was standing over me and stated, 'What are you looking at?' and he said 'We'll save him for tomorrow night.'"

*Julius Brown*, 18 years old: "Brown stated that he has been in Holmesburg since March 29, 1968, and that about a week and a half ago, on Thursday, he was in I block; his cell was number 926. On this date, in the morning after breakfast, James Williams called him into his cell; he went into William's cell. Donald Reese was in there also. Further that he had owed Williams four cartons of cigarettes. Williams said to him that he would have to give the cigarettes back

right now or he would have to give them something else. He [Brown] then started to walk out of the cell and Williams pushed him down. Williams picked up the window pole, Reese picked up a bench and stood blocking the door. Reese told him that if he goes to the guard they are going to get him anyway; there were other men outside the cell.

"Further that he walked out of the cell, they were all around him and walked to cell 971, and they pushed him inside. He went over and sat on the toilet seat. Twin [Roger Jones] came into the cell, they made him lay down on the floor, and Twin pulled his [Brown's] pants down and made him lay face down. Twin pushed his [Brown's] legs apart and Twin put his penis into his [Brown's] rectum. He was on him until he discharged. When he got through, Brown saw that he was bleeding from the rectum. Then Twin, William, Reese, and McDuffy told him that if he went to the guard their boys would get him to D block, and he was scared then to tell the guard. Further that he did cry out when Twin did this to him, but the guard wouldn't be able to hear him because the block is long.

"Brown went on to say that the next day after chow [breakfast] James Williams, McDuffy, Ike (Isaiah Franklin), and Lieutenant got him in cell 972 [Roger Jones's cell]. They told him that everything is cool now as long as he doesn't tell. Further that he had never been in jail before and he was too scared to tell anybody. Then four of them did it to him—they put their penises into his rectum, James first, Reese second, Lieutenant third, McDuffy fourth. Twin did not bother him that time. That after they did this he was bleeding and got sick.

"That night, Roach [Thomas Roach] came into his cell and changed with his partner. Roach told him that he would have to do it. When the guard came to check the cells, Roach turned over so he wouldn't be recognized. After the guard counted and left, Roach got on top of him, put his penis into his [Brown's] rectum, and discharged."

#### NINETEEN-YEAR-OLD IS BEATEN

*Charles Williams*, 19 years old: "On Tuesday morning, the first week of June at about 9:30 A.M., I was in my cell 412 on D block and I had started to clean up. A tall, heavy-set fella came into the cell and asked for a mirror and shaving brush and a comb, and that my cell partner said he could borrow.

"He then said that he heard something about me concerning homosexual acts. I told him what he had heard was not true. He then started to threaten me and if I didn't submit to him. Then I hit him with my fist in his face before he could hit me. Then about three more men came into the cell, and they started to beat me up, too. I fought back the best I could and then I fell on the floor and I got kicked in the ribs. Three guys were holding me while the other one tore my pants off; I continued to fight until one of the guys knocked me out. One of the guys was holding me on the floor and had my arm pinned to the floor. And about seven or eight guys came into the cell and they took turns sticking their penis up my ass. When they finished they left my cell, and I was still laying on the floor."

*Clarence Garlick*, 26 years old: "Back in April this year, about 10:30 A.M. I was in my cell 455 on block D when Joe Lovett came into my cell. I was laying on my bed. When he came in I jumped up. He told me to get greased up. I told him I wasn't going to do nothing. He told me, 'You're going to do something.' He started punching me. I had backed up into a corner of the cell. He seen some mineral-oil grease I had on the table and he reached over and handed it to me saying, 'Put this on.' I put some on and layed down on the bed. He took out his penis and got on top of me. After he did what he wanted to do he got up and got some toilet paper and wiped himself off and went out of the cell."

"This is the second incident. He came to me on July 18, 1968, in the morning about 10 o'clock. I was standing up in the doorway of my cell, 455. He told me to 'Get it fixed.' I told him I wasn't going to do nothing, that today was my birthday. He walked on away."

"The next day, on the 19th, he came to me again. I was in my cell, this was about the same time. He stated, 'Today isn't your birthday, you're going to do something.' I told him I wasn't going to do anything. He started punching me again. I told him I was going to call the guard. He stated, 'Go ahead and call,

you'll only call him one time and I'll knock you out.' He got the grease from off the table and handed it to me, told me to put some on, which I did. I laid down on the bed, he took out his penis and got on top. A friend he walks with, Kincaid, was standing out by the door, he was laughing. Joe got up after he got through, got toilet paper and wiped himself off. He then walked out of the cell."

During the 26-month period, we found, there had been 156 sexual assaults that could be documented and substantiated—through institutional records, polygraph examinations, or other corroboration. Seven of the assaults took place in the sheriff's vans, 149 in the prisons. Of the sexual assaults, 82 consisted of buggery; 19 of fellatio; and 55 of attempts and coercive solicitations to commit sexual acts. There were assaults on at least 97 different victims by at least 176 different aggressors. With unidentified victims and aggressors, there were 109 different victims and 276 different aggressors.

For various reasons, these figures represent only the top of the iceberg.

Our investigators, as mentioned, interviewed only a twentieth of the inmates who passed through the prison system. We discovered 94 assaults—excluding those reported in institutional records. This suggests that if all 60,000 inmates had been interviewed, 20 times 94—or 1880—additional assaults would have come to light.

Almost all of the victims still in prison were so terrified of retaliation by other prisoners that they were very reluctant to cooperate with us.

Many guards discouraged complaints by indicating that they did not want to be bothered. One victim screamed for over an hour while he was being gang-raped in his cell; the block guard ignored the screams and laughed at the victim when the rape was over. The inmates who reported this passed a polygraph examination. The guard who had been named refused to take the test.

Then too, some guards put pressure on victims not to complain—such complaints, after all, would indicate that the guards were failing in their duty. We found many cases where victims, after filing complaints, had "voluntarily" refused to prosecute, and a number of them told us that guards urged them to rely on prison discipline rather than to bring the facts out into the open. Very often, these guards asked the victim if he wanted his parents and friends to find out about his humiliation.

Without prompting from the prison guards, many victims and their families wanted to avoid the shame and dishonor they believed would follow such a complaint.

Inmates have little faith in the ability of a guard to protect them from retaliation should they complain. Their fears are justified by the lack of supervision by guards, and the inadequate facilities to provide security for complainants.

Inmates who complain are themselves punished by the prison system. It is usual procedure to place a victim of a sexual assault on "lock-in feed-in," ostensibly for his own protection. This means that after a complaint is made, and especially if it is pressed, the complainant is locked in his cell all day, fed in his cell, and not permitted recreation, television, or exercise until it is determined that he is safe from retaliation. Many victims consider this "solitary confinement" worse than a homosexual relationship with one aggressor.

Sometimes very little comes of a complaint. Some complaints are just not acted upon: action, when taken, usually consists of putting the aggressor in the "hole" for 30 days or less. Meanwhile, the victim is also usually locked in, and looks forward—when released—to terror from the aggressor's friends, and from the aggressor himself when he is let out of the "hole." Finally, many of the victims themselves distrust and are hostile to constituted authority, and could not bring themselves to cooperate by filing a complaint.

Taking all of these facts into consideration, we conservatively estimate that the true number of assaults in the 26-month period was about 2000. Indeed, one guard put the number at 250 a year in the Detention Center alone.

Of the estimated 2000 assaults that occurred, 156 of which were documented, the inmates reported only 96 to prison authorities. Of these 96, only 64 were mentioned in the prison records. Of these 64, only 40 resulted in internal discipline against the aggressors; and only 26 incidents were reported to the police for prosecution.

#### CONSENSUAL HOMOSEXUALITY EXCLUDED

Now, in our study of sexual assaults we excluded any that were cases of truly "consensual" homosexuality. Nonetheless, it was hard to separate consensual

homosexuality from rape, since many continuing and isolated homosexual liaisons originated from a gang rape, or from the ever-present threat of gang rape. Similarly, many individual homosexual acts were possible only because of the fear-charged atmosphere. Thus, a threat of rape, expressed or implied, would prompt an already fearful young man to submit. Prison officials are too quick to label such activities "consensual."

At the opposite end of the spectrum from innocent victims of homosexual rape are the male prostitutes. These homosexuals—known as "sissys," "freaks," or "girls"—were supposed to be segregated from the general prison population, yet they were readily available. We learned of repeated instances where homosexual "security" cells were left unguarded by a staff that was too small or too indifferent, or who turned their backs so that certain favored inmates could have sexual relations.

Many of these male prostitutes were created not only by force and the threat of force, but by bribery. The fact is that a person with economic advantage in prison often uses it to gain sexual advantage. Typically, an experienced inmate will give cigarettes, candy, sedatives, stainless-steel blades, or extra food pilfered from the kitchen to an inexperienced inmate, and after a few days the veteran will demand sexual repayment. It is also typical for a veteran to entice a young man into gambling, have him roll up large debts, and then tell the youth to "pay or fuck." An initial sexual act stamps the victim as a "punk boy," and he is pressed into prostitution for the remainder of his imprisonment.

Despite the important role that economic advantage plays in the creation of homosexuality, it is virtually impossible to obliterate economic distinctions between inmates. Even a small accumulation of money or luxuries gives an inmate substantial economic advantage: In the prison economy, a shopworker earns 15 to 25 cents a day; half of the inmates have no prison jobs at all, and most inmates get little or no material help from friends or relatives outside the prison.

It is the duty of prison officials to reduce the economic power that any inmate might exercise over another inmate. Yet we discovered one area in which Philadelphia prison officials, either through neglect or indifference, disregarded this duty. As a result, at least one inmate became so powerful economically that he was able to choose, as cellmates, a series of young men he found attractive, and then use bribery to sexually subvert each one.

The University of Pennsylvania and a private concern operate a large laboratory on H block of Holmesburg Prison, where they test inmates' reactions to new medicines and to experimental commercial products like soaps, shaving creams, suntan lotions, and toilet tissue.

The prisoners are excellent "human guinea pigs" (1) because they live under controlled conditions, and (2) because they will submit to tests for a fraction of the fee that a free individual would demand. Prison officials—because there is very little other activity for the prisoners, and because the laboratory pays 20 percent of the inmates' wages to the prison system—have allowed the project to expand to the extent that it constitutes a separate government within the prison system.

All the inmates at Holmesburg wanted to "get on the tests" because, by prison standards, they can earn a fortune. Just by wearing a chemical patch on his back, for example, a prisoner can earn \$10 to \$15 a week. By participating in some tests that last longer, a prisoner—for doing almost nothing—will receive over \$100. Altogether, the Holmesburg inmates earn more than \$250,000 a year from the project. A few prisoners end up with bodies crazyquilted with motley scars and skin patches, but to these men, in the context of a prison economy, it seems well worth it.

To save money another way, the operators of the project also use inmates as laboratory assistants. An experienced assistant, working an eight-hour day, will get \$100 a month—in the prison economy, the equivalent of a millionaire's income. Even a few prison guards are employed in the project, after their regular hours, and they work side by side with the prisoners.

#### UNIVERSITY OF PENNSYLVANIA PROJECT DISASTROUS

Generally, the "U. of P." project has had a disastrous effect upon the operations of Holmesburg Prison; it is one of the reasons why morale of the employees is at the lowest in that institution. The disproportionate wealth and power in the hands of a few inmates leads to favoritism, bribery and jealousy among the guards, resulting in disrespect for supervisory authority and prison regulations. What is more, the project contributed to homosexuality in the prison.

Stanley Randall, a 38-year-old con man serving a four- to eleven-year sentence, was employed in laboratory cell 806, H block, as an assistant. Although prison and laboratory officials at first denied it, Randall had the power to decide which inmates would serve as subjects on various tests. Since the 806 cell disbursed \$10,000 to \$20,000 a year, Randall's power was considerable.

Randall's special taste was newly admitted young inmates. Through his influence with the guard staff he had his pick of these young men assigned to him as cellmates—and for as long as he wished. When his victims moved in, Randall solicited them to engage in sexual acts in return for his giving them a steady stream of luxuries and for "getting them on the tests." At least half a dozen of these inmates submitted, and went on to profit handsomely from the University of Pennsylvania's project.

Although top prison officials assured us that no inmate was permitted to earn more than \$1200 a year, and that \$400 was unusually high, in six months Randall's present cellmate had earned over \$800. The record was held by a prior cellmate of Randall's, who had earned \$1740 in just 11 months. When we asked university project managers about these high incomes, they told us they had never heard of any \$1200-a-year limit. The prison's accounting office had apparently never heard of this \$1200-a-year limit either, because that office had credited these high amounts to the accounts of Randall's cellmates.

How had Randall managed to get his choice of cellmates? One guard told us that H-block guards had been instructed by "higher ups" not to interfere in the affairs of inmates working for the U. of P. Another guard reported he has received such instructions, and said they had come from the guard lieutenant. The lieutenant denied this, and agreed to take a lie-detector test. Later he reversed his position and refused. Randall admitted he had often given cigars to this lieutenant.

Other inmates besides Randall exploited their powerful positions. One inmate worker, for example, forged test results and fee vouchers, and got fees for inmates who had not actually been test subjects. It also seems that at least a few guards were also corrupted.

As a result of our investigation, prison officials have relieved the powerful inmate workers of their positions with the U. of P. project. They are also considering phasing out the project entirely.

How did sexual aggressors in the prisons differ from their victims? On the average, aggressors tended to be older, heavier, taller, and more serious offenders. Data on hundreds of victims and aggressors yielded the following comparisons:

	Victims	Aggressors
Average age.....	20.75 yrs.	23.67 yrs.
Average height.....	5 ft 8 1/2 ins.	5 ft. 9 ins.
Average weight.....	140.9 lbs.	157.2 lbs.

Both victims and aggressors tended to be younger than the average inmate, as comparison with the following table shows:

	Average age of prisoners (July 31, 1968)
Detention Center.....	27.9
Holmesburg.....	29.3
House of Correction.....	28.9
All prisons.....	28.9

Yet although aggressors on the average are older and larger than victims, these differences are rather slight. In many cases, there may be no differences, and in others they are reversed. Still, after having observed hundreds of victims and aggressors we believe that there are other, more subjective, physical criteria which can be used to differentiate between aggressors and victims:

Victims tend to look young for their age.

Victims tend to look less athletic, and less physically coordinated.

Victims tend to be better-looking.

A comparison of 164 aggressors and 103 victims showed that 68 percent of the former and only 38 percent of the latter had been charged with serious felonies. Among aggressors, violent assaultive felonies were particularly common. Thus, 14 aggressors had been charged with rape, but only three victims; six aggressors had been charged with weapons offenses, and no victims; 34 aggressors with

robbery and aggravated robbery, but only eight victims; and seven aggressors with assault with intent to kill, but only one victim. As many victims as aggressors, however, had been charged with homicide. On the other hand, many more victims than aggressors were charged with relatively less serious offenses, such as the larceny of a car, going AWOL from the armed forces, violating parole, and delinquency.

We also made a study of the 129 documented assaults in which the races of both aggressors and victims had been ascertained, and found that a disproportionate number involved Negro aggressors and white victims:

Types of Incident	Number of incidents	Percentage
White aggressors and white victims.....	20	15
Negro aggressors and Negro victims.....	37	29
White aggressors and Negro victims.....	0	0
Negro aggressors and white victims.....	72	56
Total.....	129	100

These statistics in part reflect the fact that 80 percent of the inmates are Negro—it is safer for a member of a majority group to single out for attack a member of a minority group. Then too, Negro victims seemed more reluctant than white victims to disclose assaults by Negro aggressors. But it also seems true that current racial tensions and hostilities in the outside community are aggravated in a criminal population.

Now, we are not professionally qualified to offer a scientific theory to explain the sexual aggression in the Philadelphia prison system. We have, however, reached certain conclusions that should be recorded for possible use by psychiatrists, psychologists, and social scientists. The conclusions and the analysis set forth are based upon our observations, upon pertinent literature, and upon discussions with a psychiatrist and a psychologist who are experts in forensic psychology.

We were struck by the fact that the typical sexual aggressor does not consider himself to be a homosexual, or even to have engaged in homosexual acts. This seems to be based upon his startlingly primitive view of sexual relationships, one that defines as male whichever partner is aggressive and as homosexual whichever partner is passive.

It appears that need for sexual release is not the primary motive of a sexual aggressor. After all, in a sexually segregated population, autoeroticism would seem a much easier and more "normal" method of release than homosexual rape. As recent studies have shown (Masters and Johnson, Human Sexual Response, 1966), autoerotic stimulation yields a measure of physical release and pleasure similar to that yielded by sexual intercourse.

A primary goal of the sexual aggressor, it is clear, is the conquest and degradation of his victim. We repeatedly found that aggressors used such language as "Fight or fuck," "We're going to take your manhood," "You'll have to give up some face," and "We're gonna make a girl out of you." Some of the assaults were reminiscent of the custom in some ancient societies of castrating or bugging a defeated enemy.

Another primary goal of many of the aggressors, it appears, is to retain membership in the groups led by militant sexual aggressors. This is particularly true of some of the participants in gang rapes. Lacking identification with such groups, as many of the aggressors know, they themselves would become victims. And finally,

Most of the aggressors seem to be members of a subculture that has found most nonsexual avenues of asserting their masculinity closed to them. To them, job success, raising a family, and achieving the respect of other men socially have been largely beyond reach. Only sexual and physical prowess stands between them and a feeling of emasculation. When the fact of imprisonment, and the emptiness of prison life, knock from under them whatever props to their masculinity they may have had, they became almost totally dependent for self-esteem upon an assertion of their sexual and physical potency.

In sum, sexual assaults, as opposed to consensual homosexuality, are not primarily caused by sexual deprivation. They are expressions of anger and aggression prompted by the same basic frustrations that exist in the community, and

which very probably were significant factors in producing the rapes, robberies, and other violent offenses for which the bulk of the aggressors were convicted. These frustrations can be summarized as an inability to achieve masculine identification and pride through avenues other than sex. When these frustrations are intensified by imprisonment, and superimposed upon hostility between the races and a simplistic view of all sex as an act of aggression and subjugation, then the result is assaults on members of the same sex.

Assuming that this analysis is valid, then the principal psychological causes of sexual assaults in the Philadelphia prison system are deeply rooted in the community—in that millions of American men, throughout their lives, are deprived of any effective way of achieving masculine self-identification through avenues other than physical aggression and sex. They belong to a class of men who rarely have meaningful work, successful families, or opportunities for constructive emotional expression and individual creativity. Therefore, although sexual assaults within a prison system may be controlled by intensive supervision and effective programming, the pathology at the root of sexual assaults will not be eliminated until fundamental changes are made in the outside community.

#### THE SHERIFF'S VANS

The sheriff of Philadelphia County is responsible for transporting prisoners between the courts and the various county and state prisons. For this purpose, there are five sheriff's vans and seven station wagons. Only five inmates can be carried in each station wagon. Some 35 to 40 inmates are crammed into each van. Since hundreds of prisoners must be transported back and forth each day, the vans do most of the work.

Investigators are in complete accord with the following essay written by one articulate inmate who had traveled on the vans some 50 times:

"Prisoners confined in Philadelphia's three prisons commute from their institutions to the courts by way of a prison van. The van is a truck externally resembling the sort of refrigerated delivery truck that delivers meat to food stores. The body of the truck has no windows. At the very top of the truck there is a tiny row of slots purportedly for ventilating purposes.

"Winter—The van is parked overnight in the House of Correction. At eight o'clock in the morning the van driver picks it up and drives it to the Detention Center. There, some 40 prisoners, who have been waiting since six o'clock (packed like sardines in a steel-barred can), are loaded into the van. It has only seating capacity for 15 people. The rest must make themselves 'comfortable' as best they can. There are no handholds. There is no heat. It is freezing with an intensity so great that some prisoners relinquish their seats: The pain of frozen iron pressed against their backsides is unendurable. Packed into the mass of men they may find a little warmth jammed together. The trip from northeast Philadelphia is an hour of grinding stops and bumping halts. The standing men are tossed about inside the van. There is no light in the vehicle and the darkness is punctured by the grunts and groans.

"Summer—the prison van is a sweltering cauldron of hed-hot cast iron. The packed bodies of men stink. Prisoners who were arrested in winter are still in their heavy clothes. The sun winks occasionally through the narrow slits on top, but the outside air remains aloof, not wishing to contaminate itself with this Dante's Inferno on wheels.

"Some Interesting Highlights—Riding in the prison van is virtually the only time in a prisoner's detention that he is completely unsupervised, and some strange things do occur. If anyone is homosexually inclined, and it is summer, a stinking sex orgy may take place in the dim confines of the van. Sometimes this is with mutual consent, sometimes by coercion. All the time it is done with utter disregard for the feelings of the other men in the van, who cannot even avert their faces. Sometimes a prisoner who is going to be a [state] witness is accidentally thrown into the company of the very people he is going to testify against. Threats and even violence break out. The van drivers roll merrily on their way, blissfully unaware of what is taking place.

"The prisoners are alone in their walled-up cage, alone with their dry bologna sandwiches that must serve as sustenance for the next 24 hours. No cooked meal awaits them at the Detention Center when they return from court at night, only the same bologna sandwich. On the return trip from court, the van drops prisoners off at Holmesburg, the Detention Center, and the House of Correction, in that order. At Holmesburg the van drives into a walled-off enclosure that is barred by two massive solid doors and topped by solid concrete and steel. Believe

me, it's a very snug fit. It generally takes between 15 to 20 minutes of paperwork until the van is allowed to proceed, and during this time the already high temperature rises sharply, the atmosphere becomes completely stagnant, and the waiting becomes interminable and finally unbearable. The prisoners scream and bang on the sides of the van but there is no relief. The time never gets any shorter, sometimes it gets longer.

"It is difficult to comprehend how the city justifies the van as treatment for untried, unconvicted, unsentenced men, who are the bulk of its passengers.

"I know, as a matter of fact, that the Interstate Commerce Commission requires that certain minimum space be provided for each individual hog shipped in commerce. Couldn't untried prisoners get the same that a pig gets?

"I have written these few words not out of bitterness, but out of the experience of 50 trips.

"I was there, Charlie."

Dennis Cujdik, a 17-year-old charged only with being a runaway from home, describes his ride on the van:

"I was at 1801 Vine in a cell when four Negro boys started bothering me for not having underwear on. Then when we got on the sheriff's van and started moving they started getting close to me. One of them touched me and I told them to please stop.

"All of a sudden a coat was thrown over my face and when I tried to pull it off I was viciously punched in the face for around ten minutes. I fell to the floor and they kicked me all over my body, including my head and my privates. They ripped my pants from me and five or six of them held me down and took turns fucking me.

"My insides feel sore and my body hurts, my head hurts, and I feel sick in the stomach. Each time they stopped I tried to call for help, but they put their hands over my mouth so that I couldn't make a sound. While they held me, they burned my leg with a cigarette. When the van stopped at the prison, they wiped the blood from me with my shirt. They threatened my life and said they would get me in D1 if I told anyone what happened. They said that if they didn't get me in D1 they'd get me in the van again. When the door opened they pushed me to the back so they could get out first. At first, I told the guard I tripped and fell, but then I thought I'd better tell the truth. I pointed out those who beat me up. A doctor looked at me and said I'd have to go to the hospital. They took pictures of the bruises on my body, and I could just about breathe because my nose and jaw seemed to be broken in many different places. I was asked by the lieutenant to write down what happened, and this is exactly what happened."

Why has this situation been allowed to continue for so long, despite the fact that it was brought to the attention of public officials at least two years ago? The answer is simple: The responsible city officials have blatantly neglected their duty.

#### APPENDIX 2.—1967 TRAILS CONFERENCE REPORT<sup>1</sup>

(By Kent B. Lombard)

We have recently completed the pilot project for what we feel is an exciting program in the treatment of juvenile offenders. On September 2, 1967, three officers from this department and ten male wards on probation commenced an eight-day, 45-mile backpack trip through the high Sierra wilderness area located in the Mt. Abbott-Black Cap Mountain Quadrangle. The following report is an attempt to share some of the impressions that are left as we look back on this experience.

John, looking about as tired as a young man could, made the comment, "I never thought I'd make it." Then a proud smile of satisfaction came over his face; he squared his shoulders, once again hefted the pack, and continued down the trail despite the blisters of eight days of hiking.

On the previous Saturday afternoon, 13 of us had struck the trail out of Mono Hot Springs located at 7,000 feet and headed along the John Muir Trail for 10,200 foot high Rose Lake. With 30 pounds of food, fishing gear, and survival equipment in our backpacks, we had headed for the experience of a lifetime in the wilderness area of California's high Sierras. For eight days there was no contact with the outside world; our safety and survival were completely de-

<sup>1</sup> This paper was included in the 2nd Progress Report (October 66-April 68) of the Special Supervision Unit of the County of Santa Clara [California] Juvenile Probation Department.

pendent upon our group—ten of whom had never before experienced wilderness survival camping.

This was not a group of Boy Scouts or Sierra Clubbers—ten of us were boys on probation for extensive and serious law violations, and three of us were middle-aged and sometimes deskbound probation officers from the Special Supervision Unit. As probationers, many of the boys were supposedly incorrigible and often were looked upon as losers in every aspect of their lives—relegated to failure—but they made it.

We were engaged not only in a hiking, fishing, and camping trip but in a new experience of group living where cooperation and interdependence upon fellow hikers were essential for our safety. The fact that we successfully completed the trip negated in our minds the pessimism often heard before we left—"You will never make it." "You are crazy to try it." "I wouldn't want to be in your shoes." More than that we now knew that we could overcome seemingly insurmountable obstacles, not only on the trail, but in our lives. The idea for the Trails Conference began several years ago when Rev. David Beamer began taking high school boys and girls from the North Coastal Area Presbytery on extended backpack trips. The first summer was such a success that last summer five conferences, which included approximately 75 young people, took place. Emphasis was placed upon developing close and deep interpersonal relationships as the basis for communication of ideas and feelings between people. The response of the youths was so enthusiastic that the program just had to be tried with other types of youngsters. The church found that relationships between adults and adolescents during the one-week period of intensive communication and sharing carried over into the months and years following the conference. It became evident that the eight-day long trip was not an end in itself but rather a beginning of lasting and meaningful relationships between people. Ministers who had felt that young people were afraid to be close and honest with them because of their professional position suddenly found that the young people accepted them as human beings on an equal level. Now, several years after the first conference, these young people and the ministers are still on a first name basis, and the formal barriers and inhibitions previously present are nonexistent. This is a significant break in the traditional barriers between adults and adolescents that under other circumstances may not occur in years of normal, superficial relationships.

With \$300, we set out in May to arrange our venture. Since most of us were novices, we had little or none of the specialized equipment needed for such an expedition. A local merchant supplied us with high-quality, Vibran-soled hiking boots at considerable discount. We borrowed magnesium frames and nylon bags from every backpacker we knew, including a juvenile court referee and several Sierra Clubbers. Two retail stores provided freeze-dried meats and dehydrated foods at considerable markdown in normal retail prices. Each youngster and advisor was provided with Department of the Interior Geographical Survey Topographical Maps of the area to be covered. After complete medical examinations and basic instructions in map reading, first aid, and survival techniques, we set out for our first hike of three miles to Bear Diversion Dam.

Although we all had engaged in a physical-conditioning program prior to the trip, many were surprised to learn what the combination of high altitude and 30 pounds of gear in a backpack could do to youthful enthusiasm. The pace quickly slowed from a sprint to a walk to a very slow hiking pace. It was at this point, knowing that ahead lay over 30 miles and 3,200 feet of ascent, that our first doubts began to appear. But the lesson of keeping one's aspirations within his capabilities was well learned, and we had little difficulty in maintaining the slow but steady pace thereafter.

Once we were camped at Bear Division Dam with packs and boots off, the enthusiasm reappeared as dinner of dried steak, applesauce, peas, and chocolate pudding was prepared by our prize cooks, Steve and Ray. Of course, it wasn't long before the boys discovered that Bear Lake held nice-size brookies and large brown trout, and the kitchen patrol headed for their poles and the rising trout.

Since we had a light sprinkling of rain the first night, the boys had on excuse to try out their tube tents. A tube tent is a continuous piece of plastic approximately nine feet long with both ends open, having the appearance of a tube. It is held up by a rope tied to two trees with a sleeping bag placed in the bottom to complete its shape. As all season backpackers know, the tube tent is a life saver if the rain is pouring down in buckets. However, in a light sprinkle it is better to do without it as the condensation from body heat and one's breath cause con-

siderable moisture to form on the inside of the tent, especially if one end of the tent is closed with clothespins. In the morning our wet muskrats crawled out of the sack, and the air was blue with the highly colorful language of teen-age boys.

Now we began to hike in earnest. Ahead of us lay six miles of trail, twisting and climbing over 1,500 feet of granite and loose rock. We had hiked about three miles when we came to the infamous stairstep climb called "JACOB'S LADDER." The trail struggles over a 1,300-foot climb in the distance of one mile. It was here that legs ached so bad that it seemed impossible to take another step. The back pack that an hour before weighed 30 pounds suddenly weighed 80, and the snail's pace hike seemed like a trot. Each year at this part of the hike I wonder what in hell I'm doing it for again when I remember how rough it was last year. It is here that endurance swiftly drains away, and the hiker must continue to push on past the point of exhaustion. On this trip we also had to contend with the weather, the ever-threatening black clouds which had been dumping several inches of rain and hail in the area for three weeks. We knew that camp must be set and shelters up before three in the afternoon if we expected to remain even reasonably dry.

Under these conditions we saw take place one of the most significant acts of the entire trip. Bill, a 17-year-old boy with an extensive delinquent record, had been noted in his normal behavior to be extremely selfish and self-centered. I had never seen this youngster lend a helping hand to another in need or even showing an indication that he understood that others have problems to be contended with. His orientation towards others centered around what they would give him and what he could take away from them. As we climbed "the ladder," it was obvious that Bill, considerably overweight and shortwinded, was suffering a great deal of discomfort, but his strong will kept him from asking for a rest. But another youngster, Tom, a big, husky, and well-built boy, was having equal difficulty in keeping pace. Several times fatigue overcame pride, and despite the inconvenience to the group, he demanded rest breaks. In addition to the fast closing rain clouds and the threat of rain, the frequent stops were taking their toll on us all. There is a well-known principle of hiking to keep a very slow but steady pace, especially uphill. With tempers at the breaking point, Bill quietly fell in behind Tom and untied the heavy sleeping bag from Tom's pack. For the next three miles, Bill carried that bag in his hands—a difficult thing to do at best—without a word of dissent or condemnation of Tom. When I later asked Bill why he did it, he replied, "Because Tom was hurting." A big lesson had been learned by us both. I could have taken that bag off Tom's back, but I wasn't concerned enough to think to do it. I don't think I'll ever forget that lesson. And Bill, I'm sure, felt proud that he could help another person in need. He had value to another person, and now, in this small way, he knew it. After this, we noticed Bill lending a helping hand on other occasions, and his care and concern for others spread. His single act of concern helped create an air of cooperation that would have shocked the pessimistic head shakers prior to the trip.

An Eagle Scout who visited our camp on the fifth and sixth days was pleasantly surprised to learn that these boys who voluntarily shared in cooking, wood-gathering and clean-up projects were "hoods," as the boys referred to themselves. He not only highly praised the boys on their cooperative attitude but later wrote a glowing letter of praise to the County Board of Supervisors and to the chief probation officer.

On Monday, after an extremely difficult hike, we arrived at our base camp at Rose Lake. This is a typical high Sierra Lake, very cold and clear, surrounded by 13,000-foot peaks still retaining on their slopes a good deal of snow from the past winter. We located an excellent camp site near a rushing glacial stream located in a stand of lodge-pole and white pine trees. We were all so exhausted from the final leg of the hike that many of us spent the afternoon "flaked-out" in our sleeping bags. During this and each evening, campfire discussions occurred during which we were able to experience the deep sharing and comradeship present during this type of trip. Because of the shared hardships of the hike, the group was united in a manner often not achieved even in therapy groups after months of meetings.

Dave, a large 16-year-old boy with a particularly extensive record of prior law violations, was clearly the leader in these discussions. He had been involved in a course of study including group counselling and sensitivity training as part of the department student aide program. These youngsters are currently leading counselling groups of their own composed of seven to nine delinquent young

people. Probably, our close dependence upon each other and isolation from the rest of the world contributed greatly to the free sharing and honest self-appraisal which occurred in these discussions. I felt these youngsters were even more honest and open about themselves and those around them than the group of youths from the church that I had taken into the Sierras on previous occasions.

We felt that we achieved in eight days many group interaction and counselling goals which are often not accomplished in four to five months of group counselling sessions under normal circumstances. Here the group not only met each day to discuss problems but lived very closely together all day long for eight days. The situation is similar to what may be achieved by holding four two-day marathon sessions back to back. The additional factor present here was that the group also had daily goals and needs to be met, such as cooking, shelter, fire building, etc., plus recreational activities.

On Wednesday, we climbed a previously unnamed mountain peak of 11,760 feet located directly above our camp site. This peak is an imposing sight from the bottom, towering 1,560 feet above Rose Lake with three sides composed of sheer cliffs of over 1,200 feet. We struck out for the one area from which the peak could be scaled—a shale-strewn shoulder and sharp spine ridge. Several of the boys expressed a good deal of hesitancy about their ability to complete this climb. One in particular, a 16-year-old youngster named Raymond, was of particular interest to us as he progressed from serious (self-)doubts to a feeling of tremendous accomplishment once he had completed the climb.

While on probation, Raymond had been a notably insecure youngster, lacking any signs of self-confidence. When we arrived at the shoulder of the mountain which was the first major step in the climb, Raymond was among the leaders and continuously encouraged other youngsters to keep going. As we started up the ridge, his confidence wavered somewhat as he noticed the sheer cliffs on either side. Even though adequate safety precautions were taken at this point, many of the youngsters expressed doubt regarding their ability to complete the hike; however, none of them would say that he was afraid, only that they were too tired to keep going. The very top of the peak is composed of a large flat rock approximately the size of a desk top, and from this point, one is surrounded on three sides by drops of over 1,200 feet. Raymond was the first boy to complete the climb, and only a picture can show the expression of achievement seen on this boy's face. Even now, months after the climb had been completed, Raymond often refers to this achievement.

We have noticed since that time that this boy in particular has shown a great increase in confidence in himself, and he has become much more outgoing in his relationships with other people. The characteristic of low self-esteem and lack of self-confidence is often seen in delinquent youngsters. Among the ten boys that participated in this trails conference, at least six of them are notably insecure in this regard. Of all of the positive factors emanating from this conference, we feel that this is one of the most important. Whenever possible, we presented tasks to the youngsters, such as mountain climbing, fording icy streams, taking long hikes beyond the point of normal endurance and were rewarded with the enthusiastic expression of feelings of these youngsters that they had accomplished a difficult task.

One youngster, even though he had purchased a quantity of fishing gear prior to the trip, expressed a great deal of pessimism about his ability to even catch a fish. During the first three days of hiking, he said he probably would never catch a fish. Once at Rose Lake and after some very rudimentary instructions on the art of fishing, the youngster became one of the most avid trout fishermen in the group, each day catching a limit of golden trout. If nothing else had been accomplished on this trip, the expressions of self-satisfaction from these youngsters would have made the entire venture worthwhile.

We stayed for three full days at Rose Lake. From our base camp, we climbed several major peaks, explored a glacier, and experienced what many a lifetime fly fisherman has not, by catching over 200 of the beautiful golden trout. Fish fries often lasted late into the night, and not one fish went uneaten. A number of the boys also became quite adept at locating and identifying the beautiful and abundant Sierra wild flowers.

On Friday, we left Rose Lake and headed along the nine-mile stretch of the John Muir Trail, leading down into the valley past Marie Lake and into Blaney Meadows. We began our descent by lowering our packs hand-over-hand down a 600-foot, vertical cliff. Part of the cliff must be descended by inching across the two-inch wide ledge for about 60 yards. Although adequate safety precautions were taken, it was obvious there was a great deal of anxiety before completing this particular part of the descent. With this task completed, we began a

new type of hike which was as difficult as the climbs of the preceding days. The trail dropped nearly 3,000 feet in less than six miles. The burden of our backpacks, plus the constant downhill trail, placed great stress upon the legs, knees, and feet.

We arrived at Blaney Meadows completely exhausted and for the last time set up camp. After an extended campfire discussion, we all hit the sack. On this evening the three officers laid their mummy bags a short distance from the boys. Mummy bags are sleeping bags that fit very snugly and tie closely around one's face. Once secure in this type bag, it is difficult to exit rapidly. We were aware that the boys planned a last night free-for-all, and it became apparent as the evening progressed that they were waiting until we were reasonably helpless in our bags before they would grab us and drag us into a swamp a short distance from the camp.

We could see them planning and finally sneaking up on us through the trees. We got out of our bags and laid under them. The boys proceeded to a point about three feet away from us when we jumped up yelling and growling with every ferocious sounding noise that we could muster. In their surprise the boys in the dark—one boy running straight into a tree, several others falling into the bushes, and one falling in the swamp. They later returned, and after a one hour free-for-all wrestling match we fell exhausted into our sleeping bags. About four in the morning, a large pack of our brave young men could no longer sleep and spent the rest of the night beside the safety of the campfire.

Saturday morning we covered three miles to Florence Lake where we boarded a large boat which ferried us back to the world of traffic, transistor radios, nagging parents, mean probation officers, belligerent teen-agers, and boring classrooms. But we returned not only with a better understanding of those members which made up the group but also a better understanding of ourselves. The close interpersonal relationships developed during this one-week trip have continued and proved to be one of the most beneficial aspects of the entire probation program for these particular boys. Needless to say, we are all very enthusiastic about this program and look forward to its continuance and expansion during the summer of 1968.

EXHIBIT 3.—THE STUDENT AIDE PROGRAM: THE CORRECTIONAL CONSUMER AS REHABILITATOR<sup>1</sup>

(By William G. James)<sup>2</sup>

"Scientists now generally agree that human behavior is caused rather than willed, that man is most vulnerable in early life and compared with other species he is capable of learning for an inordinately long period of life, that he usually responds more readily to reward than to punishment, and that he learns more readily from his peers than from his master."

Judge DAVID L. BAZELON,  
Chief Judge of the U.S. Court of Appeals,  
District of Columbia.

"During group sessions, exclusive reliance on a narrow range of roles is broken down. The chronically hospitalized patient who helps another patient, or the juvenile delinquent who persuades a boy not to run away, sees himself in a new and liberating light. It is this opportunity to shift freely from the role of patient to that of therapist or observer which is the unique feature of encounter groups."

FREDERICK H. STOLLER, Ph. D.,  
Senior Research Associate,  
Youth Studies Center, USC.

"(Youth) who refuse to admit their own problems easily see the problems of others in facing reality and they can accept this confrontation more easily from each other than from a therapist."

WILLIAM GLASSER, M.D.

Twice a week over 60 youths meet at San Jose's Juvenile Center to participate in one of nine encounter groups conducted by a salaried peer. Prior to the program's commencement, 10 probationers underwent over 40 hours of train-

<sup>1</sup> This paper was included in the 2nd Progress Report (October 66-April 68) of the Special Supervision Unit of the County of Santa Clara [California] Juvenile Probation Department.

<sup>2</sup> Mr. James is the Unit Supervisor.

ing in group dynamics with a special emphasis on psycho-dramatic techniques. After completion of the training, they were employed at \$1.07 an hour. Twice a week each leader meets with a group of approximately eight other youth and attempts to facilitate an emphatic interpersonal relationship among group members. The leaders make written reports on each group's level of interaction, and every other week the leaders seminar with their consultants from the Special Supervision Unit of the Juvenile Probation Department.

The program was requested and administratively approved in December of 1966, founded by the County Board of Supervisors in July of 1967, and fully implemented in November of 1967. The months between January, 1967, and November, 1967, were devoted to consultant and student aide training under the direction and advice of Professor R. Korn, Ph.D. of the University of California. Employment standards include the employee's having experienced appearing in Juvenile Court on a petition filed in his behalf, the desire to help others while willing to seek help from them, and the completion of a minimum of 32 hours of group training without remuneration.

Intensive training for this project began in the summer of 1967 when twelve probationers and four probation officers began meeting two evenings a week in the comfortable living room of a residence graciously provided for the group by "Friends Outside," an agency devoted to assisting the families of the incarcerated. The officers were genuinely surprised at the enthusiasm of the probationers, shown by the excellent attendance and the willingness of probationers to wait in front of their homes some 15 to 30 minutes before their ride would arrive. Furthermore, when the staff suggested presenting didactic material, the youth demanded "doing it" rather than talking about it. "Doing it" consisted of all parties forming an equal-level encounter group<sup>3</sup> and practicing various psychodramatic techniques.

Psychodrama was utilized to maintain a high intensity of involvement in order to meet two basic psychological needs, as cited by Dr. William Glasser: "the need to love and be loved and the need to feel that we are worthwhile to ourselves and to others." The first need is a logical by-product of the group members' required involvement with one another. The second need of improving the value of our self-image to ourselves and to others can be a direct result of an emotional impact with others in a frustrating situation. Consequently, with the goal of improving the individual image, the group must become personally and emotionally involved with one another and endure the discomfort which comes with such involvement.

We notice that the greatest degree of involved interaction and development of empathic relationships between people occurs normally when a group is subjected to a crisis situation, wherein it is suddenly isolated for a period of time with only a remote possibility of returning to normal living. In a crisis, something takes place which under normal conditions people tend to avoid—they begin to talk to each other rather than at or about each other. Furthermore, without anyone being consciously aware of it, specific rules are observed. Discussion of activity not within the knowledge of the group members is dropped, as well as discussion of people not present in the group. An intimacy develops and codifies a consensus that whatever evolves from this particular group interaction will remain confidential. The anxiety of the situation soon results in general nonemotional, nonproblem discussion being too trite and boring. Non-problem topics, previous problems, present problems outside the group and present problems within the group are discussed, not generally, but personally, by group members assuming positive or negative feelings regarding the subject matter and reliving the experience.

The unwritten rules in this instance are that the conversation remains primarily in the first person singular—"I think or feel something about you"—rather than the third person—"People or they think something about us." Also an attempt is made by each individual to put himself in the place of the person talking and honestly react to him. Eventually, the group is able, through encountering one another, to transcend surface relationships and through their empathic interaction, create greater emotionally rewarding experiences, wherein they risk their own personalities, seek help from others, share with, and care for others.

<sup>3</sup> "Group therapy is for the person who is already hurting, who has problems, and needs help. Encounter groups are for those who are functioning normally but want to improve their capacity for living within their own sets of relationships. \* \* \* one leader must be therapeutic, the other more of a facilitator."—CARL ROGERS, Ph.D.

Because we see the rewards of this kind of experience and yet do not want to create a catastrophe to obtain it, we do the best we can to assimilate the above situation. To accomplish this, we must bring the above unconscious rules to the conscious level, as well as provide certain techniques to maintain the involvement that is necessary. Consequently, we contrast with one another in agreeing to adhere to the following basic rules of group interaction:

1. What is said in a group stays in the group and is not discussed with anyone outside of the group.
2. Present feelings about people inside and outside the group may be brought out, but there should not be any general discussion of anyone not present in the group, and discussion of activities outside of the group is to be avoided.
3. Conversation is kept in the first person singular.
4. Analyzing, recounting, judging or advising is avoided.
5. One attempts to put oneself in the place of the person doing the talking and to figure out what he really wants and should be saying, then tells him what he thinks or feels, disregarding whether or not he might be wrong.
6. Initially, the feelings that need to be generated regarding the issue at hand are play-acted until such feelings become one's own.

The following are specific techniques which should be used to maintain the intensity of the group drama:

A. The leader is the one in the group most willing to get involved and consequently most willing to reveal himself. "I try to bring out my soul so people can understand what I am."—RAY CHARLES.

B. Doubling: After some indications to an individual as well as to the group, a person assumes another individual's personality and speaks to the group in the first person singular as though he were that person.

C. Role playing: If the person does have feelings about his interactions with somebody outside the group, after a brief description of the other personality, one assumes the role of that personality so that the problem can be re-acted, relived and resolved.

D. Role reversal: Two interacting parties assume each other's role and continue the interaction.

E. Psychodrama: This technique combines the above elements in a stage-like setting. A person with a problem describes the problem and the characters involved to the group. The members of the group assume the roles and alter the roles of the described characters, and the problem is acted out under the guidance of a director. The director maintains the drama by assisting in doubling and at the proper moment having the parties exchange or switch roles.

After practicing the above techniques, as well as other group approaches, the trainees were employed by the County under its extra-help provision and were each assigned groups of approximately eight peers. Ages of the groups range from 10 years to 17 years. Seminars are held bi-weekly for the purpose of continuing training continuing training of aides, as well as training new probationers so interested. To date we have had 20 probationers involved in the training program, and only one has been referred back to the department for a law violation.

The persons to whom this program is primarily directed are the youth assigned to the Juvenile Probation Department's intensive treatment case-load because they have an institutional prognosis. However, the program is open, and enthusiasm has been such that clients from other department programs, as well as parolees from the state agency, are attending. The aides themselves consist of referrals to the intensive treatment unit. Three of them have vacated county institutional commitments, three older brothers of one with an assault history went through a correctional institution process, and had five referrals to the department, three of which were for burglary.

The probation officers assigned to the project initially moved from group to group to facilitate interaction but soon found that they were not needed and were relegated to a position of patrolling the halls, being concerned about spilled ash trays and acting as an occasional consultant to the student aide.

Despite stereotype views regarding delinquents, low income groups, and minority groups, attendance and enthusiasm for this program has been astounding. Youth in another treatment program who were classified as being too hostile and unamenable for treatment verbally expressed their anxiousness to participate in the sessions, and parents have remarked about the positive attitude change of their children—intrafamily communication has increased appreciably.

A noticeable concern of youths for their peers rather than only self-concern is becoming more prevalent, and this concern for one another appears to be promoting a decrease in difficulties in the community.

APPENDIX 4.—SANTA CLARA COUNTY, CALIF.

*Employment Opportunity.*—Applications may be obtained from: Santa Clara County Personnel Department, Room 407, County Administration Building, 70 West Hedding Street, San Jose, California 95110.

JUVENILE PROBATION DEPARTMENT STUDENT AIDE

Salary: \$43.42 per month.

Final Filing Date: Continuous.

*Position.*—The employee will assume a leadership role in a group counseling session with delinquently oriented youth twice a week, two hours each session. He will be responsible for analytically grading and reporting on each session, attending bi-monthly seminars and being available for counseling services to members of the group. The employee will be expected to participate and be fully involved in a group technique which demands honest expression of feelings and generation of empathic relationships.

*Employment Standards.*—Employee is to have experienced appearing in Juvenile Court on a Petition filed in his behalf and to be presently enrolled in a public school program. He should be able to express his concern and desire to help others, while equally seeking help from others. The employee will have completed at least 32 hours of training in group therapy and psychodramatic techniques.

Upon acceptance of application, applicant (without remuneration) will be assigned a candidate status for eligibility to commence the training period. Upon achieving candidate status, a degree of excellence in citizenship will be maintained at home, school and in the community. Further, candidate will produce passing work in all areas of academic endeavor. Failure to meet any of the above standards will result in an immediate termination of candidate and/or employee status.

*Examination.*—Oral, 100 percent.

Dr. KORN. Now, I would like to say this. Once you start to rely exclusively on a system of punishment—and institutionalization is punishment—then you inevitably in healthy people just as it happens with prisoners of war, get resistance, you get an undercurrent, you get defiance. Whatever your ultimate objective is, institutionalization itself cannot be improved.

One of the things I noticed you mentioned, and a lot of people say this, is how can we improve institutions. How can we make them rehabilitative. In order to answer that question, I just ask anyone to imagine this. Imagine the finest hotel you ever had been in in your life. You go there with your wife. All of a sudden we say to you, "Now, you have a defective character. We are going to separate you from your wife. We are going to give you a lovely room. You will not go outside without our permission. Whatever you do here in these beautiful surroundings which you have, and the best food, will be under our control and we will tell you when you can leave." I ask you, I ask anybody, are you now in a hotel or are you in a prison? What are you thinking? You are thinking, "These horrible people have done this to me." You are thinking, "When am I going to get out."

Senator BAYH. Perhaps I should have put italics around "institutions" because I think what we are talking about is what I am asking for guidance on. Should we redefine the term "institution" so it is a private home in which a child is permitted to share the life, to have a more normal life?

Dr. KORN. Yes.

Senator BAYH. We have found by now that very often juveniles particularly—since it is juveniles that we are paying attention to in this subcommittee—are incarcerated and institutionalized but really have not committed a crime in the traditional sense.

Dr. KORN. Over 50 percent.

Senator BAYH. The irony is you can take a juvenile 15 years of age, without adequate constitutional safeguards and commit him until he is age 21, for something an adult might get 60 days for.

Dr. KORN. Exactly.

Senator BAYH. So I am willing to accept the admonition that "institution" without proper redefinition is probably the wrong word.

Dr. KORN. Right. Taking a child away from his community, putting him under a coercive regime and regimenting him is a suicidal process for everyone. What these children need is experiences which demonstrate to them that they can make it in life.

There are a number of projects I referred to in the appendix. A different model completely. Instead of tired, angry old men, keeping kids in line, and beating them, you have young people from the community coming to these kids and saying, "we have got a great invention. You can be involved in it."

Let me give you one example in San Jose. Imagine 30 kids on probation, the toughest kids that would ordinarily go to the youth authority. The probation officer comes to these kids and says, "Hey you guys think you are tough enough to survive 10 days in the wilderness on a survival hike?" That is exciting, a project like this. They go out in the wilderness. Nobody is talking about therapy. Nobody is putting anybody on the couch. The children are climbing over cliffs with their probation officer. The probation officer drops a rope down, the kids climb up it. Nobody is talking about trust. But do you trust everybody after that? I guess you do. Surviving together, climbing mountains together. These kids, with this kind of program, respond. It is spiritual, it is intense, it is adventurous.

Another example. We say to these kids, "You moan about how bad society is treating you." By the way, our opposition to delinquents is very unsentimental. The position we take at these conferences is this: The children moan about how badly they are treated, and we say, "You are right. That is fine. By the way, what has this got to do with you hitting a little old lady over the head? You are doing exactly what society has done to you. How disgusting." "Now, what we want from you is not just care for your bruised mind. We expect you to do something for your community."

Our attitude is not the typical social work attitude—we are going to take care of these kids. These kids are angry. They are self-righteous and they are mean at this point. And we say to them what we expect from you and what we owe you is this: We stood by you while you grew up and turned into these miserable little animals. You are right there. We did that. We let you grow up in the ghetto, for example, where the average age of death is 20 years younger, 20 years shorter. There are parts of the central city where you just die because of all of the neglect. Nobody calls it murder. We did that to you. You turned around and did the same thing. So we say contribute.

How can you contribute? We can work with you because the other

nuts in the street listen to you. We can work with you and you can work with us in preventing this kind of nonsense.

In the city of Washington, for example, we can involve them in working with younger children. This is precisely what we are doing in Washington, D.C. We are also going to start doing this in children's village. It is the "New Careers Program."

Senator BAYH. We had some testimony—not nearly as much as I had hoped, in fact, I would like to go on the scene and see some of the results from a program in California. The program, instead of incarcerating youngsters in State institutions apparently provides a stipend that goes back to the local government and the local government provides community-based treatment for juveniles. How does that work?

Dr. KORN. That is the youth authority, one of the most magnificent systems in the country. The head is Allen Breed. The youth authority was counting up the number of children referred to them by the counties as ungovernable. We cannot contain them in the county. So they were sent to the "Big House," in California, that is the youth authority institution for kids.

Allen Breed said, the law said, we will establish a base line in a given year for how many children you send to us. For every child that has less than that base line, for every less child, we will give you a certain amount of money for a special program to keep these children in the community and not send them to institutions. So that the State paid the county, the local county, money to keep kids out and save money. As a result, the per capita population of youth institutions in the youth authority went down from 170 per 100,000 in 1965 to less than half of that in 1969. In this system they have recognized that an institution is an evil, and they are subsidizing people to keep them out.

Senator BAYH. Is it too early to tell what impact this has had on the youngsters? In other words, what is the recidivism rate?

Dr. KORN. Much lower. And by the way, it is lower with the most difficult kids. Because the kind of programs that they are using is of the kind that we are talking about. Their enabling the kids to do right is what is disabling them from doing wrong. In other words, the whole model of punishment slaps you for doing wrong. It doesn't say a thing about doing right. To be a good inmate in the joint is simply not to be bad and to simply move around like a little robot, right? This is completely different. It turns completely around. You are awarded for doing good.

Senator BAYH. What kind of people can provide this guidance, tutoring, and loving care? One of the significant problems we have today, as you well know, is that we do not have enough trained personnel, trained in the academic sense. Do you have to have a Ph. D. or a BA in psychology to be effective?

Dr. KORN. My Ph. D. may be trouble for me—I said this is demology. It is witchcraft. We have uptight, middle-class people, who are working in a bureaucratic system. And by the way, that is another thing I wanted to get into, looking for the fundamental thing that is wrong.

You have the wrong kind of people. People who reject the poor, reject these kids. They cannot even talk their language and it isn't that they are all black.

Senator BAYH. Let me ask you a specific question. Let's take Gary, Chicago, Watts, New York, or any other place. Let's take a fellow working in a steel plant, making a good wage, living in a respectable home with two, three, or four children and his wife. He is going along day by day. Has that guy got what it takes to pay some particular attention to another youngster that might be put in that home? What type of person are we looking for especially?

Dr. KORN. I would say frankly it is very disappointing, but a lot of even lower class white people are pretty red neck when it comes to race. Now, there is a tremendous overrepresentation—

Senator BAYH. Let us take a black fellow then.

Dr. KORN. He is much more appropriate. Let me give you an example of something that happened in Washington. At one of these conferences, we created by means of cycle drama a crime in the room. We had a little old lady come in the room with a pocketbook. We shammed the scene that she was jumped. She wasn't hurt. The pocketbook was stolen and the offender went into the woodwork and disappeared. The police chief was right there.

We said to her, "What do you want?" "I want my pocketbook back," and No. 2, "I want to be safe." Where did the delinquents go? They disappeared. Who knows where they are? Well, the other young thugs in the neighborhood. We said, "Wait a minute. This kid that took your pocketbook, he is probably on dope. Do you know where he is?" Sure. "If we found the kid and gave him real treatment and got the pocketbook back, would that be OK with you, chief?" Yes. "Would that be OK with you, judge?" Yes. OK, fine.

Right there we created this emergency, we created a crisis intervention center. Part of the center—this is the amusing thing—an all-day switchboard. The next week when that little old lady comes home from work, she can call up that switchboard and get a paid escort. Who is the escort? The kid that stole her pocketbook last week, who is now working for his community and keeping crime down.

You know why the kids want to do this? You say to the kid, "You don't like the establishment. Can you do better, baby?" And that is it. That is daring and that is exciting. You laid the deal on that kid. Can you do better? Of course they can do better.

What happened in that room was that the D.C. Department of Corrections turned to his budgetman and said, "Do we have any money that we can do this with, this courtesy patrol, this intervention center." Yes. And right there we got \$70,000 given for the creation of a crisis and apprehension center, a "rap" center, a crash pad. And in that neighborhood, the effects can already be seen. We say to the perpetrators of delinquency, turn around, baby and reach these kids and protect your community. The people in the community can do it, in the private sector. Do not give it to the officials. Don't give it to an establishment that failed.

The last point I wanted to make at the end of my time is this. You are going to be talking to a lot of people in corrections. They have big titles. They have a history of untold failure. They have been operating a monopoly for years and it has failed. If these alternative systems for treating children in the community are given to them, they will defeat them and destroy them. It is very essential to involve the private sector, to get out of that bureaucratic bag where a functionary

is really responding to the officials on top rather than the kids below. And the higher he goes in the system, the further away he gets from the kids. You need small and local centers, you need the centers manned by people from the community, some of whom have been through the process. And corrections, the establishment, will say to you, "Don't trust them, they can't do it." Our answer should be, "You didn't do so well. We are not going to take your history of failure as your credentials as an expert." A history of failure can only reproduce itself. It can't bring forth anything new.

Senator BAYH. Thank you. I really appreciate these thoughts. I hope we might ask you to make yourself available as we go along in our studies.

It is rather obvious we have to look at new ways and break down some of the old stereotypes. I am impressed with the suggestions you make in this direction. May we consider you available as an expert source?

Dr. KORN. Absolutely.

Senator BAYH. Fine. Thank you very much, Doctor.

Our next witness is Mr. Steven Bercu, a member of the Texas bar. He served as an assistant to the attorney in Dallas. He is presently attorney for the El Paso Legal Assistance Society.

**STATEMENT OF STEVEN BERCU, ESQUIRE, EL PASO LEGAL ASSISTANCE SOCIETY, EL PASO, TEX.**

Senator BAYH. Did I pronounce your name accurately?

Mr. BERCU. Absolutely. The first time I have ever heard it pronounced accurately.

Senator BAYH. Bercu. Well, I have had enough trouble with B-a-y-h.

Glad to have you with us.

Mr. BERCU. It is a pleasure to be here. I would like to state first exactly why I am here. I am here for Johnny Brown, 16-year-old boy from El Paso, Tex., who was sent to the Texas Reform School at Gatesville, Tex., without the benefit of a hearing, by Judge Edwin Berliner of El Paso, Tex. Johnny Brown has since been released on a writ of habeas corpus.

I am here for Alicia Morales, who is 18 years old, who was also sent by the same judge in El Paso County, without the benefit of a hearing.

I am here for 15-year-old Judy Arnold, who was sent to the Gainesville School for Girls in Texas, without the benefit of a hearing by Judge Berliner in El Paso.

I am here for Beverly James, 18 years old, from El Paso, sent by Judge Berliner to the Gainesville School for Girls without a hearing.

Senator BAYH. No hearing at all on any of these?

Mr. BERCU. No.

Senator BAYH. What was done before they were sent away?

Mr. BERCU. Nothing was done before they sent away, other than to secure in some of the cases, the signature of one or both of the parents at the bottom of the judgment. That signature was secured by a probation officer in the El Paso County Detention Home. After this signature was secured, then this document was taken to Judge Ber-

liner, and we will assume that he read it. I actually presume that he did not. It was signed and these children were sent to the State school.

Senator BAYH. You mentioned one 15-year-old boy or girl. How long ago. For what period of time?

Mr. BERCU. The age I am giving is the age at present. These children, the names of the children that I have just read, have since been released. The 15-year-old girl was sent when she was 13, without the benefit of a hearing and naturally without an attorney.

Senator BAYH. Was the release obtained as a result of habeas corpus?

Mr. BERCU. Yes. These names that I have just read to you—Alicia Morales, Judy Arnold, Beverly James, another girl, Lynn Bourland, 16; Marie Hargreaves, 16; James Schott, 16; Marvin Brown, 16; Dirk Fitzgerald, 16; Mike Fernandez, 15—are all children from El Paso. All of them were sent to a State school in the State of Texas, in the same fashion. These children had been released of writs of habeas corpus in the past few months.

I am here also for some other people, I am here for a girl, Olanie Jorgenson, who was not released, at El Paso, Tex., in the same fashion. Lynn McDaniel, now 14, is in the Brownwood State Home, sent from El Paso, Tex., at the same time. I am here for Vivian Sloate, sentenced in the same fashion.

These last three have not been released, due to pressure by their parents, due to family situations. In fact, these same family situations that caused them to be there in the first place.

I am here for Philip Ward from El Paso, Tex., sent with no attorney—

Senator BAYH. Rather than going down these names, as much as I appreciate you bringing it to our attention, could you be specific? Is there a general type of family situation? You alluded to the fact that they are in the home because of the family situation and that is why the parents want them kept there. Could you give an example of that? Also could you give us two or three types of acts against society these youngsters perpetrated?

Mr. BERCU. The names listed are those released on writs of habeas corpus and, for example, among the most serious acts of delinquency I have encountered has been a second runaway.

Of the five or six girls I mentioned, actually, most of them were sent away on the first runaway, or first disobedience in the family. Beverly James, for example, was sent to the Gainesville State School for Girls because she stayed out until 4 a.m. one evening. The next morning she was sent to the Gainesville State School for Girls.

Alicia Morales was sent to the Gainesville State School for Girls because she refused to work. Her reason for refusing to work was because her father had come to the business place where she had been working and caused an uproar and had her fired. She was the only person in the family working at the time.

Senator BAYH. How old was she?

Mr. BERCU. At that time she was sent, she was 17. She was supporting her mother, father, and three brothers.

Senator BAYH. What about the 13-year-old youngster, 15 when released?

Mr. BERCU. The 13-year-old girl comes from a family situation that is rather typical in these cases, and that is a second or third marriage for the mother, the child being the natural daughter of the mother, having been brought through these two or three marriages and meeting resistance with new fathers, resistance in the new places, resistance in the new homes. She left home one evening, not being able to work out whatever problems she had with her mother and step-father, and spent two nights out and was sent to the Gainesville School for Girls.

Senator BAYH. At age 13?

Mr. BERCU. At age 13. At the request of her mother, I might add. Most of these children I have named from El Paso, have been sent at the request of one of those parents.

Senator BAYH. Generally, the whole type of situation is the domestic situation where you have a second or third marriage, will there be conflict between the child and new stepparents?

Mr. BERCU. Not in all cases, but in many of them. As well as that, in El Paso—and I do not think El Paso is completely a typical situation. The juvenile system has developed in such a manner that the parents have come to place an almost total reliance upon the juvenile enforcement people in the city of El Paso. This reliance is in the areas that I personally consider to be parental responsibility. The situation where the parent is having difficulty in relating to the child, in juvenile terms, in controlling the child. We have developed a situation in El Paso and in many other places, where the parent says: "Well, I am having too much trouble with the child, what shall I do? I will go to the friendly detention home because they will lock Johnny up for a month if I ask them to and Johnny will mind me better when he comes home. He will behave himself because he doesn't want to go back."

Senator BAYH. Excuse me for interrupting—

Mr. BERCU. Johnny is just a name. I am talking about Johnny, or Judy or anybody.

Senator BAYH. Right. Am I accurate in saying that among those names you mentioned, young teenagers that were sent away without a hearing, none had committed the normal type delinquent acts against society that we attribute to juveniles—pursesnatching, or a similarly serious offense?

Mr. BERCU. One boy had taken \$15 from his father's wallet. That is the closest to any sort of delinquent behavior that I can find from any of the names I have listed so far.

Senator BAYH. I don't want to get involved in personalities as far as various officials are concerned. I am trying to get an idea of the type of individual who, as an official authority, looks at the problem in this manner. What is the training, the background of the judge in question, who would incarcerate a 13-year-old girl without a hearing?

Mr. BERCU. As far as his training in relation to juveniles, I believe it is nonexistent. The man certainly is an attorney, was an attorney. This is a State district judge in the State of Texas that has done this. His background—he was the district attorney of El Paso County and whatever counties are in that district.

Senator BAYH. Do we have a law in that State which says that if the parent signs the document, the judge is bound to commit the child without a hearing?

Mr. BERCU. I know of no such law; no. I know of no possible way this could be justified under the laws of the United States: under the system of law that we work with in this country. I do know that when I first researched this point—I was involved in all of these writs of habeas corpus—of the right to hearing, my authority began before 1800 in the United States. I feel as an attorney that law and authority that began before the year 1800 in this country is by this time something that should be common knowledge to judges.

Senator BAYH. You are presently an attorney for the legal assistance society?

Mr. BERCU. El Paso Legal Assistance Society; yes.

Senator BAYH. Is that a federally financed organization or a local and State financed organization?

Mr. BERCU. It is an OEO-funded program; 80 percent OEO and 20 percent local funding.

Senator BAYH. If you were serving in the public legal assistance capacity and had not brought this habeas corpus action, is there anyone else concerned about these kids?

Mr. BERCU. Of the legal community; no. In the legal community I think no one was concerned.

Senator BAYH. The reason I ask is that I think one of the Governors of this country of ours is presently trying to keep the OEO legal assistants from functioning in his State. If that service is removed from the State in question, I suppose all of these 13-, 14-, 15-, 16-year-old youngsters would still be in jail.

Mr. BERCU. Most certainly. In fact, even with legal assistance it is rather difficult to speak with the children. That is something I intended to speak about in a moment, but certainly we have met tremendous resistance in any sort of help we attempted. The resistance coming from the authority, the institutions that Dr. Korn mentioned. The very people running the institutions, in my opinion, seem to have no other interest, at least in terms of myself or other attorneys who have attempted to work with the children, to hold these children.

Senator BAYH. Forgive me for interrupting. Your statement and your thoughts will be put in the record as if they had been read.

(The prepared statement of Steven L. Bercu follows:)

PREPARED STATEMENT OF STEVEN L. BERCU

STATEMENT CONCERNING THE JUVENILE SYSTEM IN EL PASO COUNTY, TEX.

To give a statement about inequities in juvenile justice in El Paso County, Texas, seems an almost monumental task. It is difficult to imagine any place where procedures could be more infirm and where juveniles are so routinely abused. I will attempt to cover the El Paso situation by dividing my statement into three sections. These sections shall be: 1) procedures, 2) The El Paso County Detention Home and, 3) the State Schools of the State of Texas.

PROCEDURES

I will further divide the procedures and attempt to set out the problems that I have observed in El Paso.

Arrests

Regarding the arrests, the most glaring factor is that the police will arrest any juvenile merely upon the word of the parent with no other investigation required and no other investigation done. To my knowledge, no warrant has

ever been issued by the judge of the juvenile court prior to an arrest of a juvenile in El Paso County.

Once arrested, the procedures used by the police are the procedures most likely to intimidate and abuse the child. All children are taken to the police department and have their fingerprints taken, whether or not they have committed an offense that would be punishable as an adult and in fact whether or not they have committed an offense. At a conference I had with the mayor, the then acting police chief, the head of the police runaway division, the mayor's first assistant and the city attorney, the police department and the city indulged in the verbal fantasy of justifying the fingerprinting of juveniles by saying that these fingerprints would be useful in case of a disaster at the detention home, but that they were not used for purposes of identification. Unfortunately, this makes absolutely no sense whatsoever. Also, there appear to be no provisions for destruction of these fingerprint cards if in fact no charges are brought against the juvenile or, following the reasoning of the police department, if the juvenile is not in fact detained in the detention home or if the juvenile is released from the detention home or if the juvenile is found not to be delinquent. The only justification that I can see for fingerprinting juveniles is to take them to the police department and to intimidate them and to "give them a lesson".

#### Detentions

Almost all juvenile detentions in El Paso County are illegal. The Texas law requires that a child be forthwith brought before the judge if he is to be detained and at that hearing, naturally, there must be some justification for the detention given. To my knowledge, only one detention hearing has ever been held in El Paso County and that was held ten days after the beginning of the child's detention (the county attorney stated that the court had not been in session and therefore he was required to wait ten days—unfortunately Texas law states that the juvenile court is always in session).

The judge of the juvenile court has told me and another attorney from my office that he has no intention of holding detention hearings unless he is ordered to do so.

The effect of this abuse of the law is that children are detained for indefinite periods of time without the benefit of a hearing before court and without any conceivable justification for their detention.

#### Counsel

Until February, 1971, counsel was regularly denied juveniles in El Paso County in direct contravention of Texas law and federal constitutional law following the *Gault* decision. To my knowledge the court has never given advice or explanation of the significance of counsel or of other constitutional rights. In fact, to my knowledge, no mention of counsel is ever made in the usual juvenile case; this being in direct contravention of Texas case law as well as the line of federal decisions following *In Re Gault*.

Beginning in February, counsel has been sporadically appointed to cases; but unfortunately the judge seems to rely on a small list of lawyers and strangely enough these lawyers stipulate to all of the petitions (that is to say at all occasions I have witnessed.) My feeling is that the appointment of counsel in El Paso County is a sham in juvenile proceedings. My feeling is further that these counsels do not in fact represent the interests of the children in these various cases, but rather represent the interest of the juvenile judge in expediency or represent the interest of the parent in having the child committed.

#### Adjudicatory hearing

At the adjudicatory hearing, as mentioned above, no mention of counsel is made by the court in direct contravention of Texas and federal law. Waiver of constitutional rights is presumed by the court without any proof of waiver being required by the state; this of course being in direct contravention of federal case law and in my opinion pointing out either the incompetency of the juvenile judge or else his total disrespect for the laws of the United States.

The judge very rarely if ever requires that a record be made of juvenile proceedings unless such a record is demanded by counsel. This of course is a violation of the spirit of the holdings in juvenile cases decided by the Supreme Court of the United States.

The court records do not reflect what occurs in the courtroom. This of course is the area of "agreed orders" which are allowed in our juvenile court. "Agreed

orders" is a procedure used in El Paso whereby the parents or guardian of a juvenile sign the bottom left hand corner of a judgment and state that: "I hereby agree to the above judgment" and then sign the judgment. The judgment itself reflects that: "Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, came on to be considered the above entitled and numbered cause, and came the state by its probation officer, M. W. Raley, and came the Respondent, \_\_\_\_\_, in person, accompanied by her \_\_\_\_\_, and no jury having been demanded, all matters of fact as well as of law were submitted to the court; and the Petition being read, the said \_\_\_\_\_, admitted in open court the allegations contained in said Petition filed herein; and after duly considering same, and the evidence, the court is of the opinion that the said \_\_\_\_\_ is a delinquent (fe) male child over the age of ten (10) years and under the age of eighteen (18) years, . . ."

After the judgment is agreed to by the parent then the chief probation officer, Mr. Raley, takes the judgment to the court for the judge's signature. The Judge signs the paper without ever having seen the parent, without ever having seen the child, without ever having read the Petition, and without having given the child the simplest of constitutional safeguards—a hearing. The judge has attempted to justify this practice by saying that this is "just the same as other civil cases"; showing either a total ignorance of the law of the United States of America and the State of Texas or else a complete disrespect for those laws.

Following an adjudication of delinquency in El Paso a commitment order is issued but in El Paso County, the commitment orders are not filed in the District Clerk's Office. The judgments are filed separately from the case file, and no actual file is kept on each child.

In conclusion I would say that very few, if any, of the procedures used in El Paso County are constitutionally sufficient. The attitude of the judge is one of total disregard for or else ignorance of the laws of the State of Texas and the United States. The attitude of Mr. Raley, the chief probation officer is one of total ignorance and defense for what are obviously criminal abuses of children and of his position.

#### THE DETENTION HOME

The detention home of El Paso County, Texas, is an abomination. As presented to the Juvenile Board of El Paso County in November, 1970, there are no educational facilities; no rehabilitative facilities; sanitary conditions are disgusting; children are beaten; there is no provision for any psychological or socio-logical testing or evaluation of juveniles; there is no follow-up of children that are not in the physical possession of the detention home; there are no qualified personnel employed at the detention home; the facilities are totally inadequate for the espoused purposes of a detention home; there is no provision for medical treatment when needed, or if treatment is provided for, then it is not in fact given when needed; children are continually beaten, abused mentally and physically; juveniles' records are divulged to any caller; inmates' visits are strictly limited; children are routinely placed on probation without the benefit of a court hearing; and children are placed in shackles or handcuffs before being taken to Texas Youth Council facilities.

I have attached affidavits to this statement pointing out many of the inadequacies and abuses of the detention home. As you will note, I have deleted the names and address of the various children. I felt that it was necessary to do so to protect the children's interests. (see exhibits 1-5)

At the detention home, abuses of the law also persist. *Miranda* warnings are very rarely given to children, and when given, are never fully explained to the children. One reason that these warnings are never fully explained is that the employees themselves do not understand the *Miranda* warning and have no idea what the true effect of them could be or should be. In fact, it appears that the employees of the detention home go to elaborate lengths to circumvent the purposes of the *Miranda* warnings, by for example, asking children if they want to make a statement or not, without in any way explaining to them what it could possibly mean to say yes. Once a child has agreed to make a statement then the probation officer will read the *Miranda* warning from the top of a statement, however, doing this without any explanation.

The chief probation officer of El Paso County is completely unqualified to serve as such. He has absolutely no college training and it is doubtful whether

he has completed high school. He has absolutely no understanding of children's problems nor of rehabilitative techniques.

The chief probation officer makes a complete mockery of the court and the legal system under which he is charged to operate. He misrepresents the law to the juveniles in his custody; he misrepresents statements of lawyers to these juveniles while in his custody; and he misrepresents facts to both counsel and to the children in his charge. (affidavits attached hereto further clarify this point). (see exhibits 6 and 7)

The abuses by the chief probation officer are almost unbelievable. He has gone to such lengths as for example:

1. Telling the mother of a child that it was too late for her to retract her signature at the bottom of a judgment adjudicating her child to be delinquent; said judgment stating that all of the procedures had taken place in a courtroom when in fact no court had ever been seen by the mother or the child.

2. Telling a girl who asked to go court and who asked for an attorney that, no, it was too late, and that she could not go to court because her parents had already signed an agreement stipulating to her delinquency.

3. Telling a parent that if she signed a judgment which was explained to her to be an agreement to the commitment of her son to the Texas Youth Council, that her son would only be detained for two to three months but if she refused to sign that she would have to go to court and that the son would probably have to stay until he was 21 years old.

4. Telling a parent that if the case went to court there would be fines imposed and the man might possibly lose his job and using this as a method to coerce the parents to agree to committing their child to the Texas Youth Council.

5. Explaining to the parent that there would be much publicity and unfavorable publicity if the case went to court and therefore it would be better for them to agree to commit their child to the Texas Youth Council.

At the detention home the chief probation officer's abuses are not simply limited to the juveniles in his charge or to their counsel, but continue and are exhibited by his treatment of his staff. The staff at the juvenile probation department is miserably underpaid. The chief probation officer refuses to hire qualified staff or to accept volunteer time from qualified staff. He runs his probation department as though it were some sort of criminal syndicate, replete with instructions not to speak to one another and to remain silent and not to speak to any outsiders; he generally keeps them in total fear for their jobs at his institution.

#### STATE SCHOOLS

The state schools present an enigma. I have visited Gainesville State School for Girls, Brownwood State Home and School for Girls and the Gatesville State School for Boys. I have seen the Mountainview State School for Boys, but I have never been inside. The physical plant at Gainesville and at Brownwood is excellent and neither especially reflects the atmosphere of a prison. At Gatesville it is considerably different. There, there is no doubt that one is in a prison. Mountainview is surrounded by twelve and fourteen foot high wire fences topped with barbed wire and definitely gives the air of a maximum security prison. I do not feel that the physical plant is where the problem lies in the Texas Youth Council facilities. Apparently, brutality and mental abuse and other types of abuse continue in these institutions. I cannot speak with certainty but I can definitely say that the directors of the Texas Youth Council have done everything possible to obstruct my going to visit my clients in the Youth Council facilities. The individual schools' personnel also seem to do everything in their power to obstruct the juveniles finding out about any of their constitutional rights and obtaining counsel if needed and securing their release when they are illegally held.

To my knowledge, the circumstances surrounding the commitment of every juvenile are matters that are known to the Texas Youth Council, in that a full study is made of each inmate upon the time of his or her arrival. The circumstances of commitment are included in the initial study and therefore the Youth Council is on notice and has been on notice for years of the illegal procedures and practices used in El Paso and many other parts of Texas to commit children to the Youth Council.

One specific incidence of brutality at the Youth Council is in the person of a boy who was just recently released on a writ of habeas corpus after having been illegally committed in El Paso. This boy reported that at his dormitory the "dorm man" hit him in the face and knocked out his front teeth. This

occurred in November, 1970, and upon his release in March, 1971, his teeth were still missing.

Other instances of abuse seem generally to concern beatings by the guards and extreme mental abuse by the guards at all of the facilities excepting the Brownwood School.

The Senate Youth Affairs Committee of the State of Texas in May of 1969, published a report entitled "Services To Youth in Texas" in which they pointed out the many deficiencies of the Texas Youth Council as well as pointing out the few good features of the Youth Council. To my knowledge, the information in this report has changed little, if any.

My feeling is that mental abuse and physical abuse do continue in these institutions. I am given to feel this way by the fact that the Youth Council has done everything in its power to obstruct any attorneys speaking with inmates and to obstruct legislators and to obstruct any other people from speaking with inmates concerning their incarceration in the Texas Youth Council.

I might add that, as might be expected, homosexuality runs at a very high rate; approximately 90 percent in the girls' schools and at a slightly lower rate in the boys' schools.

This statement is by no means comprehensive. It merely points out some of the abuses that have come to my attention, but it leaves me with absolutely no doubt concerning four matters: 1. That Mr. M. W. Raley, Chief Probation Officer of El Paso County, Texas, is totally and completely unqualified to serve as such and should immediately be removed. 2. That Judge Edwin F. Berliner, Judge of the 171st Judicial District of the State of Texas and Judge of the Juvenile Court of El Paso County is completely incompetent to serve as a juvenile judge in that he has either a total disregard for the laws of the United States and the State of Texas or else is totally ignorant of these laws. 3. That the Detention Home of El Paso County is in need of massive and immediate changes as to the personnel policy and physical plant. 4. That the Texas Youth Council is in need of intense investigation as to the policies of that organization and as to the abuses that apparently persist in their institutions.

Respectfully submitted,

STEVEN BEROU,  
El Paso Legal Assistance Society.

EXHIBIT 1

AFFIDAVIT

STATE OF TEXAS,  
County of El Paso:

Before me, the undersigned authority, a Notary Public in and for the State and County, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the following instrument, and upon her oath states and deposes as follows:

My name is \_\_\_\_\_ and I reside at \_\_\_\_\_, El Paso, High School.

On or about the 8th of August, 1970, I was picked up by some policemen. This was about two and a half hours after I had gotten back to El Paso. They took me to the city jail. When the police stopped me they asked me who I was and what I was doing, and I told them a different name than my own, but they took me back to this other girl's house who I was with at the time and her mother told them that I was \_\_\_\_\_. Then they called in on the radio and took me down to the jail.

On the way down to the police station the policeman said that he could tell that I was a runaway by looking at me. Then I was taken and fingerprinted at the city jail. After I was fingerprinted the police took me out to the detention home.

No one talked to me when I got to the detention home. The policemen just went in and told someone that there was a new girl for them and then I was taken in and put in the girls' wing. The matron was in the kitchen fixing lunch so the wash lady went in and told the matron that she would check me in. The wash lady took me into the bathroom and I had to take all of my clothes off. The wash lady took a lot of things out of my pockets and purse and put them in a bag and locked them up I suppose. Then she made me turn around

a few times and open my legs and looked at me and everything. Then she gave me my clothes back after taking my belt and my beads and a few other things. I was naked for about ten minutes I suppose. Then I was placed in a cell.

In the cell there was another girl and there was no mattress. We stayed there for awhile and then they changed matrons and then they came back and we were searched again and I had to take all my clothes off again. Then they put us in another cell, and then told us to go outside and get our mattresses. The mattresses were about an inch and a half thick. The mattresses were real dirty. We were given one sheet each. About 8:30 they let us out to go take a shower. Then they locked us back in the cell, we spent the night and the next morning they woke us up for breakfast. They made us take off our clothes before we went to sleep and put them outside the door and they made us sleep in our underwear.

After breakfast we put our mattresses outside and then went back to the cell and then the matron came and told me to come out front. I went out front and there was another lady there who told me to come with her. We went out and got into one of the probation cars and then we were taken to the health center. At the health center I was tested for some things, I don't know for sure, but it was a full battery of tests, blood, v.d., and a few other things I think. Then I was taken to the county jail on the fifth floor where I was fingerprinted again and then taken up to a big cell where I was alone in the cell. I was kept in the county jail for about five or six days, and then the people from detention home came and took me back to the detention home.

When I got back from jail that same wash lady checked me in again and then I was put in another cell.

A typical day at the detention home goes like this:

They wake you up at about 4:45 a.m., and then you can put your clothes on outside the cell. Then you go down to the dining room and eat breakfast, and then at about 5:00 or 5:15 you go back to the cell. Then you can sleep a little while with your clothes on until about 7:00 a.m. when they come back around and tell you to get up and roll your mattress up and take it outside. The matron takes you outside and there is a big police dog standing there and you take your mattress and put it up on another bed that's sort of like the one inside the cell. At this time if the matrons like you they let you out of your cell to mop the floors or clean the bathroom or sometimes you get to make the matrons beds; but they stand over you all the time that you are doing any of these things. Then you go back to your cell and wait for lunch or if the matrons don't like you, you go straight back to your cell after taking the mattresses out. When you are in your cell waiting for lunch or any other time when you are in your cell, your mattress is gone of course all during the day, and you are not allowed to read any books. All you can do is just sit unless you are in a cell with someone else when you could maybe talk to them for a little while. Some of the matrons let you sing but some of the other ones don't let you sing and if they hear you they come and open the door and make you be quiet. Any time that they don't like what you are doing they tell you that if you don't do whatever it is they want you to do that they will throw you in the security room.

Usually in the mornings they take you to the office if they have something to talk to you about. If they want to talk to you they take you anytime but most of the time it's in the morning. While you are in your cell, you aren't allowed to go out to the bathroom. There is a coffee can they put in the cells to be used as a toilet.

At 11:15 we gone down to the dining hall for lunch. We eat lunch and then we get to go to the bathroom and we have to be back in our cells by 11:30. We then stay in our cells until dinner which is at 4:15.

For dinner we get a half an hour from 4:15 until 4:45, then we get to go to the bathroom again. Then we go back to our cells until 6:00 when the matrons change and they come in and search us again. At this search, there are two matrons, the one from earlier in the day and the one who is coming on. They make you come out in the hall and they search you there and then they go in and look around in your cell.

You get your mattress back right after dinner.

Then you go back in your cell and you stay there until about 8:15 or 8:30 when you go take a shower. You are allowed ten minutes in the shower and usually you get to stand around and wait while the other people take showers so that the whole shower time takes maybe about 45 minutes sometimes. Some

of the matrons make you take showers in the dark but some of them let you turn the lights on when you take your shower. Some of the matrons keep coming in and out of the shower to see what you are doing from time to time, others just let you take your shower. Some of the matrons will let you play cards while you are waiting to take your showers but most of them won't if there are too many girls there taking showers that night. At nine, the matron goes back to the cell with you and she tells you to take your clothes off. You put them outside of your cell door and then she locks you inside. Then you are left in your cell again with just your underwear on and a sheet and with a mattress and the lights go out and it's time to go to bed.

If your parents bring you any clothes, you get to change them once a week, on Tuesdays. Otherwise, you don't get to change clothes. You can wash your clothes at night right before you go to bed but then they are still wet in the morning and you have to wear them wet.

The whole time I was there I kept being taken out of my cell during the day all the time to talk to Mrs. Thompson, the woman from welfare. This seemed to happen just about every other day. After I had been there for about two weeks, the tests came back from the health center and they were negative so they said that I could get up early in the morning, at 4:15 and go in and help with the kitchen. I did this for about three or four days. During this time I would get up at 4:15 and work all through the day in the kitchen until 9:00 at night so I wouldn't even get to talk to the other girls during the shower time. I would be in the kitchen peeling potatoes and doing other kitchen chores. The kitchen help get to stay in a cell by themselves and don't have to take out their mattress. I was in one of these kind of cells. After the kids eat, you put the dishes in the sink and then set the tables very nicely for the office people. Then when they come in you go back to your cell and you can rest while they finish eating, and then you go back in and clean up in about an hour. Then you have to wash all the dishes and the pots and clean up in the kitchen. Then you get about an hour off and then you have to go back and set the table for dinner.

In the morning when they cook the food it's for the whole day so you eat the same thing for lunch and for dinner every day. They usually change what you eat for lunch and dinner every day except that you always have beans and potatoes.

After I had been a kitchen help for about three or four days I finally decided that I was going to cut my wrists with the glass from the light in my cell so that I could go to the hospital. This was just to get out of the detention home, because I couldn't stand being there. The girl in my cell pretended that she was asleep and then got up and yelled to the matron that she had heard me break the glass and that I had cut my wrists. The matron said she wouldn't open the door because they are not allowed to open the doors after 9:00 p.m., but finally she went and got two men from the office and then came back. Then she opened the door and I got dressed and they took me to the dining room. I was bleeding pretty much, and they poured alcohol on my arms and then wrapped them up in a towel. Then one of the men said "do you want to go do a better job" and I said sure, go get the glass and of course he didn't go get the glass but then they took me into the office and started asking me questions. They asked me questions about why I did it and what had happened and I told them that I wanted to die so that they would think that I was crazy or something and take me to the hospital. They told me that I'd better go back to my cell and be quiet and that if they heard one more scream that night they were going to put me in security. Then they sent me back to my cell and the matron who was on that night was the nicest one of the ones down there and she put another girl in my cell instead of the girl that had been there. I was up the whole night that night and the girl talked to me and I talked to her.

The next morning after roll call I went back to my cell and then the matron came and told me that I was supposed to go up front, that Mr. Raley wanted to talk to me. Mr. Raley came into the girls' dining room to talk to me. He made me show him my wrists and then he started yelling at me saying that if I didn't straighten up that he was going to turn me over to the judge. He said that he knew that there was nothing wrong with me mentally but that I was just trying to get out of there, but that it wouldn't work. So, I went back to my cell. Then they took me off kitchen help.

A couple days later I was told that Mr. Raley said that under no condition could I be left alone in my cell and that I wasn't supposed to have any blankets either. Then they took my bra away, because some girl said that maybe I

would try to choke myself. So from then on I didn't have my bra anymore. They let me keep my panties, but at night I would have to sleep nude. They took away everything in the room except the mattress so that I had to sleep naked in the room with just the mattress by itself. Since Mr. Raley said that I couldn't sleep alone there was another girl in the room and she got to keep her underwear but because she was in the same cell with me she didn't get to have a blanket or a sheet either. Some of the matrons were nice and they let us have a third mattress so that we could put it over us at night. This continued for about the last week and a half that I was in the detention home.

Mr. Raley wouldn't let my brother visit me any of the time that I was in the detention home. I was only allowed to see my mother three times while I was there. Once about two weeks after I got there my mother tried to come and get me out but Mr. Raley wouldn't let her get me because he said that I had something to do with an escape by some girls while I was there.

The two girls that tried to escape were also on kitchen help. This happened about 7:00 in the morning and I was locked in my cell. I woke up because I heard a commotion and a lot of yelling coming from Mrs. Smith and the two girls out in the kitchen. So I started yelling for the men guards, and Mr. Raley and a lot of guards came and I heard them take the girls away and lock them up in their cells. A little while later, Mr. Raley came and took me to his office, and he told me that I'd better tell him the truth about what I knew had happened so I told him the truth and then he started asking me about my brother and a few other things. He said that one of us was lying in our statement for sure. His secretary took my statement and then I signed the papers and then I went back to my cell. About three days before I got out, an attorney, Mr. Millard, came and talked to me about the papers that welfare had filed in my case. The papers said something about my mother and that I should go away to some school called Sunny Glen. Mr. Millard asked me to write out a statement as far back as I could remember about everything that had happened to me and that it was going to be for him and for the judge. He also told me that I shouldn't talk to Mrs. Thompson, the woman from welfare without my attorney being there.

Then I went to the dining room where I had to wait because I had to get Mr. Raley's permission to get paper and a pencil to write out the statement. I wrote out the statement and then I gave it to the matron who gave it to Mr. Raley who came by to get the statement before he went home from work.

The next morning, Mr. Raley's secretary came and got me after breakfast and said someone was here to talk to me so I asked her who it was and she said it was Mrs. Thompson. I told her my attorney told me not to talk to Mrs. Thompson without him being there, but she told me to go in there and talk to her anyway. So I went to Mr. Raley's office and Mrs. Thompson and Mr. Raley were both in there and they both started talking to me.

They talked to me about the statement that I gave to the matron to pass on to my attorney. Mrs. Thompson then started arguing with me about things I had written in my statement for my lawyer that were about Mrs. Thompson. Mr. Raley kept telling me that he thought I wasn't going to make it if I went back home, and that he thought it was better for me if I went to Sunny Glen. Before I went back to my cell, Mr. Raley told Mrs. Thompson that she could talk to me alone so we went into another room and Mrs. Thompson started talking to me and said that my other attorney, who I didn't know at the time, was a young hippy and that he wasn't realistic. She told me that I shouldn't even talk to this lawyer when he came to see me. She told me she felt like turning me over her knee and things like that.

The next day my other lawyer, Mr. Bercu, came and talked to me about my case, and he told me that he thought that I was going to go home that night.

I finally did go home that night. It was on or about the 22nd day of September, 1970.

This was the only time I was ever at the detention home. I have never been to any court about anything in my statement.

Further, affiant sayeth not.

Sworn to and subscribed before me this 22nd day of November, 1970, to certify which witness my hand and seal of office.

STEVEN BERCU,

Notary Public in and for El Paso County, Tex.

My Commission Expires June 1, 1971.

AFFIDAVIT

STATE OF TEXAS,  
County of El Paso:

Before me, the undersigned authority, a Notary Public in and for the State and County on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the following instrument, and, upon his oath states and deposes as follows:

"My name is \_\_\_\_\_, and I live at \_\_\_\_\_ El Paso, El Paso County, Texas. On or about the 16th day of September, 1970, I was arrested and taken to the Detention Home of El Paso County, Texas.

On or about Sunday, the 20th day of September, 1970 I was in my room alone when Mr. Avila, a guard, walked in. He had a mean look on his face and said, "I'm getting tired of your shit." Then he kicked me on the knee. I was knocked back a step or two from his kick. He then left the room.

At room check in the evening on or about Sunday, the 20th day of September, 1970, I was alone in my room when another guard named Mike something came in. He walked straight up to me and asked "What's the trouble with you?" Then he hit me in the stomach. I don't know why he did that.

After the above mentioned incidents, Mike, the guard, was always teasing me about my knee. He would say, "How's your knee?" and then laugh. My knee hurt for quite a few days.

During all of my time at the Detention Home, Mike, the guard, called me names such as "Smokey", "Whitey", and "Snowball". He also would say, "Show your teeth" and then laugh. Also as he turned off the lights at night he would say, "Don't smile" and laugh. I think all of these things were about my race, and they made me feel very bad.

Also a Mr. Castle called me "Whitey" a lot.

I don't understand why I was left alone in solitary all the time and why they all called me names about my race.

Further, Affiant sayeth not.

AFFIDAVIT

STATE OF TEXAS,  
County of El Paso:

Before me, the undersigned authority, a Notary Public in and for the State and County on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the following instrument, and, upon her oath states and deposes as follows:

My name is \_\_\_\_\_, and I live at \_\_\_\_\_, El Paso, El Paso County, Texas. I am a student at \_\_\_\_\_ High School, I am fifteen years old. On November 17, 1970, I gave a statement to Steven Bercu in which I described my contacts with the juvenile detention home. It was as follows:

I have been in the detention home three times.

The first time was when I was ten years old and I was picked up by the police for shop lifting. I was taken to the city jail and fingerprinted and taken to the detention home where I spent a few hours before my parents were brought to pick me up.

In May, 1970, when I was fifteen years old, I was picked up at K Mart by the police and taken to the city jail. At the city jail I was fingerprinted and given a lecture by the police chief. He said that I was a "no good teenager". Afterwards I was taken to the detention home where I was told that I was being charged with being a runaway. I spent two days and then I was returned to my parents.

In August, 1970, I was picked up at a friends house and taken someplace on Dyer where the police made out warrants and then I was taken to the city jail where I was fingerprinted. Then I was taken to the detention home where I spent two days. After I had been there two hours someone came in and read us what they called our rights. My parents came but I wasn't released to them. They said that the detectives wanted to talk to us. Finally, I was released to my parents and no further action was taken.

I was never in court at any time about any of these things.

While I was at the detention home, I saw a lot of things. Some of them were: That the dishes were never clean. They were always greasy. The sheets were never clean either. They were also always dirty and greasy.

While I was there I met a girl who was six months pregnant and she said that she had been there about a month. That was in August, 1967.

While I was there the matrons told us that a girl who was having her period could only have one kotex a day, and that was all that they would issue.

I was also embarrassed by being strip searched in front of a lot of other girls, and the matrons made snide remarks while they were doing this.

Further affiant sayeth not.

Sworn to and subscribed before me, this 23rd day of November, 1970, to certify which witness my hand and seal of office.

S. LEE BERCU,

*Notary Public in and for El Paso County, Tex.*

My Commission Expires: June 1, 1971.

AFFIDAVIT

STATE OF TEXAS,  
County of El Paso:

Before me, the undersigned authority, a notary public in and for the State and County, on this day personally appeared Mrs. Peggy Gerome, known to me to be the person whose name is subscribed to the following instrument, and, upon her oath states and deposes as follows:

My name is Mrs. Peggy Gerome, and I live at 2405 McKinley, Apt. 20, El Paso, El Paso County, Texas. I am fifty years old and I have a B.A. in psychology. On November 17, 1970, I gave a statement to Steven Bercu which was as follows:

In February, 1970, I attempted to get a girl out of the detention home. The girl was a friend of my daughter, and the mother of this girl had had brain cancer and had been hospitalized.

The girl had run away from home and the mother had called the detention home to pick the girl up. The police picked the girl up and at the time the girl was at my house, having come there from her mother's. The girl had an appointment at Beaumont Hospital the next day.

The girl was taken to the detention home and the next day I was allowed to take her to her appointment at Beaumont Hospital. After the appointment the doctor called the mother of the daughter and Mr. Raley and said that the girl should not be in the detention home and that his report showed her to be o.k. Then I went to talk to the mother who told me to go get her daughter out.

I went out there with the mother of the daughter and Mr. Raley refused to release the girl to us. He said "well I think I've got something on her and I want to check it out. Maybe I'll let her go tomorrow." I asked if I could see the girl to explain to her that it would be a few days before we could pick her up, but Mr. Raley said no. I asked if I could leave a note so that the girl would know what had happened but Mr. Raley said no. Then I asked if Mr. Raley would tell her and he said that he would.

Mrs. PEGGY GEROME.

But two days later when the girl was finally released to us she stated to us, sobbing, that she had not been told and that she didn't know what had happened to us.

Mr. Raley required the mother to come out with me again to pick up the daughter, even though the mother was in ill health and had suffered this brain cancer. So we went back but then Mr. Raley released the girl to me. He made me sign a paper that stated that I would bring the girl in immediately any time that they asked.

While at the detention home the mother and I were kept waiting in the lobby approximately one to one and a half hours each time we were there even though Mr. Raley knew that we were coming.

Upon her release the girl told me that on her first night there she had been awakened late during the night from a full sleep and taken into a bright room to "make a confession." She stated that she was so sleepy that she just said what she thought they would want so that she could go back to sleep.

She also stated that she saw a girl there who was an epileptic and that they took the girl's drugs away from her and let her have seizures, and that when she had the seizures the matrons wouldn't come to help her.

She stated that she saw another girl cut her wrists and that the matron only came a half an hour afterwards, and that the matron then grabbed the girl by her hair and dragged her out.

She stated that coffee cans were used as toilets in the cells and that sometimes no toilet paper was given. In fact one day when she requested toilet paper a matron said to her "use your finger."

She stated that security was threatened for almost anything. (Security means solitary confinement).

And she stated that the girls were strip searched and that the matrons searched in between their legs into their bodily orifices.

Further affiant sayeth not.

Mrs. PEGGY GEROME.

Sworn to and subscribed before me, this 23rd day of November, 1970 to certify which witness my hand and seal of office.

STEVEN BERCU,

*Notary Public in and for El Paso County, Tex.*

My Commission Expires June 1, 1971.

AFFIDAVIT

STATE OF TEXAS,  
County of El Paso:

Before me, the undersigned authority, a Notary Public, in and for the State and County on this day personally appeared Javier Salas, known to me to be the person whose name is subscribed to the following instrument, and, upon his oath states and deposes as follows:

My name is Javier Salas and I live at 263 Limonite, El Paso, El Paso County, Texas. I am seventeen years old. On the 19th of November, 1970, I made a statement to Steven Bercu which was as follows: In June, 1967, when I was fourteen years old I was picked up at my house by the police. The police asked my mother, "is this him?" My mother answered yes, that's him. I was taken to the city jail and then fingerprinted and then taken to the detention home.

At the detention home I asked if I could make a phone call after I had been strip searched. I was told that no phone calls could be made unless Mr. Raley approved. I was put in a small room where I waited four hours and then I was taken up to the front. The guard asked me, "we want to know where you were last night and what you did and if you stole anything", and other things of that nature. I asked him what I was there for and he told me incorrigible and runaway. I asked him how I could be a runaway when I was at home and I asked him how I was an incorrigible. He answered that my mother had said so.

I made no statement because I had nothing to say. I was put into a cell and left there for two weeks when I was finally released to my mother.

In May, 1969, I was picked up at my house again by the police and again taken to the city jail and fingerprinted, then taken to the detention home where I was again strip searched, and I again asked for a phone call, but again I was told that no phone calls could be made unless Mr. Raley approved. I asked what charges were against me. They told me incorrigible, and then they locked me up.

I spent two weeks in my cell and then my mother came to talk to Mr. Raley. Mr. Raley talked my mother into sending me to Gatesville. She told me that she was confused and that she didn't know what to do and she thought that she could get me out of jail any time she wanted to get me out.

One week later I was sent to Gatesville.

I was never in any court at any time for any of this.

The day I was sent to Gatesville, I asked the guards what was going on; they evaded the question and would give me no answer. I asked them where I was going but they told me that they wouldn't be able to tell me. I found out when I arrived at Gatesville.

I spent five months in Gatesville and finally was released in November of 1969. While at Gatesville I was given psychiatric testing. The case workers told me they were amazed that I was there on just the kind of charge that I had been charged with.

While I was at the detention home I found many windows to be broken, I saw no screens on the window and there were bugs everywhere.

The second time I was in the detention home prior to being sent to Gatesville, I cut my wrists. A guard saw me about an hour later and came into my cell. There was blood all over the cell and all over the clothing. The guard said to me, "you stupid son of a bitch! What did you do that for? Next time borrow my knife and slit your neck so you'll get it for sure." Then he told me that "Mr. Raley

told me to tell you that if you pull another stunt like that we are going to put handcuffs on you and lock you up in solitary confinement." The guard then went out to get me medical aid. I then washed my cuts on my arms in water and then put on the bandaids that he had brought back to me. The blood in my cell and on my clothing was left and not touched. The next morning I saw that the wounds were still open and I was afraid that there might be an infection so I asked for a doctor but I was completely ignored.

Finally, the following day, a guard named Walley came walking by and I asked him for a doctor. He went to talk to Mr. Raley and then came back and said that it was o.k. finally, and I was taken to Thomason General Hospital. I was given a tetanus shot and the doctor told me that my cuts needed stitches but that now it was too late.

While at the detention it was quite common to see in the mornings at 7:00 when we had lineup the guards banging boys into the wall anytime that they thought the boys were not "acting right".

Further, affiant sayeth not.

JAVIER SALAS.

Sworn to and subscribed before me this 23 day of November, 1970, to certify which witness my hand and seal of office.

Notary Public in and for El Paso County, Tex.

My Commission Expires: June 1, 1971.

AFFIDAVIT

STATE OF TEXAS, County of El Paso:

Before me, the undersigned authority, a Notary Public in and for the State and County on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the following instrument, and, upon her oath, states and deposes as follows:

"My name is \_\_\_\_\_ and I reside at \_\_\_\_\_, El Paso, El Paso County Texas. I am a student at \_\_\_\_\_ High School. On or about the 16th day of July, 1970, I was apprehended by the police of El Paso County at my residence. I was taken to the Detention Home and on or about the 17th of July, 1970 I had the following conversation with Mr. M. W. Raley, the Chief Probation Officer."

"Mr. Raley called me into his office, and I went in there, and I sat down and we started talking. I asked him if I could call my lawyer, but he said that he had already called him for me. I asked him what my lawyer had said and he said, "Do you really want me to tell you." I said yes. He said that my lawyer said that he wasn't interested in my case and first, he said that he didn't even know me and he didn't even know who I was. I didn't believe Mr. Raley, but he made me believe it, by the way that he said it. I told him that I didn't believe him and he got real mad. He said, "Are you calling me a liar?" I said "No sir." Then he said, "well believe me, your lawyer said he didn't even want to see you and he didn't want to talk to you. He also said that he wasn't interested in your case," which he told me before. Then he started talking about the lawyers, saying that they were no good, that they just made the people think that they were going to help them but they never really did help them any. Then he stopped talking about the lawyers and he took a sip of his coffee, and then he just started talking about dope. First he asked me to tell him, or "tell me \_\_\_\_\_ how many times have you done acid?" At first I answered none, and then he goes on, "Oh come on \_\_\_\_\_ I know you've done acid so tell me the truth" and then I said, "Well would you believe one?" He goes, "see you admitted it. How many more times after that one?" I told him, "Well, I didn't do it once. I'm just asking you if you'd believe one." And so he got very mad. He started talking about sending this girl to a mental hospital for being a dope head. And he said that that was where he was going to send me, because he knew that I had done acid many times and he said that he knew that I had smoked grass many times too and he thought I needed some help. Then he said that if he could get my moms approval, he was going to send me there."

"Then he talked to me for about half an hour after that, he talked to me about drugs, and he just continued until he told me to just go back to my cell.

"On or about the 4th day of August, 1970 I was released to my father's custody. Just prior to my release Miss Alejandro stated that Mr. Raley wanted to talk to me. I went into his office and we begin talking."

"Mr. Raley told me, 'we're releasing you into your dad's custody, and not because your lawyer helped you any. Because he wasn't even interested in your

case.' Then he started talking about the lawyers, saying that they just carry you up to a certain point and then they just drop you, once they know they can't make it. He said he knew that my lawyer had lost my case and that was why he had just dropped me and wasn't interested in my case anymore. Then I asked him, 'Well I thought you said that my lawyer wasn't interested in my case anymore? If he wasn't then how come he came to see me and to talk to me.' He said the reason why my lawyer came down to see me was because he had talked to him, and told him that if I didn't get any kind of help, that I was just going to end up at State School. He also said that next time I was back in the Detention Home, no matter what, I was going to State School because even if I did have a lawyer, he wasn't going to be able to do anything for me. During all this conversation I had with him, he kept calling the lawyers names, but I just can't remember right now."

Further, affiant sayeth not.

Subscribed and sworn to before me, this 14th day of November 1970, to certify which witness my hand and seal of office.

STEVEN BEROU,

Notary Public in and for El Paso County, Tex.

My Commission expires, June 1, 1971.

AFFIDAVIT

STATE OF TEXAS,  
County of El Paso:

Before me, the undersigned authority, a Notary Public in and for the State and County on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the following instrument, and, upon her oath states and deposes as follows:

My name is \_\_\_\_\_; and I live at \_\_\_\_\_, El Paso, El Paso County, Texas. I am fourteen years old and a student at \_\_\_\_\_ High School.

At about noon on November 13, 1970, Bill Roach, Minister of the Grandview Church of Christ, called and talked to my mother and to me. He talked to my mother for a minute and then she gave me the phone and he talked to me.

He said, "I don't know if you have heard but they are trying to get Mr. Raley into trouble about the way he has been running the detention home and so I wanted to know if you would say something for Mr. Raley."

Then he asked me what I thought about Mr. Raley and the detention home. I said that I didn't like either one of them. Then he said that he wanted to take some notes and he wanted to know if I would mind if he came over later. So I said O.K.

He came over to my house at about 3:00 o'clock also on the 13th of November, 1970. He said that he had decided that we had had enough trouble with them and that we just shouldn't get involved.

Then he said, "thanks any way. You're looking fine", and then he left.

Further, affiant sayeth not.

Sworn to and subscribed before me this 22nd day of November, 1970, to certify which witness my hand and seal of office.

STEVEN BEROU,

Notary Public in and for El Paso County Tex.

My Commission Expires, June 1, 1970.

SUPPLEMENT TO STATEMENT CONCERNING THE JUVENILE SYSTEM IN TEXAS PREPARED FOR THE U.S. SENATE SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY

THE DETENTION HOME

Since the writing of my original statement quite a few events have occurred regarding the El Paso Detention Home.

On or about April 9, 1971, Mr. Raley avoided a writ of habeas corpus filed by a local attorney, Robert Perel, by having the child removed from El Paso County.

Mr. Raley had been notified that the writ was filed by the District Clerk of El Paso County.

It is my understanding that Judge Berliner of the Juvenile Court was fully apprised and aware of Mr. Raley's illegal actions, but made no effort to stop him.

Following this event Judge Woodard of the Thirty-Fourth District Court of Texas (who had granted the writ) asked for Mr. Raley's resignation in a letter

to all members of the juvenile board, but the scheduled meeting of the juvenile board was not held due to Mr. Raley's rather timely "illness".

On Friday, April 23, 1971, the grand jury of El Paso County ordered all records at the Detention Home seized.

Mr. Raley remains ill.

#### THE STATE SCHOOLS

Since writing my statement I have had the opportunity to visit the Mountain View School for Boys and to revisit Gainesville and Gatesville and speak with many of the inmates of these institutions.

My visits have confirmed my earlier feelings that these institutions are in grave need of a thorough investigation.

At Mountain View I spoke with a client of mine who told me that he had been unjustly punished twice. First he had witnessed a fight while standing at the side of a guard. He was then punished for participating in the fight with some number of hours of hard labor. When he wrote me to tell me of this unjust punishment, he was called into the "offices" and forced to write me a letter telling me how nice everything is at Mountain View. Then he was punished for writing me the first letter and neither letter was sent to me.

The inmates of the other schools tell consistent stories of mental and physical abuse that is apparently completely condoned by the people in charge of these institutions.

The Gainesville School, for example, uses as teachers in its "high school" a group of sadists who spend much of their time abusing their students.

At Gatesville a day without a beating is an exception and torment is the order of the day.

#### JUVENILE JUSTICE IN TEXAS

I have had the opportunity to talk with many children from all over Texas, as well as correspond with many children and their parents.

I have reached one inescapable conclusion—El Paso is merely an example of what is occurring all over the State of Texas.

I am completely certain that if every TYC inmate were examined that no more than 25% would be found to be legally incarcerated.

In every jurisdiction in Texas the right to counsel is treated in the same cavalier fashion as in El Paso. Admittedly only a few other "judges" commit children without a hearing, but, of course, it is inconceivable that any do so in 1971.

To date I have not spoken to one inmate at a Texas Youth Council facility who is legally incarcerated. This speaks rather clearly to the desperate need of these children for help, both legal and institutional. To think that the people running the Texas Youth Council with \$20 million each year have nothing better to do than to detain children who have never even been found delinquent legally is indeed shocking and a sad commentary on the kind of men to whom we entrust such important positions.

Respectfully submitted this 28th day of April, 1971.

STEVEN BERCU.

Senator BAYH. The experience you have had is unique as far as the committee studies we have made to date. I fear it will not be unique by the time we are through studying this problem. As I say, I don't want to overemphasize the fact that you happen to be from El Paso. It is just the fact you are here and you volunteered to make this information available to us.

Let me proceed a bit further. What happens to these youngsters after you have successfully obtained their release on habeas corpus?

Mr. BERCU. In the cases I have listed, these first cases we have effected reconciliation with the family. We have put the children back into the family. Certainly, in terms of what is abstractly correct. I do not know if this was correct in a way, quite honestly. We are putting them back in the same position, with the same people that sent them there originally.

Strange enough, most of these children do not know their parents

did send them away. We certainly took great pains to attempt to conceal this from the children so they could possibly reconcile themselves with the family.

Senator BAYH. Have you had a long enough period of time to see how successful this reconciliation has been?

Mr. BERCU. Basically speaking, I think that we have about 50 percent success rate in reconciliation. The other 50 percent I am finding drifting away from the home as soon as they reach the age that allows them to leave the home without further juvenile problems.

Senator BAYH. What is that age in Texas?

Mr. BERCU. For a boy it is 17. For a girl it is 18.

So we have a problem. I see mainly, in speaking to these children, that they basically have one purpose in terms of the relationships that have put them in juvenile detention facilities or juvenile reform schools. This purpose is to live until they reach that age of 17 or 18, so that they can be free and on their own.

What sort of people they will be when they are 17 or 18, I don't know. I do know that most of the constructive forces in our society have been terminated at the time they have gone to these State schools. Their education has been terminated. Their links with their families have been effectively terminated. Their associations with society have been terminated. Their job possibilities have been strongly limited.

Senator BAYH. There is no educational opportunity available for a 13-year-old child that ends up in an institution?

Mr. BERCU. There is an educational opportunity. At the Gatesville School for Boys, there is a high school. At the Gainesville School, the Brownwood School, the Crockett School these are girls schools—there is no accredited high school. For example, a girl of high school age going to this school may receive courses. But these are not accredited and she cannot gain credit for them. They are not accredited in other cities in Texas. Courses are questionable. It is possible to become a cosmetologist, a typist possibly, I don't know, and some other fields. It is possible to get a high school equivalency certificate, but to get academic credit, to be able to continue in education if, for example, that is what the child wishes to do, that becomes impossible or very difficult.

Senator BAYH. What educational facilities are available in the El Paso Detention Home?

Mr. BERCU. No educational facilities.

Senator BAYH. None?

Mr. BERCU. In the local detention facilities in all of the State of Texas, there is absolutely no provision made for any sort of an education while the child is resting in these homes.

Senator BAYH. How long are they "resting" there?

Mr. BERCU. Resting, yes. It depends. I have represented a girl who at late is 15 years old. At the time of her incarceration she was 13. She spent 7 months in the El Paso Detention Home. She was never before the court until the day she was finally released from the detention home.

Senator BAYH. What did she do while she was there?

Mr. BERCU. She sat in her room while she was there. She did nothing for 7 months. During the time of her incarceration, there were

absolutely no facilities of any type for rehabilitation; education, medical attention, sanitary conditions, no facilities at all.

Senator BAYH. I took the advantage and opportunity about 2 months ago, without any attendant publicity to spend the whole afternoon going through one of the Los Angeles County Detention Homes. From just that kind of a casual study, I was impressed with the programs they had. At least it looked as if they were trying to make meaningful experience, education, and skills available to those youngsters. It certainly does not seem like that is happening in El Paso.

Mr. BERRY. It is not true of El Paso. Speaking for the State as a whole, I can say with a surety that there are no more than two counties in the State of Texas that might possibly offer educational or rehabilitative facilities. Possibly Dallas and possibly Houston. I do not know that for sure. But I know for a fact, no other county does offer any educational rehabilitative facilities.

Rehabilitative facilities, of course, would be impossible with the present situation in a detention home such as El Paso, where we have no one who has any possible connection with rehabilitation. There is not one person employed, for example, at the El Paso Detention Home who has completed one hour of college time. Very few, I believe, even completed high school; not to say that merely college or high school qualifies someone as a person capable of giving rehabilitative help, but the quality of the personnel there lends itself to absolutely nothing, other than a detention, other than merely holding the child for some length of time.

I could continue in the vein that I began, of listing. I would mention only the fact the names I have listed have been from El Paso. I do not wish to give the impression this is an El Paso problem only. I cannot speak for the whole United States, but I can say that I have children's names here that I would have read and could from Dallas, from Mineral Wells, Tex.; Denison, Tex.; Alice, Tex.; Sherman, Tex.; Longview, Tex.; Austin, Tex.; Brenham, Tex.; Fort Worth, Tex.; Morton, Tex.; Leonard, Tex., all of whom were sent to boys or girls schools in the State of Texas illegally.

These other children had court hearings but they had no attorneys at these court hearings. They have no mention of an attorney. They had no help legally. In Brenham, Tex., apparently the fashion is to send children away without hearings, similar to the El Paso situation but without any agreement by the parent.

I have spoken to the mother of a girl from Brenham, Tex., and we are now attempting to have the girl released from the Gainesville school, who states there was absolutely no cooperation with the mother, that this was definitely not a situation where the family wished the child sent away. But the legal procedures in Brenham, Tex., apparently, lend themselves to commitment to juvenile institutions without any sort of hearing at all required.

Dr. Korn spoke about the institutionalization and the problems of dealing with people and the rejections felt by society. I would speak to another point. I would speak to the 50 percent nationally, the 50 percent of the inmates of these various institutions who are there for noncrimes, who are there for being incorrigible, when this definition of "incorrigible" seems to be totally subjective and relied purely upon

what the parent feels. In fact, we are dealing with a child who is no delinquent, in terms of a wrongdoing, in terms of a young criminal. We are dealing with a person who does not even meet those standards, who merely upset a parent or parents.

I would speak to the fact that how can an institution be expected, good or bad, to deal with a child who has done nothing and who does not even know why he is in the institution? Who has never spoken with an attorney, who has never spoken with a judge, who has no idea what he is doing there, or why, or who sent him or for what reason or in what manner?

I speak to these children. I have spoken to them and asked them why are you here and they say, "I don't know; I suppose because my mother wasn't happy with the way I was acting."

I find it very difficult, no matter how good an institution might be, to understand how that institution could work with people who have no idea what they are there for.

In these institutions—since I have been recently able to visit with some of these incarcerated children—I found evidence of a total lack of concern for the children as human beings. I found a total lack of what I consider the purpose, if there is a purpose of such an institution, that mainly being rehabilitation. I found a total lack of concern for these issues. I found the main concern in these institutions to be simply holding. The main concern is to fight escape. We do not want these children to escape from our institution. This seems to be the main thought of all of the people I have met who deal with these institutions.

I have spoken to children, clients of mine from El Paso, people who have spoken to me from other parts of the State of Texas, who had been beaten, for example, for writing a letter to me. A case I am very intimately involved with, concerns a boy from El Paso who was punished in one of the State schools, the Mountain View School, which is the maximum security prison for boys, a school surrounded by a 14-foot fence and then by a 12-foot fence with barbed wire between. It certainly gives the air of a maximum security prison. This boy witnessed a fight, standing next to a guard, and was punished with hard labor for 20 hours. He thought this was unjust, since he had done nothing, and wrote me a letter about it. He was then taken back to the supervisor or to whomever would deal with such a problem, and was punished for writing me the letter saying that he had been unjustly punished.

His punishment for this was 6 more hours of hard labor. And, of course, the letter was not sent to me.

I am, unfortunately, not at complete liberty to speak about some of the problems I have come across in these schools. The reason for that is that there is presently litigation in a Federal court in East Texas with the Texas Youth Council and all of the juvenile judges in the State of Texas as defendants. We are suing them—and I am at liberty to mention the basis of our lawsuit—on several distinct points and they will possibly point up some of the problems we discovered all over the State of Texas.

In the institutions themselves, we have sued them for denying the plaintiffs, a list of these children, their right to speak with their attorneys privately. Our contention is that the Youth Council will in-

terfere and continues to interfere with anything these children seem to do to try to get out of these places, whether legally, illegally, or any other way. And our contention is they interfere with the right to counsel.

In this case it is rather clear to us, since we are the counsel involved.

We have also questioned the Youth Council policy of interfering with letters to judges, State and National officials, and lawyers. These were not only censored, but not sent. And we have also asked for injunctions against State judges, such as Judge Berliner, who seemed to find it justifiable in some way to send a child to a State school without a hearing.

We are also asking for attorneys to be present when children are incarcerated.

Senator BAYH. You mentioned the El Paso Detention Home. You said one of the girls that was committed there did nothing during that 7-month period. What type of facility is this?

Mr. BERCU. The El Paso Detention Home is actually a rather drab, old building in El Paso, Tex. I don't know what it originally was built for. It may have been built originally as a detention facility. I do not know. It has two wings with very small cells along the wings, one for boys and one for girls.

The girls' wing, for instance, has an interesting lack of facilities, in that it does not have any sort of toilet facilities in any of the cells.

Until November, approximately November or December of 1970, the girls were issued coffee cans to use as toilets during the night. And, of course, the open cans of excrement were left until whenever they could be discarded in the morning, I suppose. As a result of some publicity in El Paso, they have now done away with the coffee cans and rather eliminated any possibility of toilet facilities.

The boys' cells are also these same type of plain, small cells with, naturally, heavy iron doors. The cells have two metal frames upon which there is a thin mattress made of some sort of, I believe foam, at this time. Prior to December of 1970, these mattresses were removed from the cell every day and the child would sit in the cell all day on the floor, in fact, with nowhere to sit and nothing to do.

I have attached to my statement some affidavits that I took. One of these, which I letter "exhibit 1," the first affidavit, is more or less a story of the detention home by a girl from El Paso.

Senator BAYH. We are going to have all of that in the record. What are the ages of the youngsters in this detention home?

Mr. BERCU. They range from the age of 10 to the age of 18. Another interesting fact, I suppose, in relation to these ages, is that when doing the investigation I did into the area of children being committed without a hearing or without counsel, this again showed a complete range of ages, from 10 to 17. I found very many 10-, 11-, 12-, 13-year-olds being sent away without a hearing, without a lawyer. I find this situation completely untenable. I find it impossible to justify sending away a 10-year-old child without an attorney or without a hearing.

I find it impossible to understand how any man could consider a 10-year-old child to be completely beyond the control of his parent or the society and that he had to be sent to a State school with no benefit of counsel, no hearing, no opportunity, and, I suppose, no understanding what was happening to him.

I find that impossible to conceive.

I, in fact, would come to the conclusion that I would present to this committee, and that is that in terms of the greatest producer of criminals in El Paso County, Tex., I have no question but the greatest single cause of crime probably in El Paso is Judge Edwin Berliner. This, of course, results from the fact that the man, during the 5 years he has been a juvenile judge, has sent away approximately 75 children per year, 50 without lawyers, 25 without hearings, to State schools. I would venture to say that of the 75 per year, no more than four or five at the very most should have been sent to a State school had they had an attorney.

I would further submit that the incarceration in these State schools has terminated their career as a productive individual in our society and has terminated their opportunity to be productive individuals in our society.

I would say of the 75 per year, those children are the rare exception that can live through this experience in these State schools and come back to our society and produce in terms of productive society and productive members of society.

I would say a system such as this, which I am afraid is not typical merely to El Paso, is one of the greatest harms to the system of order in the country, if in fact we seek a system of order.

To take a child and completely deny him any of his constitutional safeguards and illegally send him to a State school, can do nothing but engender a disrespect for the law, a hate for the authority of people that sent him there, and a lack of concern for what any member of this society has to say about this child.

I would refrain, I think, from reading my statement, since as you mentioned, it is in the record.

I would be glad to answer any questions that you would have, and hope that you do have some concerning Texas or El Paso that I could answer. It would be helpful.

Senator BAYH. Mr. Bercu, you have done a very good job answering them as I asked them going along. I thought that was better than to wait until the end of your statement. I have gone through your statement and it pretty well dramatizes specifically what you said. I trust that we can continue to keep in touch with you and ask your advice. And if you have anything else that comes to light in the meantime, feel free to let the committee know. We are not conducting a witch hunt in El Paso or any place else. We are trying to find out what happened, to dramatize what has happened is wrong, and what has happened is right, so we can sort of nudge and galvanize public policy in the direction of the latter.

You have been very helpful in documenting from your personal experience some of the things that are wrong.

Mr. BERCU. I would mention that I, unfortunately, do not feel that El Paso is a single situation. And that, of course, to me is the importance of the El Paso situation, as expanded into the whole State of Texas, of which I definitely am certain. Unfortunately, I am afraid it can be expanded into the rest of the United States.

I find it a shame that young lives are destroyed at a point where these young lives could be saved, a point in these lives that could be used for constructive building rather than a destruction of these children.

I find it a shame that the legal procedures used are not used in any way to help the children, are not used in any way for the best interest of the child but are in fact used more or less as Dr. Korn mentioned, to put them away in a place somewhere and as has been also mentioned, to put them out of our sight, so we won't have to see these blights on our society.

Senator BAYH. You have been very helpful in bringing this to our attention. I am hopeful that these hearings will make the people of all of our communities, not just El Paso, but all of our communities aware of what is going on.

I cannot believe the people of El Paso are any different from people in Terre Haute, Ind., or any other place in our country; that they really would stand still when they recognize any of these things are going on, particularly when they realize this is self-defeating. I would hope that they would be really trying to provide a high degree of order and treat people as human beings in the process. So your testimony, and, hopefully, our committee's action, can bring attention to what is going on and to galvanize public opinion to stop it.

Thank you very much. I appreciate it. I wish we could have had you longer. We will follow up your testimony.

Our next witness is Mr. Bill Payne, reporter for El Paso Times, El Paso, Tex. The Times has looked into this whole problem of treatment of juveniles in El Paso. I am anxious to see what Mr. Payne's assessment of this problem is and what he thinks we might do.

Mr. Payne, we are glad to have you with us. Please proceed.

**STATEMENT OF BILL PAYNE, REPORTER, EL PASO TIMES,  
EL PASO, TEX.**

Mr. PAYNE. Thank you, Senator Bayh.

What I have to say essentially is going to be kind of filling in what Steve Bercu had to say, because we both got into this thing about the same time, bumped into each other on the way.

Less than 2 weeks ago, on April 23, the El Paso County grand jury seized all records and files of the El Paso County Juvenile Probation Department and removed them physically from the county juvenile detention home for further investigation.

The referral of this matter to the grand jury and the still continuing investigation came as the result of information I have been turning over to the district attorney for several months, and it is expected that, as time goes on, indictments will ultimately be returned.

My own investigation of juvenile justice, so-called, in El Paso County, began last August 12 on assignment from the editor of the El Paso Times and has continued up to the present. And the thing just kept expanding as I went along.

During that time I have been forced to the conclusion that juvenile justice as it exists in El Paso County—and, indeed, throughout the State of Texas—is a disgrace and an abomination, conceived and executed in bad faith and designed solely for the profit of the keepers even as they speak nobly of solicitude for the children they catch and cage.

Even now, after being submerged in this matter for nearly 9 months, what I have seen I find incredible and appalling. And even

after 3 months of preliminary investigation and 6 months of articles in the Times exposing at least partially what is wrong; so much remains to be done that oftentimes I despair.

The week of April 17, for instance, two juveniles were arrested with warrants issued by a justice of the peace. The warrants were issued and the arrests made, over the protests of El Paso city policemen, I might add, who knew better, on orders of Assistant County Attorney Jesus Hernandez, the juvenile prosecutor, despite the fact that Texas law forbids issuance of arrest warrants on juveniles by anyone except the judge of the juvenile court.

And despite the fact that the practice of babysitting juveniles in the county juvenile detention home at parental request without formally charging them was exposed as illegal in the Times as far back as October 29, 1970, in February and March of this year a 16-year-old girl was locked up for more than a month in the detention home at her mother's request. The mother simply said the girl was incorrigible and during the girl's confinement by obliging juvenile authorities, the mother actually went on a 2-week vacation with her paramour.

When the mother returned to town, the little girl was released, never having seen a lawyer, never having been formally charged, never having been produced forthwith before the judge as required by Texas law and certainly never having been convicted of anything.

And these are only the milder cases, mentioned here to show that what is wrong is not wrong simply because of ignorance or lack of resources, though both these factors play a part.

Senator BAYH. May I interrupt? I understand you received an award for a series of articles that you wrote?

Mr. PAYNE. Yes. Right.

Senator BAYH. And the Times has been very much involved in this. What has been the general reaction in the community?

Mr. PAYNE. It really hasn't been much. We have had a certain amount of reacting in January of this year after certain local officials agreed to the survey of the local juvenile justice system by the National Council on Crime and Delinquency, which was something I suggested back in October. In fact, I suggested it to the county judge back in September, when I first got into this. But, generally, the community has not been too concerned. I think part of the trouble is my articles were written sort of in legalese and you have to be a lawyer to understand what we are talking about.

I am told that some people are terribly disturbed about it. But I don't know, I haven't got much comment. I know Steve Bercu has a lot of people going to him because his name has been in the paper. So maybe they are going directly to lawyers without letting me know. We had considerable publicity about this for months.

As far as I am concerned—and this is where I may differ with some people—what is wrong with "juvenile justice" in El Paso County and the State of Texas is willfully and purposefully wrong, and it is wrong from front to back and from side to side.

Juvenile justice is itself a crime involving profiteering and exploitation of children as the ends and using procedures, facilities, and personnel whose finest hours, only rarely achieved, consist at most of simply ignoring the unfortunate children they vow to protect and yet almost invariably destroy.

## PROCEDURES

Though the procedures for handling "juvenile offenders" are fairly explicitly established in the Texas Juvenile Court Act and the Texas Youth Council Act, the actual practice seems designed to either evade or to defy the law.

Senator BAYH. Do you think the law as it is written is not at fault but rather the way it is being carried out?

Mr. PAYNE. Right. The law itself, I think, is pretty reasonable, a pretty good law, but nobody pays any attention to it. It is as if it didn't exist. In fact, it is probably safe to say that since construction of the county juvenile detention home in the early 1950's—and this is as far back as I have gone, so this is all I know about it—in El Paso County there has probably never been a legal arrest of a child, there has probably never been a legal detention of a child, and there has probably never been a legal commitment of a child from that county to a State reformatory.

The babysitting of juveniles in the detention home mentioned a moment ago is just one example; the arrest with invalid warrants or no warrants at all is another. And certainly, the worst is the so-called "agreed judgment commitment"—which Steve got into a little bit, and which NBC got into last night—to a reformatory, which was first exposed in the Times in my article of October 27, 1970.

The "agreed judgments," wherein parents affix their signatures to delinquency judgments pleading their children guilty to charges of "uncontrollability" lodged by the parents, and during which no court hearing has ever taken place, were at first thought to be strictly a local aberration in El Paso County. However, reaction of officials of the Texas Youth Council, which operates the reformatories, to my articles, as well as statements of children who had been in the reformatories, very quickly aroused suspicions that El Paso was not the only county where this has taken place.

These suspicions have since been confirmed, with names of at least three other Texas judges besides Edwin F. Berliner, juvenile court judge in El Paso County, having been added to the list of those who have been committing children to reformatories without court hearing.

Even this, however, only scratches the surface of the crime which has been committed against Texas children for many years, since one of the more interesting discoveries in El Paso County was the fact that many, if not most, of the children illegally committed to State reformatories are mentally retarded.

It should be noted here that the Texas Youth Council Act specifically prohibits commitment of mentally retarded children to reformatories, and yet a survey of the "State schools"—reformatories—by the youth affairs committee of the Texas Senate last year showed that of 3,477 children in Gatesville, more than 500 had IQ's below 80, generally considered the threshold of mental retardation. One child even shows in that report as having an IQ of 36.

And in El Paso, that data has been confirmed; of the first 10 "agreed judgment" victims released from reformatories on writs of habeas corpus, one, according to the TYC's own data, has an IQ of about 60, a second an IQ of about 80, and a third had been diagnosed prior to commitment as being brain-damaged.

Reformatory and detention homes, in other words, are dumping grounds for unwanted, retarded children, and the fact that their parents have been, quite literally, pandered to by juvenile authorities, is reflected in other, even more disgusting, ways.

A case history here, just to give an idea. In 1969 a girl was committed to the TYC on her father's signature as "uncontrollable." The girl, then 16, admittedly was into drugs, and having met her I can say that she is a very sick girl.

Her father's signature was sufficient to incarcerate her in what is effectively a prison for nearly 18 months; she never saw a lawyer or the charges against her; the commitment was consummated with a telephone call between chief El Paso County probation officer Morris W. Raley and Judge Berliner, after which the papers were sent to Berliner for his signature.

What makes this case especially interesting is the fact that while the little girl was in prison, the State child welfare agency stepped in and took custody of the girl's younger sister on dependency-neglect proceedings because of statements by the younger sister and the mother that the father had been having incestuous sexual relations with both daughters since they were little tykes.

Even after the child welfare action, however, Raley, who does "courtesy supervision" for the TYC on girl parolees from State schools in El Paso County, approved parole of this little girl back to the same parents that child welfare and a court had found unfit.

Later, when the girl jumped parole last December, Raley attempted to revoke her parole and send her back, but here the El Paso municipal police must be given high marks.

When Raley asked them to pick up the girl, the police, who knew the story, said they could do nothing without a valid arrest warrant, knowing full well that the juvenile court judge has always refused to trouble himself with such trivial technicalities.

The little girl, fortunately, got away, and, having turned 18, was discharged as a matter of course from custody of the TYC. Nevertheless, it seems a strange sort of justice when the police have to gently conspire to help a little girl escape the clutches of another so-called "law enforcement agency" that has, on more than one occasion, knowingly allowed a father who has committed the capital felony offense of incest with a minor female to consign his victim to prison.

## GENERAL CONDITIONS AND PROGRAMS

And what are these prisons to which children have been illegally and perfunctorily consigned really like?

The answer to that question, I am afraid, is as appalling as the rest. In the El Paso County Juvenile Detention Home, for instance, there are no recreational, diagnostic, or rehabilitative programs of any sort in operation, nor have there been for years.

Again, more examples. In January of this year a 16-year-old San Antonio girl, picked up in El Paso as a runaway, nearly choked to death on her tongue in the detention home during an epileptic seizure. The little girl had been there for approximately 10 days, suffering attacks every day, but Raley, who so far as I can determine never got past the ninth grade, decided that the girl was "faking" the attacks and refused to have her taken to a doctor.

After the near-fatal attack she was taken to Thomason General Hospital, where children in the detention home are supposedly "always" taken when they become ill. Physicians confirmed her lifetime epilepsy and placed her back on medication; and that same night, with money provided by the local Salvation Army, the little girl was returned to her home in San Antonio.

On March 26 of this year, a 15-year-old girl who had been in the home for a week broke the light bulb in her cell and slashed her wrists to get the attention of employees in the home. The girl's "caseworker," who also holds the title of assistant chief probation officer, and who is a chronic alcoholic, was apparently so drunk during the little girl's stay in the home that he simply forgot she was there. No one spoke to the girl; her "caseworker," accompanied by his ever-present thermos jug of gin, simply fell asleep in his office as is his wont.

Following the suicide attempt, the girl was almost immediately released.

From that date until April 5, three other little girls and one little boy slashed themselves, and still another little boy beat his hand on his bunk hard enough to break several bones.

One of the little girls, in the office of the assistant chief probation officer, broke the glass out of a framed photograph and slashed her wrists with that; another little girl sharpened the hard plastic tip on a shoe-ice and slashed her wrists with that.

One girl, a Mexican National and a parolee from Gainesville reformatory, told employees at the home when she was booked there that she was the mother of a 27-day-old infant, and expressed fear that if she were further detained or shipped back to Gainesville that her baby would die because she would not be able to breast-feed it any more.

She was called a liar by Raley and on March 27, hysterical, she broke a light bulb in her cell and slashed her face, arms, chest, breasts and neck.

Finally, when the girl's mother brought the infant to the detention home for the daughter to breast-feed it, the little girl was believed and grudgingly released.

Inside the home, conditions are deplorable. The children are fed slop while the employees eat sirloin tips with mushroom sauce. Little girls in their menstrual period are given no more than one sanitary napkin per day, and in the past year the probation department has purchased only about three boxes of sanitary napkins total for the home. And on a normal day 12 or 15 girls are in the home at any given time.

Little girls have told me, and employees at the home have confirmed, that sometimes the girls are given torn-up sheets for this purpose, and one little girl was forced to steal paper towels from the kitchen and sneak them back to her cell.

Toilet paper is the same story, with the children given from one to four squares of tissue per day. One 15-year-old boy told me of an incident in which approximately 30 boys in the home, apparently given bad food, all got diarrhea. Their guards refused them toilet paper, and the boy said, "we had to wipe ourselves on the mattresses." The boy was 14 years old when the incident took place.

What are referred to as the "little wetbacks" Mexican Nationals, generally picked up, I imagine, for purse-snatching and begging and stuff like that are all held in one cell on the boys' side of the home, no matter

how many of them there might be. They are kept completely separated from the other children and are fed in their cell rather than in the dining hall, as the other children are.

There are no programs, nothing to do. The children sit in their cells all day long without reading matter or any other diversions. One boy actually ate his tee-shirt in his cell; he said later he would have "gone nuts" if he hadn't done so. Others scratch their names onto the walls or masturbate, hoping they will not be caught. And none of them has been found guilty of anything: in the words of Judge Berliner, who is also chairman of the county juvenile board and the one man most responsible for "juvenile justice" in El Paso County, "The Detention Home is only a temporary holding and processing facility for juveniles pending further disposition of their cases."

The situation is no better in the State schools, which are characterized more by homosexuality than by anything else. Though they are called "schools," the Texas Education Agency, the only accrediting agency in Texas, shows in its 1970-71 Public School Directory that only Gatesville Reformatory for Boys has an accredited academic program on both the elementary and high school levels, Gainesville and Crockett State Schools for Girls are academically accredited only on the elementary level, and Brownswood State School for Girls is not accredited at all.

One little girl who had spent 9 months in Gainesville told me that she spoke to her "caseworker" at the school only four times during her incarceration, and those conversations were only concerning infractions of the rules at the school.

The little boys, forced into homosexuality at Gatesville, speak of being "turned into sissies," and also mention constant beatings by their guards. The little girls say they are warned by their caseworkers about "love business," or "L.B." at the schools and ordered not to participate.

Nonetheless, they always do. "If you don't join it," one little girl told me, "no one will speak to you." And when I asked this girl where these homosexual activities took place, since each girl has a separate cell in the girls reformatories, she said, "Oh, in the schools."

And, as one parting comment on this subject, the vast majority of the children (75-80 percent) committed to State schools from El Paso County or held in the local detention home, are 15 years of age or younger.

#### PERSONNEL

Though I have no specific knowledge of hiring practices of the TYC, it should be obvious from my earlier comments that the caliber of employees at the El Paso Detention Home is unbelievably low. While college degrees are not necessarily the be-all and end-all nor a solution to the problems of juvenile justice, I find it amazing that even a high school degree is a rarity in juvenile probation in El Paso.

And other, more important factors enter the picture here. The alcoholic assistant chief probation officer is an indication, but only a mild one.

One matron at the detention home has been repeatedly accused by little girls held there of lasciviously fondling their sexual organs during strip-search procedures. This same woman was actually proceeded

against by Child Welfare for child neglect after the principal of the school attended by the woman's children turned her name in because the kids always looked so ratty.

Another employee, who resigned and moved on early this year and had been the No. 1 supervisor (guard) at the detention home was hired by Raley while the man's own children were in protective custody in the home during a Child Welfare investigation of the children's allegations that their father "handcuffs us to the bed and beats us."

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#### EXPLOITATION

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There have been many such illegal "custody transfers" in El Paso County, and it is likely that those to whom custody has been transferred have worked the kids for free and then taken them off their income tax as dependents.

I might add here the first time I was told about this particular activity, it was by some men who came from Missouri and had run into that practice up there with farmers. And what I was finding in El Paso simply confirmed this.

Senator BAYH. I might interrupt here. Because of the accusations that have been made and the treatment of this by your paper, the committee felt it only fair, by the chairman, to issue an invitation to Mr. Raley to testify, and to present his side of the story. I would like to put in the record following your testimony, the letter of invitation to Mr. Raley, and his reply as of April 20, stating that he was under a doctor's care for pneumonia and other infections, claiming that he would be happy to accept the invitation but because of his present condition, he would be unable to travel at this time.

Also, because of the accusations made and directed at Judge Berliner, I asked our chief counsel to extend to him the opportunity to come before the committee to either defend himself or present contrary opinion. I do not want a person to be denied the opportunity to present their side of the story. Please proceed.

Mr. PAYNE. At this same stable in January of this year, a 13-year-old boy was working while in "protective custody" at the detention home. The boy had originally been placed in the home by his stepmother as an "incorrigible," but during his stay there, police found the little boy's sister out in the desert in a half-dug grave, badly beaten and hysterical.

She said her stepmother had tried to kill her, and Child Welfare stepped in and took custody of the two children.

Overnight, the little boy went from "incorrigible" to "dependent-neglected"—and still he worked at the stable. Undoubtedly, he was not paid, and even if he had been, he is still too young to work in the State of Texas legally.

My investigation has also uncovered bits and pieces of evidence that some young girls—and this is not entirely clear yet, it is just bits and pieces—have been steered into prostitution by local "juvenile authorities"—and this matter, too, is under investigation by the district attorney's office.

And, finally, there is the question of the "little wetbacks." As mentioned earlier, they are kept totally separated from the other children in the home, and the U.S. Immigration Service admits it has no way of determining how many are held there or what disposition is made of them.

Obviously, a variation on the custody transfer theme would be easy to work here—and people who need cheap labor, along with those who supplied that labor force, could turn an excellent profit.

I have also supplied this subcommittee with an El Paso Probation Department phone bill with a phone number in a particular Oklahoma town. The phone number is that of the town's high school principal, who "refers" errant children to any one of a number of farmers in that town.

Precisely who profits by this operation, I do not know, but naturally I have my suspicions. Neither do I know how large this Oklahoma operation might be, but since I have the name of one El Paso child sent to a farm up there without a court ever having made disposition of the case, I find the interstate nature of the whole thing more than interesting.

In sum, though much of the evidence thus far is only circumstantial, it is not too hard to figure out how the chief El Paso County probation officer, whose take-home pay is \$356 every 2 weeks, can deposit \$200 of that amount to savings every payday and still live like a king.

#### CONCLUSION

There are many aspects of this problem which I have yet to touch on: our relations with Mexico, for instance. On April 15, the U.S. Immigration Service in El Paso "raided" the detention home and removed from the safe there more than 30 border crossing cards taken from Mexican nationals and kept illegally by the probation department. The cards, issued by the Mexican Government and approved by our own, are to be turned over immediately to the Immigration Service when they are confiscated by law officers. It had been more than a year since any such cards had been turned over to Immigration by the juvenile probation department, and there is no way of determining what became of the cards or how many had been illegally taken. I personally tipped off the Federal authorities about this—more than 30 cards, it was 36, to be precise, in the safe.

Whatever the case, however, such activities by county officials are obviously dangerous in a diplomatic sense—and something of which the Federal Government certainly should be aware.

I have also uncovered during my investigation sufficient documentation to make me believe that of the \$169,000 budgeted to the county probation department last year, probably \$20,000 to \$30,000 was skimmed by employees one way or another. This matter, too, is presently under investigation by the district attorney's office.

I could go on and on. I could speak of the way certain judges who sit on, or have sat on, the county juvenile board have defended Morris Raley's handling of juveniles in El Paso County, and their reasons for doing so and for lying to cover up. Suffice it to say that there is at least one judge whose rather esoteric personal habits make him very vulnerable to blackmail, and at least one other has a teenage son who has been in fairly bad trouble with the law and whose case was "personally handled" by the chief probation officer or his cronies.

No doubt the same thing exists throughout the Nation, since children oftentimes do not understand the effect a family secret might have on daddy's reputation or career.

Obviously, juvenile probation is a delicate and ticklish job, rife with temptations and frustrating beyond belief. At present, the "juvenile justice system" seems designed to pander to the very worst type of parents—the boozers and the perverts and the brutes—because the probation officers themselves are boozers and perverts and brutes.

I cannot tell this subcommittee what is needed to straighten the situation out, and I cannot tell you personally that it can be straightened out from what I have seen, to make right what has been wrong for so long. Obviously, in some cases, effective implementation of existing law will clean up certain areas, and the grand jury investigation in El Paso will hopefully have that effect.

The only thing I can say is that this area has been neglected for far too long, and the beginning of the solution is education and public recognition that a problem exists.

Then, perhaps, we can begin to avoid the evils of the past and the creation, in the name of a farcical "law and order" of yet another generation of boozers and perverts and brutes.

I do not pretend that all of the children I have spoken to are sweet little things—but they are, for God's sake, kids.

(The prepared statement of Bill Payne follows.)

#### PREPARED STATEMENT OF BILL PAYNE

Less than two weeks ago, on April 23, the El Paso County Grand Jury seized all records and files of the El Paso County Juvenile Probation Department and removed them physically from the County Juvenile Detention Home for further investigation.

The referral of this matter to the Grand Jury and the still continuing investigation came as the result of information I have been turning over to the District Attorney for several months, and it is expected that as time goes on, indictments will ultimately be returned.

My own investigation of "juvenile justice," so-called, in El Paso County, began last Aug. 12 on assignment from the editor of the El Paso Times and has continued up to the present.

During that time I have been forced to the conclusion that "juvenile justice" as it exists in El Paso County (and, indeed, throughout the state of Texas) is a disgrace and an abomination, conceived and executed in bad faith and designed solely for the profit of the keepers even as they speak nobly of solicitude for the children they catch and cage.

Even now, after being submerged in this matter for nearly nine months, what I have seen I find incredible and appalling. And even after three months of preliminary investigation and six months of articles in the Times exposing

at least partially what is wrong, so much remains to be done that oftentimes I despair.

The week of April 17, for instance, two juveniles were arrested with warrants issued by a justice of the peace. The warrants were issued and the arrests made, over the protests of El Paso City policemen, I might add, who knew better, on orders of Asst. County Atty. Jesus Hernandez, the juvenile prosecutor, despite the fact that Texas law forbids issuance of arrest warrants on juveniles by anyone except the judge of the juvenile court.

And despite the fact that the practice of "babysitting" juveniles in the County Juvenile Detention Home at parental request without formally charging them was exposed as illegal in THE TIMES as far back as Oct. 29, 1970, in February and March of this year a 16-year-old girl was locked up for more than a month in the Detention Home at her mother's request. The mother simply said the girl was "incorrigible," and during the girl's confinement by obliging juvenile authorities, the mother actually went on a two-week vacation with her paramour.

When the mother returned to town, the little girl was released, never having seen a lawyer, never having been formally charged, never having been produced "forthwith" before the judge as required by Texas law and certainly never having been convicted of anything.

And these are only the milder cases, mentioned here to show that what is wrong is not wrong simply because of ignorance or lack of resources, though both these factors play a part.

On the contrary: what is wrong with "juvenile justice" in El Paso County and the state of Texas is willfully and purposefully wrong, and it is wrong from front to back and from side to side.

Juvenile justice is itself a crime involving profiteering and exploitation of children as the ends and using procedures, facilities and personnel whose finest hours, only rarely achieved, consist at most of simply ignoring the unfortunate children they vow to protect and yet almost invariably destroy.

#### PROCEDURES

Though the procedures for handling "juvenile offenders" are fairly explicitly established in the Texas Juvenile Court Act and the Texas Youth Council Act, the actual practice seems designed to either evade or to defy the law. In fact, it is probably safe to say that since construction of the County Juvenile Detention Home in the early 1950's, in El Paso County there has probably never been a legal arrest of a child, there has probably never been a legal detention of a child and there has probably never been a legal commitment of a child from that County to a state reformatory.

The baby-sitting of juveniles in the Detention Home mentioned a moment ago is just one example; the arrest with invalid warrants or no warrants at all is another. And certainly the worst is the so-called "agreed judgment commitment" to a reformatory, which was first exposed in THE TIMES in my article of Oct. 27, 1970.

The "agreed judgments," wherein parents affix their signatures to delinquency judgments pleading their children guilty to charges of "uncontrollability" lodged by the parents, and firing which no court hearing has ever taken place, were at first thought to be strictly a local aberration in El Paso County. However, reaction of officials of the Texas Youth Council, which operates the reformatories, to my articles, as well as statements of children who had been in the reformatories, very quickly aroused suspicions that El Paso was not the only county where this has taken place.

These suspicions have since been confirmed, with names of at least three other Texas Judges besides Edwin F. Berliner, juvenile court judges in El Paso County, having been added to the list of those who have been committing children to reformatories without court hearing.

Even this, however, only scratches the surface of the crime which has been committed against Texas children for many years, since one of the more interesting discoveries in El Paso County was the fact that many, if not most, of the children illegally committed to state reformatories are mentally retarded.

It should be noted here that the Texas Youth Council Act specifically prohibits commitment of mentally retarded children to reformatories, and yet a survey of the "state schools" (reformatories) by the Youth Affairs Committee of the Texas Senate last year showed that of 1,477 children in Gatesville, more than 500 had IQ's below 80, generally considered the threshold of mental retardation. One child even shows in that report as having an IQ of 36.

And in El Paso, that data has been confirmed: of the first 10 "agreed judgment" victims released from reformatories on writs of habeas corpus, one, according to the TYC's own data, had an IQ of about 65, a second an IQ of about 80, and a third had been diagnosed prior to commitment as being brain-damaged.

Reformatory and detention homes, in other words, are dumping grounds for unwanted, retarded children, and the fact that their parents have been, quite literally, pandered to by juvenile authorities, is reflected in other, even more disgusting, ways.

A case history here, just to give an idea. In 1969 a girl was committed to the TYC on her father's signature as "uncontrollable." The girl, then 16, admittedly was into drugs, and having met her I can say that she is obviously mentally sick.

Her father's signature was sufficient to incarcerate her in what is effectively a prison for nearly 18 months; she never saw a lawyer or the charges against her; the commitment was consummated with a telephone call between Chief El Paso County Probation Officer Morris W. Raley and Judge Berliner, after which the papers were sent to Berliner for his signature.

What makes this case especially interesting is the fact that while the little girl was in prison, the state Child Welfare Agency stepped in and took custody of the girl's younger sister on dependency-neglect proceedings because of statements by the younger sister and the mother that the father had been having incestuous sexual relations with both daughters since they were little tykes.

Even after the Child Welfare action, however, Raley, who does "courtesy supervision" for the TYC on girl parolees from state schools in El Paso County, approved parole of this little girl back to the same parents that Child Welfare and a court had found unfit.

Later, when the girl jumped parole last December, Raley attempted to revoke her parole and send her back, but here the El Paso Municipal Police must be given high marks.

When Raley asked them to pick up the girl, the police, who knew the story, said they could do nothing without a valid arrest warrant, knowing full well that the juvenile court judge has always refused to trouble himself with such trivial technicalities.

The little girl, fortunately, got away, and, having turned 18, was discharged as a matter of course from custody of the TYC. Nevertheless, it seems a strange sort of justice when the police have to gently conspire to help a little girl escape the clutches of another so-called "law enforcement agency" that has, on more than one occasion, knowingly allowed a father who has committed the capital felony offense of incest with a minor female to consign his victim to prison.

#### GENERAL CONDITIONS AND PROGRAMS

And what are these prisons to which children have been illegally and perfunctorily consigned really like?

The answer to that question, I am afraid, is as appalling as the rest. In the El Paso County Juvenile Detention Home, for instance, there are no recreational, diagnostic or rehabilitative programs of any sort in operation, nor have there been for years.

Again, more examples. In January of this year a 16-year-old San Antonio girl, picked up in El Paso as a runaway, nearly choked to death in the Detention Home during an epileptic seizure.

The little girl had been there for approximately ten days, suffering attacks every day, but Raley, who so far as I can determine never got past the ninth grade, decided that the girl was "faking" the attacks and refused to have her taken to a doctor.

After the near-fatal attack she was taken to Thomason General Hospital, where children in the Detention Home are supposedly "always" taken when they become ill. Physicians confirmed her lifetime epilepsy and placed her back on medication; and that same night, with money provided by the local Salvation Army, the little girl was returned to her home in San Antonio.

On March 26 of this year, a 15-year-old girl who had been in the home for a week broke the lightbulb in her cell and slashed her wrists to get the attention of employees in the home.

The girl's "caseworker," who also holds the title of Asst. Chief Probation Officer, and who is a chronic alcoholic, was apparently so plowed during the little girl's stay in the home, that he simply forgot she was there. No one spoke to the girl; her "caseworker," accompanied by his ever-present thermos jug of gin, simply fell asleep in his office as is his wont.

Following the suicide attempt, the girl was almost immediately released. From that date until April 5, three other little girls and one little boy slashed themselves, and still another little boy beat his hand on his bunk hard enough to break several bones.

One of the little girls, in the office of the Asst. Chief Probation Officer, broke the glass out of a framed photograph and slashed her wrists with that; another little girl sharpened the hard plastic tip on a shoelace and slashed her wrists with that.

One girl, a Mexican national and a parolee from Gainesville reformatory, told employes at the home when she was booked there that she was the mother of a 27-day-old infant, and expressed fear that if she were further detained or shipped back to Gainesville that her baby would die because she would not be able to breast-feed it any more.

She was called a liar by Raley and on March 27, hysterical, she broke a light-bulb in her cell and slashed her face, arms, chest, breasts and neck.

Finally, when the girl's mother brought the infant to the Detention Home for the daughter to breast-feed it, the little girl was believed and grudgingly released.

Inside the home, conditions are deplorable. The children are fed slop while the employes eat sirloin tips with mushroom sauce. Little girls in their menstrual period are given no more than one sanitary napkin per day, and in the past year the Probation Department has purchased only about three boxes of sanitary napkins total for the home.

Little girls have told me, and employes at the home have confirmed, that sometimes the girls are given torn-up sheets for this purpose, and one little girl was forced to steal paper towels from the kitchen and sneak them back to her cell.

Toilet paper is the same story, with the children given from one to four squares of tissue per day. One 15-year-old boy told me of an incident in which approximately 30 boys in the home, apparently given bad food, all got diarrhea. Their guards refused them toilet paper, and, the boy said, "we had to wipe ourselves on the mattresses." The boy was 14 years old when the incident took place.

Mexican nationals, the "little wets," are all held in one cell on the boys' side of the home, no matter how many of them there might be. They are kept completely separated from the other children and are fed in their cell rather than in the dining hall as the other children are.

There are no programs, nothing to do. The children sit in their cells all day long without reading matter or any other diversion. One boy actually ate his tee-shirt in his cell; he said later he would have "gone nuts" if he hadn't done so. Other scratch their names onto the walls or masturbate, hoping they will not be caught. And none of them has been found guilty of anything: in the words of Judge Berliner, who is also chairman of the County Juvenile Board and the one man most responsible for "juvenile justice" in El Paso County, "The Detention Home is only a temporary holding and processing facility for juveniles pending further disposition of their cases."

The situation is no better in the state schools, which are characterized more by homosexuality than by anything else. Though they are called "schools," the Texas Education Agency, the only accrediting agency in Texas, shows in its 1970-71 Public School Directory, that only Gatesville Reformatory for Boys has an accredited academic program on both the elementary and high school levels. Gainesville and Crockett State Schools for Girls are academically accredited only on the elementary level, and Brownwood State School for Girls is not accredited at all.

One little girl who had spent nine months in Gainesville told me that she spoke to her "caseworker" at the school only four times during her incarceration, and those conversations were only concerning infractions of the rules at the school.

The little boys, forced into homosexuality at Gatesville, speak of being "turned into sissies," and also mention constant beatings by their guards. The little girls say they are warned by their caseworkers about "love business," or "L.B." at the schools and ordered not to participate.

Nonetheless, they always do. "If you don't joint it," one little girl told me, "one will speak to you." And when I asked this girl where these homosexual activities took place, since each girl has a separate cell in the girls reformatories, she said, "Oh, in the schools."

And, as one parting comment on this subject, the vast majority of the children (75-80%) committed to state schools from El Paso County and held in the local Detention Home, are 15 years of age or younger.

## PERSONNEL

Though I have no specific knowledge of hiring practices of the TYC, it should be obvious from my earlier comments that the caliber of employes at the El Paso Detention Home is unbelievably low. While college degrees are not necessarily the be-all and end-all nor a solution to the problems of juvenile justice, I find it amazing that even a high school degree is a rarity in juvenile probation in El Paso.

And other, more important factors enter the picture here. The alcoholic assistant chief probation officer is an indication, but only a mild one.

One matron at the Detention Home has been repeatedly accused by little girls held there of lasciviously fondling their sexual organs during strip-search procedures. This same woman was actually proceeded against by Child Welfare for child neglect after the principal of the school attended by the woman's children turned her name in because the kids always looked so ratty.

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**CONTINUED**

**1 OF 8**

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I could go on and on. I could speak of the way certain judges who sit on or have sat on the County Juvenile Board have defended Morris Raley's handling of juveniles in El Paso County, and their reasons for doing so and for lying to cover up. Suffice it to say that there is at least one judge whose rather esoteric personal habits make him very vulnerable to blackmail, and at least one other has a teenage son who has been in fairly bad trouble with the law and whose case was "personally handled" by the Chief Probation Officer or his cronies.

No doubt the same thing exists throughout the nation, since children oftentimes do not understand the effect a family secret might have on daddy's reputation or career.

Obviously, juvenile probation is a delicate and ticklish job, rife with temptations and frustrating beyond belief. At present, the "juvenile justice system" seems designed to pander to the very worst type of parents—the boozers and the perverts and the brutes—because the probation officers themselves are boozers and perverts and brutes.

I cannot tell this subcommittee what is needed to straighten the situation out, or how to make right what has been wrong for so long. Obviously, in some cases, effective implementation of existing law will clean up certain areas, and the Grand Jury investigation in El Paso will hopefully have that effect.

The only thing I can say is that this area has been neglected for far too long, and the beginning of the solution is education and public recognition that a problem exists.

Then, perhaps, we can begin to avoid the evils of the past and the creation, in the name of a farcical "law and order", of yet another generation of boozers and perverts and brutes.

I do not pretend that all of the children I have spoken to are sweet little things—but they are, for God's sake, kids.

(The correspondence referred to between Senator Birch Bayh and Morris W. Raley and Judge Edwin F. Berliner was subsequently received for the record and was marked "Exhibit Nos. 2 and 3" and is as follows:)

EXHIBIT No. 2

APRIL 6, 1971

Mr. MORRIS W. RALEY,  
Chief Probation Officer,  
El Paso County,  
El Paso, Tex.

DEAR MR. RALEY: The Senate Subcommittee To Investigate Juvenile Delinquency is planning hearings on conditions in confinement institutions for juvenile offenders.

This is in connection with our effort to develop Federal legislation to help improve state and local institutions and other segments of correctional systems.

In view of your experience as Chief Probation Officer in the El Paso Juvenile Court, I am inviting you to testify before the Subcommittee on May 4, 1971.

Please include in your statement all information you consider relevant to our inquiry. In addition, the Subcommittee members would like you to discuss the following topics:

1. The procedures through which juveniles are interjected into the El Paso Detention Home and into the state institutions.
2. The conditions in the El Paso Detention Home and in the juvenile institutions under the jurisdiction of the Texas Youth Council.
3. Programs and procedures for the handling of juveniles at the El Paso Detention Home. This should include all aspects of treatment, medical, psychiatric and social. It should also include educational programs, vocational training, employment and recreation.
4. A summary of the budget and the use of funds for the El Paso Detention Home and other programs.

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5. The number and quality of personnel for the handling of juveniles in the El Paso Detention Home and in the juvenile court system.

6. Your opinion regarding the "agreed judgment" procedures.

7. The availability of defense counsel for juveniles in the El Paso juvenile justice system.

The hearing is scheduled for May 4, 1971, at 10:00 a.m. in Room 318, Old Senate Office Building, Washington, D.C. You will be paid \$25.00 per diem and reimbursed for travel expenses in connection with the hearing. If you have any questions regarding your appearance please call (collect) Mr. Lawrence Speiser, Staff Director and Chief Counsel of the Juvenile Delinquency Subcommittee at area code 202, 225-2951.

In accordance with Subcommittee rule, we would like copies of your prepared testimony 72 hours in advance of your scheduled appearance.

I am certain that your testimony will be a valuable contribution to our inquiry, and I will be looking forward to your appearance before the Subcommittee.

With best wishes, I am  
Sincerely yours,

BIRCH BAYH, *Chairman.*

APRIL 14, 1971.

Mr. MORRIS W. RALEY,  
*Chief Probation Officer,  
El Paso County,  
El Paso, Tex.*

DEAR MR. RALEY: On April 6, I wrote you inviting you to testify before the Juvenile Delinquency Subcommittee on your experience as Chief Probation Officer in the El Paso Juvenile Court. Unfortunately, the schedule for your appearance has to be changed. You are now scheduled to testify before the Subcommittee on May 3, 1971 at 10:00 AM, in Room 318, Old Senate Office Building, Washington, D.C.

In order to properly prepare for the hearing it is requested that you submit 75 copies of your prepared statement to be given before the Subcommittee by Wednesday, April 28.

As I advised you earlier, if you have any questions concerning your appearance, please feel free to call collect, Mr. Lawrence Speiser, Staff Director and Chief Counsel at area code 202-225-2951.

With warm regards,  
Sincerely,

BIRCH BAYH, *Chairman.*

APRIL 20, 1971.

Hon. BIRCH BAYH,  
*U.S. Senate, Subcommittee To Investigate Juvenile Delinquency,  
Washington, D.C.*

DEAR SIR: I have received your letter dated April 14, 1971, inviting me to testify before the Juvenile Delinquency Subcommittee on May 3, 1971 at 10:00 a.m. in Washington, D.C.

I am presently confined at Providence Memorial Hospital with pneumonia and other infections. I am under the care of Dr. J. Houston Hinton. I will be confined to my hospital bed for several weeks, which can be verified by contacting my doctor.

I would be very happy to accept your invitation, however, because of my present condition, I will be unable to travel at this time.

Sincerely yours,

M. W. RALEY,  
*Chief Probation Officer.*

MAY 4, 1971.

Mr. MORRIS W. RALEY,  
*Chief Probation Officer,  
El Paso County, El Paso, Tex.*

DEAR MR. RALEY: I received your letter of April 20, and was sorry to hear that you would be unable to testify before the Juvenile Delinquency Subcommittee on May 3, because of your confinement in the hospital with pneumonia. I wish you a speedy recovery.

As you may know, Mr. Bill Payne of the El Paso Times did testify on May 3, and criticized your system of dealing with delinquent children. He related that this criticism was the outcome of his investigation of the juvenile justice system in El Paso for the past nine months. Mr. Payne made some highly critical comments and accusations about you in your position as Chief Probation Officer and Superintendent of the Juvenile Detention Home in El Paso.

I believe that you should be given the opportunity to comment on his charges. Therefore, I again offer you the opportunity to appear before the Subcommittee and have enclosed a copy of the statement made by Mr. Payne.

If you are still unable to testify, you may wish to submit a statement in writing for insertion in the record of the hearings. If you wish to take advantage of this opportunity or have any questions, please refer them to Mr. Lawrence Speiser, Staff Director and Chief Counsel at area code 202-225-2951.

Sincerely,

BIRCH BAYH, *Chairman.*

Enclosure.

EXHIBIT No. 3

MAY 4, 1971.

Hon. EDWIN F. BERLINER,  
*Judge, Juvenile Court,  
County of El Paso,  
El Paso, Tex.*

DEAR JUDGE BERLINER: At hearings on Juvenile Confinement Institutions and Correctional Systems before the Subcommittee to Investigate Juvenile Delinquency, which I Chair, Mr. Steven Bercu, an attorney with the El Paso Legal Assistance Society, testified on May 3, that "Judge Edwin F. Berliner was the greatest single cause of juvenile crime in El Paso." This is a very strong accusation. Following this testimony, Mr. Bill Payne a reporter for the El Paso Times also made some highly critical comments regarding your handling of juveniles in El Paso.

In light of these criticisms and accusations made by these two witnesses, I believe that you should be given the opportunity to comment on these accusations and to testify before the Subcommittee if you so desire.

Therefore, I invite you to appear before the Subcommittee, and have enclosed a copy of the statements made by Mr. Payne and Mr. Bercu for your reference.

This set of hearings will resume on May 17 and 18, and if you wish to appear at that time please contact Mr. Lawrence Speiser, Staff Director and Chief Counsel at area code 202-225-2951 (call collect).

If you are unable to testify at that time, you may desire to submit a statement in writing for insertion in the record of the hearings.

Sincerely,

BIRCH BAYH, *Chairman.*

Enclosure.

MAY 11, 1971.

Hon. BIRCH BAYH,  
*U.S. Senator,  
Chairman, Subcommittee to Investigate Juvenile Delinquency,  
Washington, D.C.*

DEAR SENATOR: Late yesterday, May 10, 1971, I received your kind invitation dated May 4, 1971, to attend hearings before your committee resuming on May 17 and 18, 1971.

May I thank you for your courtesy in offering me an opportunity to testify, but may I respectfully inform you that it will be impossible for me to attend the hearings.

May I further express to you my appreciation for sending me the testimony given before your Committee by Mr. Bill Payne and Mr. Steven Bercu.

With best wishes for your success in this field, I remain,  
Yours respectfully,

EDWIN F. BERLINER.

Senator BAYH. Thank you very much, Mr. Payne. I had several questions I planned to ask you, but I think you have covered them all.

I want to salute you for bringing this to the attention of the public in El Paso and to the attention of this committee. I don't know the answer to the last question you posed, but I, for one, will do every-

thing I can to answer that in the affirmative. You have been very helpful in starting us in this direction. Thank you very much.

Mr. PAYNE. Thank you.

Senator BAYH. Our next witness is Mr. John Cocoros, the director of the National Council on Crime and Delinquency for Texas. He has degrees in criminology and social work from the University of Maryland and Howard University School of Social Work. He has extensive experience in probation and institutional handling of offenders in several States.

Mr. Cocoros, we appreciate your taking the time to let us have the benefit of your thoughts on these problems to which we are addressing ourselves.

**STATEMENT OF JOHN A. COCOROS, TEXAS DIRECTOR, NATIONAL COUNCIL ON CRIME AND DELINQUENCY, AUSTIN, TEX.**

Mr. Cocoros. Thank you. It is a pleasure to be here.

The bulk of my presentation will focus on probation services and detention facilities, including jails, for juvenile offenders in Texas. However, at the request of the county judge and the official citizens survey committee of El Paso, Tex., I shall comment briefly on the survey presently underway there.

At this time the National Council on Crime and Delinquency (NCCD) is conducting an indepth survey of the El Paso juvenile justice system. We have a contract with the El Paso County judge and the county commissioners which approved the juvenile board, so we are now in the process of doing a survey in El Paso on the juvenile justice system.

Senator BAYH. For the record, the county judge is an administrative officer—

Mr. Cocoros. Yes; he is Judge Udall Moore, who is a new county judge. One of the conditions that we asked would be that a citizens committee be appointed, a study committee be appointed with the economy and freedom to interpret the findings as they saw fit, and to take action to implement those findings that would be national standards. This was all agreed to.

As background, the Texas juvenile law operates under the Juvenile Court Act of 1943.

The term "delinquent child" means any female person over the age of 10 years and under the age of 18 years and any male person over the age of 10 years and under the age of 17 years—

- (a) Who violates any penal law of this State of the grade of felony;
  - (b) Or who violates any penal law of this State of the grade of misdemeanor where the punishment prescribed for such offense may be by confinement in jail;
  - (c) Or who habitually violates any penal law of this State of the grade of misdemeanor where the punishment prescribed for such offense is by pecuniary fine only;
  - (d) Or who habitually violates any penal ordinance of a political subdivision of this State;
  - (f) Or who habitually so deports himself as to injure or endanger the morals or health of himself or others;
  - (g) Or who habitually associates with vicious and immoral persons.
- This is that catchall.

Texas probation departments are administered at the county level. Of the 254 counties, 72 are presently operating juvenile probation departments.

The presence of at least one worker devoting part of his time to juvenile work and paid by the county constitutes a juvenile probation department. Size of departments range from one to 74 staff members.

Complete absence of any probation services in 182 counties, and limited untrained probation staff in most of the 72 counties having probation departments clearly spells out what is probably the most basic problem found in the Texas juvenile justice system.

Senator BAYH. Of the 254 counties, 72 are operating juvenile probation departments and this sometimes constitutes one part-time employee?

Mr. Cocoros. Yes, sir.

Only those counties with larger cities such as Houston, Dallas, Fort Worth, Beaumont, Corpus Christi, and Austin have probation services approaching national standards. The others have services which fall way short of these standards.

In those counties having probation services, primary needs are:

1. Provide adequate numbers of staff;
2. Provide adequately trained staff;
3. Raise salaries to competitive levels; and
4. Develop on-the-job training programs.

All of the above recommendations apply whether the system remains on the county level or, as would be preferable, is administered by the State. In either case, statewide standards must be set.

The county-centered system in Texas creates another serious built-in problem. Over half of the juvenile judges in Texas are county judges whose primary duty is that of business manager and administrator for the financial affairs of county government. County judges sit on the county commissioners court as well as on the juvenile board—consisting of district judges who set policy for juvenile court services. The county judge wearing two hats continually faces conflict. Sitting with county commissioners, he has a hand in controlling the purse-strings, and on the juvenile board, he helps set policies and recommendations for the court. If this were not enough frustration, the county judge, who also may preside as juvenile judge, truly faces a dilemma. With such a system, juvenile courts have suffered when it comes to budget time. I think the 66 percent of our county judges also preside as juvenile judges, so they truly face a dilemma. They wear three hats—juvenile court, sit on the commissioners court with purse-strings concerning the budget, and they sit with the juvenile board as district judges setting policy. They are asking for money and controlling the money and also presiding as juvenile judge which is quite a dilemma. In short, there is generally no effective vehicle to convince county commissioners to allocate funding for developing sound probation services.

A few juvenile boards function well and do help in bringing about improved services, but in many cases it appears that the juvenile board was created as a means of supplementing district judge salaries.

I say this because most of the juvenile courts in Texas do not have meetings, do not meet with the county commissioners and it is just a way to increase salaries for the judges. I am not making any judg-

ment whether they need it or don't need it, but this is a vehicle they have. Unfortunately, it isn't helping out the juvenile problem in Texas.

#### DETENTION FACILITIES

In Texas, only 12 counties have a juvenile detention home. In the remaining 242 counties, children are detained or held in jail.

Although the quality of services in these detention homes vary greatly, all, in my opinion, are superior to any Texas jail for detaining children.

Texas law clearly States that no child of juvenile court age shall be placed in or committed to any compartment of any jail or lockup in which persons over juvenile age are incarcerated or detained; but shall be placed in a room or ward separate and apart from that occupied by adults. However, few counties completely separate juvenile and adults in jail.

We also had the Attorney General's decision that there cannot be verbal or oral communication, so this means there has to be closed walls separating juveniles from adult offenders. In actual practice, though, this is not the case. Most of them are in contact with adult inmates and they can verbalize and speak with them.

County commissioners are made responsible to provide a place for the detention of juveniles.

In 1957, the State legislature passed the minimum standard law for jails. I believe I have that law attached. The Texas State Department of Health was given general charge and supervision of the enforcement of the provisions of this act. To date, no funds have been allocated to carry out the intent of the act. However, for the past 2 years, the State department of health has made periodic inspections of jails. Of the 210 jails visited, not one has been found—and these are all of our larger jails—to meet the minimum standards of safe and healthful provisions as prescribed by law.

(The Texas minimum standard law for jails was marked "Exhibit No. 4" and is as follows:)

#### EXHIBIT No. 4

##### TEXAS MINIMUM STANDARD LAW FOR JAILS

HOUSE BILL NO. 448—An Act to amend Article 5115, Revised Civil Statutes of 1925, requiring Commissioners Courts to provide suitable jails in their respective counties; defining the term "suitable jails"; providing that this Act shall apply to all jails hereafter constructed and to existing jails four (4) years from its effective date; providing for enforcement; providing a saving clause; and declaring an emergency.

*Be it enacted by the legislature of the State of Texas:*

Section 1. That Article 5115, Revised Civil Statutes of Texas, 1925, be and the same is hereby amended so as hereafter to read as follows:

"Article 5115. Jails Provided.

"The Commissioners Court shall provide safe and suitable jails for their respective counties, and shall cause the same to be maintained in good sanitary condition at all times, properly ventilated, heated and lighted; structurally sound, fire resistant and kept in good repair. Furthermore, they shall cause the jails in their respective counties to be kept in a clean and healthy condition, provided with water of safe quality and ample quantity and sewer disposal facilities in accordance with good sanitary standards, and provided with clean, comfortable mattresses and blankets, sufficient for the comfort of the prisoners, and that food is prepared and served in a palatable and sanitary manner and according to good dietary practices and of a quality to maintain good health.

#### SUITABLE SEGREGATION

"The term 'safe and suitable jails,' as used in this Act, shall be construed to mean jails which provide adequate segregation facilities by having separate enclosures, formed by solid masonry or solid metal walls, or solid walls of other comparable material, separating witnesses from all classifications of prisoners; and males from females; and juveniles from adults; and first offenders, awaiting trial, from all classifications of convicted prisoners; and prisoners with communicable or contagious diseases from all other classifications of prisoners. Furthermore, the term 'safe and suitable' jails shall be construed to mean jails either now or hereafter constructed, except that, in lieu of maintaining its own jail, any county whose population is not large enough to justify building a new jail or remodeling its old jail shall be exempt from the provisions of this Act by contracting with the nearest available county whose jail meets the requirements set forth in this Act for the incarceration of its prisoners at a daily per capita rate equal to the cost of maintaining prisoners in said jail, or at a daily rate mutually agreed to by the contracting counties.

"No person suspected of insanity, or who has been legally adjudged insane, shall be housed or held in a jail, except that such a person who demonstrates homicidal tendencies, and who must be restrained from committing acts of violence against other persons, may be held in a jail for a period of time not to exceed a total of seven (7) days. Furthermore, for such temporary holding of each person suspected of insanity, or who has been legally adjudged insane, there shall be provided a special enclosure or room, not less than forty (40) square feet and having a ceiling height of not less than eight (8) feet above the floor. Furthermore, the floor and the walls of such enclosure shall be provided with a soft covering designed to protect a violent person, temporarily held herein, from self-injury or destruction. One hammock, not less than two (2) feet, three (3) inches wide and six (6) feet, three (3) inches long, made of elastic or fibrous material shall be provided in each such special enclosure.

#### SUITABLE SECURITY AND SAFETY

"For the purpose of this Act, the term 'safe and suitable jails' is further defined to mean jails which provide adequate security and safety facilities by having separate cells or compartments, dormitories, and day rooms, of varying dimensions and capacities for prisoners confined therein, except that, if practicable, no one such cell or compartment shall be designed for confining two (2) prisoners only. Cells or compartments shall be designed to accommodate from one (1) to eight (8) prisoners each, and furthermore, such dormitories and day rooms shall be designed to accommodate not more than twenty-four (24) prisoners each. Furthermore, in each such jail there shall be provided individual one-man or one-woman cells to accommodate not less than thirty per cent (30%) of the total designated prisoner capacity of the jail and dormitory-type space may be provided to accommodate not more than forty per cent (40%) of the total designated prisoner capacity of the jail. All cells, compartments, and dormitories for sleeping purposes, where each such cell, compartment or dormitory is designed to accommodate three (3) or more prisoners, shall be accessible to a day room to which prisoners may be given access during the day. Cells for one (1) prisoner only shall have a minimum floor area of forty (40) square feet and all other cells, compartments, dormitories and day rooms (including safety vestibule area) shall have a minimum floor area equal to eighteen (18) square feet (for each prisoner to be confined therein. The ceiling height above finished floor shall be not less than eight (8) feet for any cell, compartment, dormitory or day room where prisoners are confined.

"The term 'safe and suitable jails,' as used in this Act, is further defined to mean that, for reasons of safety to officers and security, the entrance and/or exit to each group of enclosures forming a cell block or group of cells and/or compartments used for the confinement of three (3) or more prisoners shall be through a safety vestibule having one (1) or more interior doors in addition to the main outside entrance door to such cell block, all arranged to be locked, unlocked, opened or closed by control means located outside of any such enclosure or cell block. Furthermore, that all such enclosures or cell blocks, for the confinement of prisoners, shall be separated from the building wall on at least one (1) side, by a corridor not less than three (3) feet wide and so designed that no prisoners in confinement areas shall have direct access to windows in the walls of the building.

## SUITABLE SANITATION AND HEALTH

"The term 'safe and suitable jails' is further defined to mean jails which provide adequate facilities for maintaining proper standards in sanitation and health. Each cell designed for one (1) prisoner only shall be provided with a water closet and a combination lavatory and drinking fountain, table and seat. Each cell, compartment or dormitory designed for three (3) or more prisoners, shall be provided with one (1) water closet and one (1) combination lavatory and drinking fountain for each twelve (12) prisoners or fraction thereof to be confined therein. Furthermore, all such cells, compartments and dormitories shall be provided with one (1) bunk, not less in size than two (2) feet, three (3) inches wide and six (6) feet, three (3) inches long, for each prisoner to be confined therein. Furthermore, each day room for the confinement of three (3) or more prisoners shall be provided with one (1) water closet, one (1) combination lavatory and drinking fountain and one (1) shower bath for each twelve (12) prisoners, or fraction thereof, to be confined therein. Furthermore, each day room shall be otherwise suitably furnished.

"The provision of this Act shall become applicable to all jails hereafter constructed, upon its effective date, and to existing jails within four (4) years from its effective date.

"The Texas State Department of Health shall have general charge and supervision of the enforcement of the provisions of this Act, and it is hereby made the duty of Texas State Department of Health or any Inspector or Agent of the Texas State Department of Health to make periodic inspection of the aforesaid jails and issue an advisory manual setting forth the principles of safe and healthful provisions, which shall be distributed to Commissioners Courts and/or custodians of jails and, furthermore, to officially notify County Commissioners Courts, in writing to comply fully with the provisions of this Act."

Sec. 2. If any provisions of this Act or the application thereof of any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 3. The fact that many jails in this State are not now properly kept in a sanitary, clean and healthy condition and that in some instances are overcrowded and are not suitable for the keeping of prisoners, creates an emergency and an imperative public necessity that the Constitutional Issue requiring bills to be read on three separate days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Mr. Corcoros. Findings of the State health department are reported to the county commissioners in writing; however, they are usually disregarded and for this there is no penalty.

In my visits to jails throughout the State, I would consider only several to be clean. Most were dirty and unsanitary rundown structures where children are held round-the-clock without recreation, counseling, or a program of any sort. Frequently they remain, for long periods, for many hours, with no one coming to look in on them. As any human experience becomes part of the individual, I can assure this committee that jail detention in Texas tends to reinforce the child's notion that society really doesn't give a damn about him.

Under present law, the only technical way to get into detention is by court order. It states that if the child is not released by the police officer, he must do one of two things:

(1) The child shall forthwith be brought to the juvenile judge who shall order the child's release on his temporary detention (section 11).

(2) Such child shall be placed in the custody of a probation officer or other person designated by the court or he is taken immediately to the probation department, the court, or to the place of detention designated by the court. Most of the time the designation is the jail.

In practice, however, most children are placed in detention—deten-

tion homes or jails—by police. Police arrest a child, and if not released, he is taken directly to jail in all but the 12 counties with detention homes. County jails are under the administration of the county sheriff who in turn is only responsible to the voters. There are few effective controls on proper detention of juveniles in Texas.

It should be always kept in mind, however, that although nearly all counties continually violate the State law regarding detention of juveniles, they have not the facilities or personnel to do otherwise.

## RIGHTS OF CHILDREN

As it stands now, Texas law demands that no child be denied any of his rights without representation of legal counsel. Funds are made available, where needed, to provide the child with an attorney; however, these funds are provided only for the adjudication hearing and need to be extended to cover full legal services for the child. Certainly to extend funds for full coverage of all aspects of the juvenile process. Children now are frequently detained for considerable periods of time without benefit of counsel. The new proposed family code now pending in the legislature extends right of paid counsel to all other stages in the juvenile justice process. It also requires—this is our new code—that no child be held for a period longer than the conclusion of the next working day without a detention hearing by the court. If passed—and it looks as if it will be—the new code will bring Texas into line with recent Supreme Court decisions.

## COMMENT

It is easy to stand back and point an accusing finger at counties and their communities for the lack of help their children in trouble are receiving. In truth, however, any services at all were results of county-level attempts to handle what is a State-level problem. The real blame must come to rest on the shoulders of the State legislature for their failure to provide any leadership and assistance at all. State guidelines, standards, and funds will eventually be the keys to adequate delinquency programs in Texas.

One prime example of community concern and the inability to influence State officials is that a few years ago the State junior league in cooperation with NCCD did a study of juvenile delinquency in Texas; their findings were programed on a 20-minute film. The production was well done and is in story form. The Hogg Foundation, whose offices are located in Austin, Tex., allocated the funds for producing this film. It has been shown extensively throughout the State to civic, social, and church organizations and never fails to move the audience, but has made no impact on State officials, at least to the point of taking action.

I will entertain any questions you might have now.

Senator BAYH. Yes. Well I am impressed by your testimony. Let me make certain that I understand fully. Previous witnesses have suggested that there is a large percentage of illegal assignment or commitment in violation of what the Texas statute says today relative to how juveniles should be handled. Do you concur?

Mr. Corcoros. In some cities, I do, and in other cities there are con-

scientious judges who do not do this. But, of course, I agree—there are cities and communities where children's rights are being denied. No question.

Senator BAYH. A direct indictment was leveled at the El Paso probation facility. Do you concur? Are you familiar with it?

Mr. Cocoros. We have just started our study and we are in the preliminary stages. We will be finished in about 3 months and we will certainly present this committee with our final draft. I would rather not discuss this. We have just begun the survey but we will give you a copy when it is completed. I think it is common knowledge what was said here today is happening.

(The survey referred to prepared by the National Council on Crime and Delinquency was subsequently submitted for the record, marked "Exhibit No. 5" and can be found in the files of the subcommittee.)

EXHIBIT No. 5

Survey entitled "Juvenile Justice: A Study of Court, Law Enforcement, Probation, Detention and Community Services for Juveniles in El Paso County, Texas," prepared by the National Council on Crime and Delinquency, dated September 1971.

Senator BAYH. Do you concur in the assessment relative to the way in which mentally retarded children are confined in the reformatories?

Mr. Cocoros. Yes; I know for a fact that mentally retarded children are incarcerated; yes, sir.

Senator BAYH. Here again, directly in contradiction to the statute, where it says it shall not be done.

Mr. Cocoros. Right.

Senator BAYH. Was the assessment made of the inadequate vocational and educational opportunities in detention correct?

Mr. Cocoros. I would concur, generally. There are a number of detention homes that have some pretty good schools. In Beaumont, they have a teacher from the Texas Education Agency, which is in our department. Houston has educational services and so does Dallas. I think Austin might, so I would say "Yes," and "No." Some do not have them and in others we do.

Senator BAYH. You have had experience, Mr. Cocoros, in several States. I suppose the problem that we are discussing here in Texas is not unique.

Mr. Cocoros. No, sir; I was in Oklahoma before I was in Texas, and they had their problems. I was in Ohio; they had their problems. I worked in the District of Columbia and we had some problems here, too.

Senator BAYH. It seems to me you have several problems, one of which would be the need to renovate and find new ways of treating delinquents or so-called delinquents in such a way that they do not become hardened criminals. But, secondly, how in the world can you talk about having some hope perhaps by passing new legislation when the community and the State are apparently ignoring the existing law?

What do we do to strike a note to get people incensed about this kind of thing?

Mr. Cocoros. I feel there has to be an accountability. Unless the judge is accountable for what he does, unless the chief probation officer is accountable for what he does, I think we are going to keep on doing this. I think we have to get the correction field, law enforce-

ment, and law field out of the political arena. What I mean by the political arena is the judge—if you do things you will be chief probation officer and everybody works together. I think you have to have State standards and hire persons who can meet the standards. If they can't "cut it," then we let them go. But there has to be accountability with a penalty behind it. Am I making sense?

Senator BAYH. Yes. You are making sense but you are not really giving a specific solution—accountability to what, by whom, and who demands it?

Mr. Cocoros. For example, if a judge commits a child to a training school, then I think it should be put in writing that he committed that child. And if an attorney, like Mr. Bercu, challenges this, and the court of appeals can review that, and the judge states in writing why this child was committed—

Senator BAYH. But here if you have juveniles in the early teens hired out to stables at an age below the age at which a child is permitted to work under State statute, if you have some of these other things going on—which you think is general knowledge that they are going on—we have got to get to the people, it seems to me. I do not think the average citizen likes these kind of intolerable conditions to exist. Maybe I am wrong. Maybe they do not care. How do we jolt the conscience?

Mr. Cocoros. This is a good question.

Senator BAYH. That is the essence of responsibility, it seems to me.

Mr. Cocoros. Right. One of the problems is we have so many experts on juvenile delinquency. Our county judge is elected and overnight he becomes an expert on juvenile delinquency. Within a couple of weeks, the PTA, the churches, everyone calls on him to talk about juvenile delinquency. He may not have the first course on it.

The police have their opinion, the sheriff, the district attorney, the schoolteachers have their opinions, and parents have their opinion, and a guy like Cocoros comes along with his opinion. I think they confuse the public and they are not sure what to believe.

Maybe the fault lies within the system. I know that I am not too proud of our justice system in this country, because I think we have so many people in it who are unable to qualify. We seem to be having kettles of people, people who could not make it in other professions come to our profession.

We have very few trained people in our field. We do not have a good public education program for the public. This is why I feel there has to be the accountability of standard setting.

Senator BAYH. You have been very kind; let's keep in touch, if we may. I really appreciate the contribution you have made.

I know we want to ask other questions as we go along. I appreciate your being with us this morning.

(The prepared statement of John A. Cocoros follows:)

PREPARED STATEMENT OF JOHN A. COCOROS

The bulk of my presentation will focus on probation services and detention facilities, including jails, for juvenile offenders in Texas. However, at the request of the County Judge and the official Citizens Survey Committee of El Paso, Texas, I shall comment briefly on the survey presently underway there.

At this time the National Council on Crime and Delinquency (NCCD) is conducting an indepth survey of the El Paso Juvenile Justice System.

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NCCD was approached by the County Judge's office for a cost proposal to study all aspects of their juvenile system and to develop guidelines and make recommendations to upgrade services which meet recognized national standards. Our agency submitted its cost proposal and set forth the condition that, if our agency is retained, an impartial citizens survey committee be appointed to work closely with our survey team. This committee was to be made up of a cross-section of El Paso citizenry who have the authority to act independently in its interpretation of survey findings and in its action to bring about survey goals. The cost proposal was accepted and a contract for the survey was signed on March 22, 1971 by El Paso officials which were the County Judge and County Commissioners with approval from the Juvenile Board.

At this time, NCCD is in the preliminary stages of the survey and is in no position to discuss findings and recommendations. Of course, this Senate Subcommittee will be presented with a copy of the survey when it has been completed in about three months.

NCCD agreed to do the survey because it believed that El Paso desired and was prepared to upgrade services for pre-delinquent and delinquent children and youth.

\* \* \* \* \*

PROBATION SERVICES AND DETENTION FACILITIES FOR JUVENILE OFFENDERS IN TEXAS

*Background*

Texas juvenile law operates under the Juvenile Court Act of 1943\*.

The term "delinquent child" means any female person over the age of ten (10) years and under the age of eighteen (18) years and any male person over the age of ten (10) years and under the age of seventeen (17) years:

- (a) who violates any penal law of this State of the grade of felony;
- (b) or who violates any penal law of this State of the grade misdemeanor where the punishment prescribed for such offense may be by confinement in jail;
- (c) or who habitually violates any penal law of this State of the grade of misdemeanor where the punishment prescribed for such offense is by pecuniary fine only;
- (d) or who habitually violates any penal ordinance of a political subdivision of this State;
- (e) or who habitually violates a compulsory school attendance law of this State;
- (f) or who habitually so deports himself as to injure or endanger the morals or health of himself or others;
- (g) or who habitually associates with vicious and immoral persons.

*Probation Services*

Texas probation departments are administered at the County level. Of the 254 counties, 72 are presently operating juvenile probation departments.\*\* The presence of at least one worker devoting part of his time to juvenile work and paid by the county constitutes a juvenile probation department. Size of departments range from one to 74 staff members.

Complete absence of any probation services in 182 counties, and limited untrained probation staff in most of the 72 counties having probation departments clearly spells out what is probably the most basic problem found in the Texas Juvenile Justice System. Only those counties with larger cities such as Houston, Dallas, Fort Worth, Beaumont, Corpus Christi, and Austin have probation services approaching national standards. The others have services which fall way short of these standards.

In those counties having probation services, primary needs are:

- (1) provide adequate numbers of staff
- (2) provide adequately trained staff
- (3) raise salaries to competitive levels
- (4) develop on-the-job training programs

All of the above recommendations apply whether the system remains on the county level or, as would be preferable, is administered by the State. In either case, statewide standards must be set.

\*Acts of 1943, Chapter 204, p. 313; Vernon's Texas Civil Statutes, Article 2338.

\*\*Bill Anderson, *A Proposed State-Administered Juvenile Probation and Parole System For Texas*, ( Huntsville: Master Thesis presented to the Faculty of the Institute of Contemporary Corrections and Behavioral Sciences, Sam Houston State University, 1970), p. 69.

The county-centered system in Texas creates another serious built-in problem. Over half of the juvenile judges in Texas are county judges whose primary duty is that of business manager and administrator for the financial affairs of county government. County Judges sit on the County Commissioners Court as well as on the Juvenile Board (consisting of district judges who set policy for Juvenile Court services). The County Judge wearing two hats continually faces conflict. Sitting with County Commissioners, he has a hand in controlling the purse strings, and on the Juvenile Board, he helps set policies and recommendations for the Court. If this were not enough frustration, the County Judge, who also may preside as juvenile judge, truly faces a dilemma. With such a system, juvenile courts have suffered when it comes to budget time. In short, there is generally no effective vehicle to convince County Commissioners to allocate funding for developing sound probation services.

A few juvenile boards function well and do help in bringing about improved services, but in many cases it appears that the juvenile board was created as a means of supplementing district judges salaries.

*Detention Facilities*

In Texas, only 12 counties have a juvenile detention home. In the remaining 242 counties, children are detained or held in jail.

Although the quality of services in these detention homes vary greatly, all, in my opinion, are much superior to any Texas jail for detaining children.

Texas law clearly states that no child of juvenile court age shall be placed in or committed to any compartment of any jail or lock-up in which persons over juvenile age are incarcerated or detained; but shall be placed in a room or ward separate and apart from that occupied by adults.\* However, few counties completely separate juveniles and adults in jails.

County Commissioners are made responsible to provide a place for the detention of juveniles.

In 1957, the State Legislature passed the *Minimum Standard Law for Jails* (see attached). The Texas State Department of Health was given general charge and supervision of the enforcement of the provisions of this Act. To date, no funds have been allocated to carry out the intent of the Act. However, for the past two years, the State Department of Health has made periodic inspection of jails. Of the 210 jails visited, not one has been found to meet the minimum standards of safe and healthful provisions as prescribed by law.

Findings of the State Health Department are reported to the county commissioners in writing; however, they are usually disregarded and for this there is no penalty.

In my visits of jails throughout the state, I would consider only several to be clean. Most were dirty and unsanitary run-down structures where children are held round-the-clock without recreation, counseling, or program of any sort. Frequently they remain unobserved for hours at a time. As any human experience becomes part of the individual, I can assure this committee that jail detention in Texas tends to reinforce to the child that society really doesn't give a damn about him.

Under present law, the only technical way to get into detention is by court order.\*\* It states that if the child is not released by the police officer, he must do one of two things:

- (1) The child shall forthwith be brought to the juvenile judge who shall order the child's release on his temporary detention (Section 11).
- (2) Such child shall be placed in the custody of a probation officer or other person designated by the court or he is taken immediately to the probation department, the court, or to the place of detention designated by the court (Section 11).

In practice, however, most children are placed in detention (detention homes or jails) by police. Police arrest a child, and if not released, he is taken directly to jail in all but the 12 counties with detention homes. County jails are under the administration of the County Sheriff who in turn is only responsible to the voters. There are few effective controls on proper detention of juveniles in Texas.

It should be always kept in mind, however, that although nearly all counties continually violate the state law regarding detention of juveniles, they have not the facilities or personnel to do otherwise.

\*Vernon's Texas Civil Statutes, Art. 2338-1, Sec. 11.

\*\**Ibid.*, Section 11.

*Rights of Children*

As it stands now, Texas law demands that no child be denied any of his rights without representation of legal counsel. Funds are made available, where needed, to provide the child with an attorney; however, these funds are provided only for the adjudication hearing and need to be extended to cover full legal services for the child. Children now are frequently detained for considerable periods of time without benefit of counsel. The new proposed Family Code now pending in the Legislature extends right of paid counsel to all other stages in the juvenile justice process. It also requires that no child be held for a period longer than the conclusion of the next working day without a detention hearing by the court. If passed (and it looks as if it will) the new code will bring Texas into line with recent Supreme Court decisions.

## COMMENT

It is easy to stand back and point an accusing finger at counties and their communities for the lack of help their children in trouble are receiving. In truth, however, any services at all were results of county-level attempts to handle what is a state-level problem. The real blame must come to rest on the shoulders of the state legislature for their failure to provide any leadership and assistance at all. State guidelines, standards, and funds will eventually be the keys to adequate delinquency programs in Texas.

One prime example of community concern and the inability to influence state officials is that a few years ago the State Junior League in cooperation with NCCD did a study of juvenile delinquency in Texas; their findings were programmed on a twenty minute film. The production was well done and is in story form. The Hogg Foundation, whose offices are located in Austin, Texas, allocated the funds for producing this film. It has been shown extensively throughout the state to civic, social, and church organizations and never fails to move the audience, but has made no impact on state officials, at least to the point of taking action.

Senator BAYH. Our final witness today is Dr. Joseph Graves, chairman of the Department of Political Science, University of Texas, El Paso. He is the chairman of a citizens group in El Paso studying juvenile justice systems. Dr. Graves, I appreciate your being with us. Perhaps you can give us some expert testimony or knowledge as to how we can stimulate truth and concern. I have been in the State legislature and now I am in the National Legislature and it seems to me that the way to make people respond at the top is to make the people at the bottom demand it.

What are your suggestions?

**STATEMENT OF DR. JOSEPH B. GRAVES, JR., CHAIRMAN, DEPARTMENT OF POLITICAL SCIENCE, UNIVERSITY OF TEXAS AT EL PASO, REPRESENTING THE CITIZENS ADVISORY COMMITTEE OF EL PASO COUNTY, TEX.**

Dr. GRAVES. Mr. Chairman, I am deeply appreciative of the opportunity to appear before your committee. I am not an expert in criminology. I am a professor of political science and I am here representing the Citizens Advisory Committee of El Paso County.

I have a very brief prepared statement and with your permission I would like to read from it. Then I would like to comment upon your inquiry.

Senator BAYH. Fine.

Dr. GRAVES. My remarks will relate to recent actions taken by the El Paso County Juvenile Board and the El Paso Commissioner Court to evaluate the juvenile justice system in El Paso County and to the role the citizens advisory committee will play in bringing about necessary changes in the system.

I might say that I am a private citizen. I am not representing any group, any organized body, except the citizens advisory committee.

The following is a brief summary of actions taken to evaluate the juvenile justice system in El Paso County:

1. On January 15, 1971, the El Paso Mental Health Association recommended to the juvenile board of El Paso County to contact the National Council on Crime and Delinquency to conduct a survey of the El Paso juvenile justice system.

The juvenile board passed a resolution authorizing a survey.

2. On February 19, 1971, El Paso County Judge T. Udell Moore submitted an application for a grant of \$10,000 to the Texas Criminal Justice Council.

The grant called for a total expenditure of \$16,700 which included \$6,700 of local funds of which \$4,000 was to come from a private trust fund (Roderick Foundation) and \$2,700 from El Paso County as in-kind matching.

3. On March 12, 1971, Gov. Preston Smith notified El Paso County Judge Moore that the request for a \$10,000 grant had been approved and that the moneys were available for immediate use on a lump-sum basis.

4. On March 22, 1971, a contract with the National Council on Crime and Delinquency was approved for signature in open commissioners court.

The contract was signed on March 22, 1971, by Judge Moore and was signed by the NCCD on March 30, 1971.

5. On March 26, 1971, an El Paso County Citizens Committee was appointed by the county judge. The committee consisted of 17 members.

The appointment of this committee was in accordance with contractual arrangements between the NCCD and El Paso County.

6. As Mr. Cocoros pointed out, on March 29, 1971, the first phase of the NCCD survey began with the arrival of a five-member survey team. The team is collecting data from judicial, police, detention, and probation department personnel.

The team also has met with the citizens committee to coordinate working arrangements.

The NCCD will complete the survey in early August 1971. A preliminary draft will be presented for review and coordination by June 15, 1971.

It is anticipated that the citizens committee will report its recommendations to the El Paso County Commissioners Court, the juvenile board, and the El Paso City Council by September 1, 1971.

I need to emphasize, Mr. Chairman, that the survey being conducted by the NCCD has been initiated with the sincere desire to correct whatever deficiencies that may exist in the juvenile justice system in El Paso County.

The NCCD survey is viewed as the preliminary tool in designing and implementing a model system in our county.

The policies, practices, operations and physical plant of the juvenile court and detention facility are being examined by the NCCD.

The survey of the NCCD will document the quality of service currently provided by the juvenile court and detention facility and de-

velop specific guidelines and recommendations for rendering service for all who come to the attention of the juvenile court.

As a matter of policy, the NCCD requires the appointment of a citizens survey committee. This committee, of which I am chairman, will:

1. Assist in the conduct of the survey;
2. Review the findings;
3. Serve as a medium of public education with regard to the survey; and
4. Assume responsibility for followup and implementation of survey recommendations.

The citizens committee will examine the survey of the NCCD with utmost care, and with a feeling of high responsibility. The citizens of El Paso County, as I can detect, want and should have an effective, efficient and just system of juvenile justice.

Delinquents in El Paso County as in most communities tend to come from backgrounds of social and economic deprivation. In the last analysis, the most important method of dealing with juvenile crime is by preventing it—by improving the conditions of life that drive young people to commit crimes and that undermine the rules and institutions set up by society against antisocial conduct.

We cannot improve the juvenile justice system in El Paso County unless we make it possible for each adult and young person to feel a personal stake in it.

We need to equip juveniles with the means—the educational and social and cultural background, the personal and economic security to understand and accept responsibility in our community.

Once a juvenile is apprehended by the police and referred to the juvenile court, the community has failed.

El Paso has made considerable progress in improving the conditions of life in the slum areas, but we need to devote more money, people, energy, and concern to the problems of our slums.

We must mount and maintain a massive attack against the conditions of life that underlie crime in the slums and poverty stricken areas of our county.

I would also like to stress that the Texas Department of Mental Health and Mental Retardation has planned a new human development center for El Paso.

Money for this facility has been included in the department's 1971 budget. The center would serve mentally retarded children in El Paso and 13 neighboring counties as follows:

1. Provide dental services;
2. Provide classrooms;
3. Provide parent education and counseling on the problems of mentally retarded children;
4. Provide work activity;
5. Provide recreational programs;
6. Provide expanded social activities;
7. Provide day care facilities;
8. Provide transportation to and from the center;
9. Provide diagnostic and evaluation facilities;
10. Provide education for the severely handicapped of school age;

11. Provide health services;
12. Provide lunch program;
13. Provide social case services;
14. Provide vocational rehabilitation services;
15. Provide satellite day care services;
16. Provide in-training programs for local professionals, and
17. Provide referral and information service.

One way to supplement the juvenile justice system in El Paso County would be to utilize the resources of this center by referring erring children suspected of mental problems to this center as an alternative to detention.

The El Paso County Commissioners Court has agreed to provide whatever land would be required to build this center.

Formal approval of this budget item by the Texas Legislature is necessary before construction can begin.

Mr. Cocoros pointed out a new family code has been introduced in the Texas Legislature that would bring up to date the safeguards of juvenile delinquents required by recent U.S. Supreme Court decisions.

A domestic relations court has been proposed in the Texas Legislature which will handle the juvenile delinquency cases and guarantee those procedural safeguards guaranteed by the family code.

The citizens advisory committee is desirous of having the most efficient, and effective system of juvenile justice that is obtainable—a system that is carried out by persons carefully selected and trained for their functions.

The committee also wants the system to operate with all the procedural formality necessary to safeguard adequately the rights of those brought into the system.

It is our hope that once the study has been completed the county can make applications for staffing and building grants, or arrange the necessary bond elections.

The citizens committee will react to the NCCD survey with high responsibility and utmost care, and will strive to assemble all community resources to bring about a model juvenile justice system in El Paso County.

Mr. Chairman, I am an alarmed and profoundly concerned citizen of El Paso. The members of the citizens advisory committee are also alarmed. We will do everything we possibly can to enlighten the citizens of El Paso, and stimulate their interest in bringing about the reform.

Senator BAYH. Professor Graves, I appreciate your statement. I think perhaps your continued cooperation with this committee can be extremely helpful.

As an investigative committee, such as ours looks, at the evidence and the facts regarding conditions in a given locality, it is sometimes accused of singling out one community, in witch hunt fashion.

This is not good and this is not our objective. There has been a unique set of circumstances in the El Paso area regarding how juveniles are presently being treated.

First was the series of articles in the El Paso Times. Second, the degree of involvement of Mr. Bercu relative to specific charges.

Now this citizens committee is being given the assignment of investigating all of this.

Let me run through the chronology of this as it is presently constituted. The reason I bring this into the record now, is that I believe we must conduct ourselves in such a way as to get the average citizen to realize that we are interested, and he should be interested, in changing some of the things that appear to be going on.

If my memory is correct, it was mid-October that the series of articles in the El Paso Times appeared.

On November 20 Mr. Bercu brought these serious charges against Mr. Raley to the attention of the judges in the area.

Then on December 18 Mr. Raley was reappointed, which represented sort of a reaffirmation of faith in what he was doing.

I do not know whether your committee is going to look into how this kind of thing can happen. What do we do to stimulate public interest so we do have responsibility? Mr. Cocoros suggested that we need accountability. The ultimate person to be accountable to is the average taxpayer, the average citizen.

How do we get them incensed about this kind of thing going on?

Dr. GRAVES. I think we need to bombard the thinking public in El Paso through the newspapers about what has been going on.

The El Paso Times and the Herald Post have been printing articles which illustrate the defects and deficiencies of the system.

We have got to try new techniques to publicize what is going on. The Citizens Advisory Committee is not an investigatory body; it is a body set up to react to a new factfinding survey. I suppose we ought to have hearings of a nature that would enable people to come in and present their views of what is going on.

I was thinking of having open sessions in auditoriums, throughout the community in high schools and grade schools and invite parents to come in and see a film.

Possibly the NBC white paper film could be rented and shown in El Paso to acquaint people with what is going on.

Senator BAYH. Have you had a chance to evaluate the juvenile detention practices and conditions in El Paso yet? You listened to the previous testimony.

Are these charges generally accurate, based on what you have been able to ascertain so far?

Dr. GRAVES. I have not, as an individual, and the citizens committee has not investigated the allegations.

We are waiting for a survey and findings. We will react to these findings.

I cannot deny that these things are common knowledge. As a private citizen I am concerned. But it is also appropriate for me to say that my existence is structurally determined by a contract. I am charged with the responsibility to head a committee of citizens that will respond to findings.

Senator BAYH. Who asked for this survey to be conducted?

Dr. GRAVES. The El Paso County Mental Health Association recommended that the commissioners court and the juvenile board contact the NCCD.

Senator BAYH. The Center for Mentally Retarded, when will that be completed?

Dr. GRAVES. The commissioners court has already agreed to use some county land on which the structure will be built. The Texas Depart-

ment of Mental Health is requesting funds from the Texas Legislature to construct the building.

So we have to wait until the Texas Legislature has appropriated the money.

Senator BAYH. Has the local mental health center, mental retardation group, expressed any concern at the number of mentally retarded children that apparently are being incarcerated and being treated as juvenile delinquents now?

Dr. GRAVES. Yes, sir; indeed. We have the current president of that association on the Citizens Advisory Committee. We are terribly disturbed that there are mentally retarded children at the detention center.

There are unquestionably many defects and deficiencies in the system.

And as a private citizen and as the chairman of the advisory committee, I will strive to use every kind of mechanism and technique to enliven interest in the community to make these changes.

Senator BAYH. We have had correspondence from Mrs. Wayne Wendell.

Dr. GRAVES. Yes, sir; she is on the advisory committee.

Senator BAYH. And she is one of the officials of the mental health group?

Dr. GRAVES. Yes.

Senator BAYH. I hope that we can keep the lines of communication open with you and with her as this study materializes.

I have a series of questions I want to get your opinion on, but I think in light of what you said, you want to wait until the survey has been made before you reached a conclusion. Although you say it is generally public knowledge that the accusations are at least ball-park accusations—

Dr. GRAVES. Yes, sir. We are waiting for a survey. The committee is not set up to react to allegations. They are set up to react to findings made by the NCCD.

As a private citizen, I could respond to allegations but, as chairman of the advisory committee, I have got to wait and react to the NCCD survey.

Senator BAYH. With one or the other of those hats on, could you possibly have a chance to study two private surveys in 1945 and 1954 relative to the El Paso Detention Home? Can you give us your appraisal of those two studies?

Dr. GRAVES. I think those were accurate studies and it was unfortunate nothing was done to implement them. We need to implement recommendations made by an outside survey team and implementation is the key. We have got to stimulate interest in the community so that implementation will be realized.

Senator BAYH. I guess at least one of the responsibilities I have, and this committee has, is innovation on the one hand and implementation on the other. You are having a new survey—and here again I do not single out El Paso as being atypical but rather typical of certain problems throughout the country. It just happens to be getting a bit more notoriety at this particular time. So, we do not want to make the El Paso situation look worse, but to use it as an example that characterizes the problem throughout the Nation.

It amazes me. We have had two studies—and I am sure this can be said about almost any community—we have had two studies made, 15-16 years ago. We have had State laws prescribing how young people should be employed, how they should be incarcerated, or how the mentally retarded should be handled. Yet nothing was ever done. We have not been able to jolt the conscience of the community, not just your community, but others as well.

So we have these lost juveniles, children, human beings, however you want to describe them, sort of in a limbo land, in which they are in the process of being lost to society, and becoming a real detriment to society. I hope you can give us some advice and counsel as to how we at the national level can assist you on the local level to do something about this insensitivity to the problems by the people involved.

Dr. GRAVES. People are usually apathetic and lethargic on matters unless they get personally involved in them. Unless the parents and the children become involved in the juvenile justice system, they are apathetic to existing conditions. It is a matter of educating the public and developing community relations, activities through the various components of the juvenile justice system. We need to get the law enforcement, the corrections system, the probation system, and the judicial system all involved in public educational programs.

The LEAA of the Justice Department and the criminal justice councils in the various States are allocating funds to local councils of government to carry on educational programs, so that people will be acquainted with, one, conditions that breed crime; two, preventive measures that can be undertaken to stimulate interest in change, and three, improve the manner in which the whole system operates so that it will consist of due process.

Senator BAYH. Well, I must say I take little comfort in what LEAA has done as far as juvenile delinquency is concerned. I hope that we can convince those people down there, one way or the other, if you have a problem where you have 50 percent of the crime committed by juveniles, and you only spend between 11 and 14 percent of anticrime funds on them, that you are not performing adequately.

I do not know how we go into these communities and convince people. Everybody is uptight about law and order. You don't have to stimulate interest and concern in that. You can almost write a blank check for some of the more traditional efforts to deal with these problems of crime. I can see why people are concerned about it, because it is a matter of public and individual safety. But how do we convince them that we are never going to deal effectively with the problem if we just deal with the top of it and not go down to the bottom and deal with some 10-, 11-, 12-, or 13-year-olds, who get in trouble because they can't get along with a second, third, or fourth father or mother. They are put into conditions that almost defy help.

You are a political scientist. I hope that your committee is out in the vanguard in your community which has a problem, and that you are starting to study it. I hope you can come forward to this committee and give us some expert counsel as to what we can do nationwide, dependent upon what you determine to do locally. But unless you can convince the people of El Paso that it is in their interests to make these reforms and these changes that are necessary, the most infinite study is not going to amount to anything.

I think that pragmatically that is what you have to do, Doctor.

Dr. GRAVES. You are exactly correct, sir. You are to be complimented on the manner in which you are studying juvenile delinquency. I think it is wonderful that the U.S. Senate has authorized you to conduct this survey, and I am positive that we, all of us in the United States, can benefit from what you are doing.

We need to hear from people on the firing line. We need to hear from practitioners, as well as academicians.

Senator BAYH. Let's hope that what you say is true; the country will benefit by what we are doing. Let's hope they benefit by what you are doing, because we are searching for common goals.

I appreciate the time you have taken to be with us and I hope we can continue this dialog.

Dr. GRAVES. Yes, sir. I will be happy to report back to you once the survey is completed and we have made some recommendations.

Senator BAYH. I certainly hope you will, and if there is any way we can be of benefit to you in this search for truth, let me know.

(The prepared statement of Dr. Joseph B. Graves, Jr., follows:)

PREPARED STATEMENT OF PROF. JOSEPH B. GRAVES, JR.

Mr. Chairman, and members of the Committee, my name is Joseph B. Graves, Jr., and I am Chairman of the Department of Political Science at The University of Texas at El Paso.

I am also Chairman of the Citizens Advisory Committee which has been set up to help with the NCCD survey of the Juvenile Justice System in El Paso County.

I would like to thank the Chairman and the Committee members for the privilege of appearing before you.

My remarks will relate to recent actions taken by the El Paso County Juvenile Board and the El Paso County Commissioners Court to evaluate the Juvenile Justice System in El Paso County and to the role the Citizens Advisory Committee will play in bringing about necessary changes in the System.

The following is a brief summary of actions taken to evaluate the Juvenile Justice System in El Paso County:

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4. On March 22, 1971 a contract with the National Council on Crime and Delinquency was approved for signature in open Commissioners Court. The contract was signed on March 22, 1971 by Judge Moore and was signed by the NCCD on 30 March 1971.

5. On March 26, 1971 an El Paso County Citizens Committee was appointed by the County Judge. The Committee consisted of 17 members with Dr. Joseph Graves, Chairman of the Political Science Department, The University of Texas at El Paso, as Chairman. The appointment of this committee was in accordance with contractual arrangements between the NCCD and El Paso County.

6. On March 29, 1971 the first phase of the NCCD survey began with arrival of a five member survey team. The team is collecting data from judicial, police, detention and probation department personnel. The team also has met with the Citizens Committee to coordinate working arrangements.

The NCCD will complete the survey in early August 1971. A preliminary draft will be presented for review and coordination by June 15, 1971. It is anticipated that the Citizens Committee will report its recommendations to the El Paso

County Commissioners Court, the Juvenile Board, and the El Paso City Council by September 1, 1971.

The survey by NCCD has been initiated with the sincere desire to correct whatever deficiencies that may exist in the Juvenile Justice System in El Paso County. The NCCD survey is viewed as the primary tool in designing and implementing a model system.

The policies, practices, operations and physical plant of the juvenile court and detention facility are being examined by the NCCD. The survey of the NCCD will document the quality of service currently provided by the juvenile court and detention facility and develop specific guidelines and recommendations for rendering service for all who come to the attention of the juvenile court.

As a matter of policy, the NCCD requires the appointment of a citizens survey committee. This committee will:

1. Assist in the conduct of the survey;
2. Review the findings;
3. Serve as a medium of public education with regard to the survey, and
4. Assume responsibility for follow-up and implementation of survey recommendations.

The citizens committee will examine the survey of the NCCD with utmost care, and with a feeling of high responsibility. The citizens of El Paso County want and should have an effective, efficient and just system of juvenile justice.

Delinquents in El Paso County as in most communities tend to come from backgrounds of social and economic deprivation. In the last analysis, the most important method of dealing with juvenile crime is by preventing it—by improving the conditions of life that drive young people to commit crimes and that undermine the rules and institutions set up by society against antisocial conduct. We cannot improve the juvenile justice system in El Paso County unless we make it possible for each adult and young person to feel a personal stake in it. We need to equip juveniles with the means—the educational and social and cultural background, the personal and economic security to understand and accept responsibility in our community. Once a juvenile is apprehended by the police and referred to the Juvenile Court, the community has failed.

El Paso has made considerable progress in improving the conditions of life in the slum areas. But we need to devote more money and people and energy and concern to the problems of our slums. We must mount and maintain a massive attack against the conditions of life that underlie crime in the slums and poverty stricken areas of our county.

The Texas Department of Mental Health and Mental Retardation has planned a new Human Development Center for El Paso. Money for this facility has been included in the Department's 1971 budget. The center would serve mentally retarded children in El Paso and thirteen neighboring counties as follows:

1. Provide dental services;
2. Provide classrooms;
3. Provide parent education and counseling on the problems of mentally retarded children;
4. Provide work activity;
5. Provide recreational programs;
6. Provide expanded social activities;
7. Provide day care facilities;
8. Provide transportation to and from the center;
9. Provide diagnostic and evaluation facilities;
10. Provide education for the severely multiple handicapped of school age;
11. Provide health services;
12. Provide lunch program;
13. Provide social case services;
14. Provide vocational rehabilitation services;
15. Provide satellite day care services;
16. Provide in-training programs for local professionals; and
17. Provide referral and information service.

One way to supplement the Juvenile Justice System in El Paso County would be to utilize the resources of this center by referring children suspected of mental problems to this center as an alternative to detention.

The El Paso County Commissioners Court has provided whatever land would be required to build this center. Formal approval of this budget item by the Texas Legislature is necessary before construction can begin.

A new Family Code has been introduced in the Texas Legislature bringing up to date the safeguards of juvenile delinquents required by recent United States Supreme Court decisions. A Domestic Relations Court has been proposed in the Texas Legislature which will handle the juvenile delinquency cases and guarantee those procedural safeguards guaranteed by the Family Code.

The Citizens Advisory Committee is desirous of having the most efficient, and effective system of juvenile justice that is obtainable—a system that is carried out by persons carefully selected and trained for their functions. The Committee also wants the system to operate with all the procedural formality necessary to safeguard adequately the rights of those brought into the system.

It is our hope that once the study has been completed the county can make applications for staffing and building grants or arrange the necessary bond elections.

The Citizens Committee will react to the NCCD survey with high responsibility and will strive to assemble all community resources to bring about a model juvenile justice system in El Paso County.

We will now adjourn until tomorrow morning at 10 a.m., when we will reconvene here in the same room.

(Whereupon, at 1:30 p.m. the committee adjourned to reconvene Tuesday, May 4, 1971, at 10 a.m.)

## JUVENILE CONFINEMENT INSTITUTIONS AND CORRECTIONAL SYSTEMS

TUESDAY, MAY 4, 1971

U.S. SENATE,  
SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY,  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee (composed of Senators Bayh, Hart, Burdick, Kennedy, Byrd, Cook, Hruska, Fong, and Mathias) met, pursuant to recess, at 10:20 a.m., in room 318, Old Senate Office Building, Hon. Birch Bayh (chairman of the subcommittee) presiding.

Present: Senator Bayh.

Also present: Lawrence Speiser, staff director and chief counsel; William C. Mooney, investigator; John M. Rector, deputy chief counsel; Mathea Falco, deputy chief counsel; Peter Freivalds, research director; Mary Jolly, chief clerk; Nancy Smith, research assistant; Elizabeth Marten, secretary; Cheryl Wolf, assistant chief clerk; Stanley Ebner, Esq., assistant to Senator Hruska, and Ronald Meredith, Esq., legislative assistant to Senator Cook.

Senator BAYH. We will reconvene our committee investigation on the Juvenile Confinement Institutions and Correctional Systems. It is a privilege to have with us today for our first witness Mr. Alfred Bennett, superintendent of the Indiana Boys School in Plainfield, in my own home State.

Mr. Bennett, I understand you have other witnesses you would like for us to talk with and listen to. I would like to say for the record that I am particularly pleased to have Mr. Bennett here. There have been some of my friends in the Indiana press particularly who have said:

My goodness, is this not political folly to discuss what might be shortcomings in the correctional system of one's home state?

Well, perhaps it is, but I am not too concerned about that. I am glad to have all of our Indiana witnesses here today. If there is any State that I would like to see do better, it is my own. I think that we share this in common with our witnesses today, who are trying to do better, and who realize how important this is. As I said yesterday, when we were discussing the El Paso situation, we are not trying to make an example out of any given community or any given State, but we are trying to look at the strength and the weaknesses of a representative sample to give us a general idea of what we need to do and what we must do if we are going to get on top of this tremendous problem.

I want to say publicly that I appreciate the courage on the part of Superintendent Bennett and his staff and whoever else was involved

in the decisionmaking process that permitted the thorough and penetrating analysis of his institution to be shown on the television program Sunday evening, the NBC white paper, "This Child Is Rated X." It is easy enough to try to hide what is going on in institutions and keep it from public view. I think that enlightened public officials are those who want to open their doors, to examine what is right and what is wrong within our juvenile institutions, so that the constituency which they represent and the people of the United States of America can know what is happening, so that they will demand changes that we all want.

So, Mr. Bennett, please proceed. I appreciate very much you taking the time to be with us.

**STATEMENT OF ALFRED R. BENNETT, SUPERINTENDENT, INDIANA BOYS' SCHOOL, PLAINFIELD, IND., ACCOMPANIED BY SHERRIL NESS, JUVENILE COMMITTED TO INDIANA BOYS' SCHOOL**

Mr. BENNETT. Thank you, Mr. Chairman. It is a pleasure for me to be here.

I have to my right Mr. Sherril Ness, 16, from our institution. He will be answering questions later. I understand; but he actually is a gentleman who is an example of the types of youngsters that should not be sent to the Indiana Boys' School. I would like my statement to be entered into the record, although I will be summarizing much of it and reading other parts of it.

Senator BAYH. Without objection, we will put your whole statement in the record as if it had been read.

(The prepared statement of Alfred R. Bennett follows:)

**PREPARED STATEMENT OF ALFRED R. BENNETT**

Mr. Chairman: My testimony today describes the conditions of a large overcrowded correctional institution housing delinquent boys 12 to 18 years of age. It deals with the staff, the boys and the conditions of facilities of this 104 year old institution. A serious look should be taken at the overall juvenile justice system in the State of Indiana and how juveniles are processed after their first contact with a police officer. Until this is done the problems related to the Indiana Boys' School will seriously impair the institutions efforts toward progressive programming.

**ADMINISTRATION**

The basic purpose of the Indiana Boys' School is to provide for care, security, and treatment of all boys so those who are committed can be returned to their respective communities to live more adequate lives. I feel it is my responsibility to provide a program at this institution that will be of assistance to the State of Indiana in providing public safety to the citizens of this State and provide an atmosphere at the institution so those boys committed can show positive growth and change during their stay at the institution. Positive progressive well defined treatment goals and methods with regulation of disciplinary procedures are essential. The Superintendent or institution head is the most important person in reference to bringing about a positive therapeutic environment of any correctional institution. Even though many changes have been planned at the Indiana Boys' School prior to August 1969, when I became Superintendent, much of the implementation and change came about following my appointment. I have found it necessary to inform all concerned that this institution is not accomplishing the basic goals and objectives as stated above. I find it difficult to lay the blame on any one person or on any single agency or office. The one area of greatest concern to me is that the Judges in the State of Indiana who have juvenile jurisdiction in their respective counties do not have enough alternatives in which to provide a meaningful treatment program for the juve-

nile which sits before them. Far too many boys are sent to Boys' School because of problems in the home and/or problems at school that are related more to social factors rather than delinquent or criminal actions.

The staff at this institution is asked to work on behalf of the boy and the needs that he brings to us to be corrected. We have attempted, in recent months, to develop progressive programs with the Differential Treatment approach. The main administrative task is to provide for the staff a means by which to have partial knowledge of the boys basic problems and furnish a constructive atmosphere which enhances the efforts of the staff in program development and implementation. This is extremely difficult as will be pointed out in various parts of this report because of the more than 1100 commitments to the institution per year.

**ANALYSIS OF INDIANA BOYS' SCHOOL**

**(Physical plant, designed population capacity)**

Indiana Boys' School celebrated 100 years of existence in the summer of 1967. The physical plant of the institution has been changed very little in the past 35 years, when WPA and PWA work projects provided construction of several cottage living units. In that span of time two single level cottages, an orientation, detention and hospital building, a vocations building, and a new double living unit have been the only additions to the other time worn and outdated physical facilities in use today. During the past year, it has been necessary to close three cottage living units. The indoor swimming pool located in the single recreation building on campus could not be utilized during past years because parts for repairs could not be obtained for restoration purposes. The indoor recreational facilities were constructed nearly 60 years ago by staff and boys. The lack of professional assistance in construction has meant that the facility itself is now greatly deteriorated. Many cottage living units are in need of repair. Years of hard use and increasingly overburdensome and overcrowded conditions have meant that not only are they rapidly becoming unsafe and outmoded, but that sufficient repair work cannot be done because of financial and population factors. Cottages designed to hold 20 boys comfortably have been crammed with a minimum of 35 and often more than 40 boys at any given time. Despite correctional diversification measures adopted in recent years, such as operating a 65 bed youth camp training facility in Clark County and the recently inhabited Rockville Training Center located in Parks County for boys under the age of 15 who are in need of special educational programs, the population crush continues at the Boys' School campus. It has also been necessary to establish an intensive treatment cottage to deal with institutional adjustment problems, such as runaways and chronic acting out cases. Individual help is utilized in attempting to recognize and solve personal difficulties so these boys will eventually be able to control their own behavior and return to a regular cottage prior to their release from the institution.

There are thirteen (13) regular cottage living units to which boys may be assigned. This figure includes a recently constructed double unit whose function is to deal with boys in a more individualized and less regimented atmosphere. Treatment techniques are geared toward individual responsibility in realizing individual and group sponsored goals. It is an innovative method and it is successful in providing a more positive concept of rehabilitative treatment.

The thirteen (13) cottage living units that receive new boys, returned parole violators, and boys recommitted by the courts were designed to handle, under optimum conditions, 275 boys. On April 18, 1971, the population in these thirteen (13) cottage living units was 424. This figure is noteworthy because it means that we are caring for 149 boys over the optimum population level. As distressing as these figures would appear, the problem of overpopulation would have been even greater had the programs at Henryville and Rockville not been initiated. The total of 115 boys who are presently enrolled in their programs would have caused severe operating conditions at the Boys' School campus.

As far as the future is concerned, it is doubtful that on-campus population problems will be appreciably reduced until more can be done within the urban centers of the state or within the general area of these urban centers, to provide necessary and workable alternatives to commitment. Until more interest is generated in such an approach, the Indiana Boys' School will continue to be plagued with too many boys, too little time to work with them, and little hope for treatment and correction of their problems. Largely because the institution is at the mercy of the courts, there is no way to limit intake quotas. The effect

is that an open front door must provide for an open back door. This is to say that in order to provide room for increasing numbers of admissions the average length of stay must continually decrease. Five (5) months is the average length of stay at our institution.

#### ANALYSIS OF STAFF

The institutional staff can be broken down into functional assignments by department to better explain their relationship to the overall operations. Given a population of 424 boys, the following proportions can be derived: In many of the cottage living units, the ratio of both supervisors and counselors to boys is 1 to 35. Psychologists are in a ratio of 1 to 144 with the total population. Our academic and vocational teachers are faced with a ratio to the general population of 1 to 15, a little bit better. Recreation workers have a 1 to 216 ratio to the total population.

In overall terms, the total staff has done an adequate job in accomplishing their assigned tasks. As far as all staff members are concerned, fewer boys to work with, more pay to compensate for many duties that are required to maintain a large institution, better working conditions, and more cooperation among the staff members of all departments in working with the boys are necessary. The employee-boy ratios previously mentioned attest to the fact that those staff members whose main concern is custody and supervision have felt that more discipline is needed. It is not difficult to understand why the staff feels frustrated under present circumstances. Faced with such conditions, theirs is virtually an impossible task. Those staff members who deal with the counseling functions within the institution feel frustrated by the large number of boys on their caseloads, the extremely short stay of most boys due to continuing overcrowded conditions, and the burden of paperwork requirements that are placed on them from many sources. Those staff members whose duties are to teach academic or vocational skills feel a constant pressure to include too many boys into too few programs. Because of the short stay of most boys, these staff members feel that they are only "baby sitting" with their students and trainees. Institutional psychologists are unable to furnish psychological services to the large number of boys referred to them. They receive individual referrals at a rate that has caused a backlog too great to evaluate every boy in need of their services. As a result, some boys who need specialized psychological help may never receive it. The analysis may be summed up by saying that pay raises would be one way of improving general staff qualifications in each and every staff category. For example, the starting salary for cottage supervisors has been substantially raised from \$380.00 to \$500.00 per month within the past one and one half years and yet this figure is still not high enough to adequately compensate for job requirements. An improvement in working conditions would do the same, as would an improvement in facilities and services. However, to give all staff members the opportunity to feel that they are doing a good, solid, worthwhile job in rehabilitating boys in trouble, the answer is to reduce intake so that more time may be granted in treating fewer numbers of boys more effectively.

They do the best that time and patience will allow to teach and train required job skills. Unfortunately, the concept of training boys 16 to 18 to be able to compete for jobs in the job market is unrealistic in the limited time available. This is not to say that those and other vocational programs cannot be utilized for beneficial training purposes. There is a strong implication, however, that these types of training programs need to be modified to blend more compatibly with schooling and counseling functions within the institution so that both a realistic and appropriate overall program may be initiated for more boys than can participate at present.

#### TREATMENT METHODOLOGY AND EFFECTIVENESS

Within the past two years a complete reorganizational change has taken place within the cottage supervisory and counseling staff. As far as the philosophy of supervision is concerned, the concept of the "cottage parent" approach has been completely rethought. The cottage operations managers (supervisors) now serve each cottage on three 8 hour shifts. At the same time, the counseling staff has been removed from its formerly separate departmental function and in an entirely different orientation, these cottage program managers (counselors) have been placed directly into the cottages, one for each regular cottage. In this manner, the cottage operations managers and cottage program managers are located within the cottage, which is the most critical arena of individual adjustment and problem solving.

#### ANALYSIS OF ACADEMIC AND VOCATIONAL EDUCATION

The academic school at Indiana Boys' School provides special education classes and regular schooling through the high school level. It should be recognized that the function of the school is unique. With little encouragement or recognition, the administrators and teachers are expected to work successfully with boys who have often had trouble in school, both academically and behaviorally. As far as providing sound educational programs of a continuing nature the academic school does the best job possible under existing conditions. Especially for high school level boys, courses offered and credit earned will transfer easily back into the local schools. However, some problems do exist regarding the treatment of specific learning problems is concerned. There are a large number of boys within the institution who have problems of retardation, very low learning potential and severe cultured deprivation. The basic education classes are always full and cannot accommodate the total number of boys who need this type of help.

This has also been painfully true in the area of remedial reading programs. Tests of reading ability indicate that most boys who enter the institution read at a level at least two years below their appropriate grade placement. It is an unfortunate commentary that frustrating problems which have existed for boys in the past will continue to cause harm in the future, simply because the last chance for help was not available due to the fact that the proper programs were either minimized because of other pressing needs or else were not feasible because their importance was not recognized.

In the area of vocational training, the institution provides training areas in which boys may obtain specific job skills. The general areas of training are auto body, auto mechanics, auto service, barber training, building trades, horticulture, printing, shoe repair and tailoring and drycleaning. The licensed instructors for each of these areas are well experienced and dedicated men.

As members of a viable and well functioning team, these supervisors and counselors are better able to understand and support each other in their roles as behavior modification agents. In the long run, this cottage team approach will assume more and more of a guiding influence in the rehabilitative efforts regarding each boy in the institution. Committee functions which in the past have served to investigate misconduct infractions and determine proper conduct adjustment, to establish parole hearing dates, and to reclassify boys in the institutional program areas are gradually being revised and placed within the cottage team function.

#### COTTAGE LIFE

At present, especially because of the large numbers of boys being housed in the cottages, some traditional custodial practices remain unchanged. For security reasons, doors must remain locked and boys must continue to be dealt with not on an individual basis but as members of a mass or on a collective basis. The cottage teams, although the best to be offered in terms of allocation of staff resources at this level, will be hard pressed to function effectively until they have the opportunity to deal in depth with fewer numbers of boys over a longer period of time.

To a certain extent, the cottages themselves are constructed in such a manner that supervision, if handled informally, is not adequate. The large, separate rooms provide handy and easily accessible areas to which boys may remove themselves to participate in a variety of conduct offenses. The result is that the single, overworked supervisor must demand that all boys remain within his field of vision, which usually means one room. The fact that the bedroom areas of each cottage are large multi-bed dormitory rooms results in other unfortunate problems. Since only two (2) of the fourteen cottages have individual rooms, boys who might otherwise be placed in their rooms temporarily for cottage conduct infractions must ordinarily be removed from the cottage and placed in the detention area of the Social Services Building. The boys themselves have no privacy under such dormitory conditions and behaviorable problems are generated. Also, since many cottages are large double structures which are adjoined though partially separated by a wall in which is located a surveillance post that a lone supervisor mans during the night, the supervisor is extremely limited and the chances for incidents to occur are greatly increased.

Food services at the institution have been a problem. Two years ago the State Board of Health condemned the scullery (food preparation) areas in the cottages. Since then, food service has been provided by the Indian Youth Center

which is adjacent to Boys' School. Problems of transporting the food have led us to ask for, and receive, funds to enable the construction of a central dining facility on campus.

Clothing is another problem. Unless boys chose to wear their own clothes and risk having them ruined or stolen, they are issued sets of army surplus outfits. A better name for them would be misfits. They are the best that are now available.

Until there are fewer boys being retained on campus and until the institution receives more resources, the cottages, the school, vocational areas, recreation and all other areas of institutional life will remain limited in their effectiveness. The boys will continue to receive only partial treatment, will continue to be bored and become involved in adjustment problems, and will continue to be re-cycled back into this institution or another over and over again. It is ridiculous to expect that boys who have been over problems in the community and who are stigmatized by commitment, can be crammed into an overcrowded and largely impersonal institution, given little treatment and many bad memories, then shoved quickly back into the society that originally gave up on them and expect that rehabilitation has been effected. It just does not work that way.

#### CONCEPTS OF DISCIPLINE

Discipline problems arise in every institution. This is true regardless of whether the institution is large or small, public or private, highly custodial or highly diversified in treatment techniques. However, to a large extent, the forms of discipline available must be measured in terms of facilities and existing conditions. Indiana Boys' School would have to be viewed in terms of being a control oriented facility. It is an institution which has a severe imbalance in the ratio of boys to those staff members directly involved with them. It is an institution which must utilize facilities that were constructed in a much earlier era, that had been designed for fewer numbers of boys, and that are now archaic and antiquated. It is an institution whose professional treatment services include one (1) qualified social worker, three (3) psychologists, and one (1) part-time consulting psychiatrist. Given these factors, it is not difficult to detect a high concern for custody and control.

As has been previously mentioned, the lack of proper cottage resources has made it necessary to use formal detention facilities in situational instances of temporary behavior adjustment as well as for more serious incidents of misconduct. However, the detention wing ordinarily houses boys who have been involved in serious rules infractions. Among the more serious types of institutional offenses would be listed runaway, assault on staff or other boys, destruction of property, extreme insubordination, and homosexual activity. All of these types of misconduct would usually be initially handled by removal of the boys involved to Detention. The Committee dealing with these behavioral adjustment cases would then determine alternative routes to be taken in correcting these problems and set the machinery in motion to follow through with the stipulated recommendations. Because of the problem of dealing with large numbers of boys, the threat and use of corporal punishment has been provided at the discretion of the Superintendent in certain instances. Corporal punishment, as a form of treatment, must be coupled with the twin interpretations of the facts present in instances of extremely serious misbehavior that (1) all other corrective and preventative actions have failed and (2) that by such punishment a future deterrence may be gained to prevent re-involvement in proscribed behavior.

Prior to the use of either corporal punishment or use of detention, it is to be expected that the cottage team, consisting of cottage program and operations managers, through individual and/or group adjustment, through appropriate referrals for specialized evaluation services, through program re-evaluation through consideration for removal to the intensive care Re-Adjustment Unit, or through any number of prior alternatives, will have determined that these most drastic and carefully considered forms of behavior adjustment be recommended as a last resort. Such a decision is not easily made but when necessary in order to promote adherence to established order within a situation where conformity to rules is a virtue, then such a decision must be made. It is expected that this type of decision will continue to be the exception instead of the rule.

#### TREATMENT INNOVATIONS AND PLANS

For many months a great deal of enthusiasm has been generated regarding the possibility of adopting the behavioral typology classification system devised

by Dr. Herbert C. Quay of Temple University which now serves as the basic classification and treatment program of the Robert F. Kennedy Youth Center at Morgantown, West Virginia. This type of program involves classifying boys according to four basic personality types: (1) inadequate immature, (2) neurotic, (3) unsocialized aggressive or psychopathic and (4) socialized or sub-cultural delinquency patterns. Its strength lies in the fact that treatment is not directed toward or based on offenses committed which after all are only symptoms or manifestations of problems. Instead, the Quay classification promotes the grouping of boys with similar personality traits in order to provide differential treatment in terms of program content and structure and rehabilitation emphasis.

At Indiana Boys' School a good deal of pre-planning has already taken place. In the fall of 1970, the general campus population was tested according to the Quay Classification approach. From the results, proportions were derived showing what types of boys were present in the population and how they would fit into the four behavior categories. Staff meetings were held to determine in what manner the cottages could be divided to function within this type of system. At the same time the cottage operations managers and cottage program managers were evaluated to determine their personal preferences concerning the category of boys they felt most comfortable to work with. With all of these factors in mind, future staff meetings will focus on the remaining problems and determine the best time to consider the actual changeover.

Another area which has been developed was the decision to reconstitute one of the cottages and change it into a Readjustment Unit in which more intensive treatment is given to special adjustment problems within the general population. Boys who are potential runaways, boys who have had a long history of runaways, and boys who have experienced chronic adjustment problems are able to be housed in the special unit and receive treatment in a more structured environment until it is felt that they are ready to return to the general institutional population.

Other innovations are being implemented to increase the effectiveness of Boys' School functions and services. One is the remodification of the paroling machinery by which boys are released from the institution. This function has been subverted within the Indiana Youth Authority and will eliminate the use of the present parole board which serves as the paroling agent for state adult institutions. The second is the proposed diagnostic services unit which will be used to serve courts throughout the state in providing special diagnostic evaluation services. This proposal is being funded by federal and state resources. Also within the past year, a schedule has been arranged with several public school corporations to allow guidance counselors to spend two week internship sessions at Boys' School to become acquainted with our programs and problems. During the internships they work directly with the boys and staff.

#### THE IMPACT OF FEDERAL AND STATE COOPERATIVE EFFORTS IN JUVENILE CORRECTIONS

Cooperative efforts between the State Criminal Justice Planning Agency and the Indiana Youth Authority have provided the funds and initiatives to attempt new approaches in juvenile correctional rehabilitation. One highly important concept is the proposal for establishing a combined correctional and mental health treatment unit at Boys' School to deal with boys whose behavior demonstrates a combination of neurotic and character disorder traits. The therapeutic emphasis will be to treat more effectively boys who have not responded favorably either in a correctional or in a mental health environment.

A second concept would establish three (3) group homes to be located in large population areas in the northern, central, and southern sectors of the state. These group homes would receive boys who are under parole supervision and would provide a supportive and structured environment to assist in integrating these boys back into community living.

Cooperation between these two authorities has developed the framework in which funds might be provided on a matching basis in order to make these plans a reality. If interest can be continued at this level, the future looks brighter in dealing with problems of delinquency among juveniles. These approaches suggest that new alternatives are being considered in diagnosing and treating delinquency problems close to the community and the boy's family.

#### ALTERNATIVES TO INSTITUTIONALIZATION

With this thought in mind, one point should be made unmistakably clear: Treatment of juvenile misbehavior needs to have a much stronger basis of

support in interest, planning, marshalling of resources and follow-up within the local communities throughout the state. Institutionalization should only come about as an absolute last resort in dealing with delinquency. Only the most unresponsive, the most harmful and the most chronic of misbehavior should provide the requisite rationale for commitment. It is estimated that one-half of the boys now being held at Indiana Boys' School should not have been committed if the above criteria had been utilized in delinquency hearings concerning commitment, and if pre-commitment alternatives had been established.\* In recognition of this concern, both the Governor of the State of Indiana and his Commissioner of Corrections have pressed for matching federal funds from the Criminal Justice Planning Agency in order to finance with state budgetary resources the establishment of Regional Treatment Centers to begin in the next few months.

Not all the answers need to come from the area of public correctional processes. The private sector in the local communities holds a great deal of rehabilitative potential in the form of sponsoring and maintaining foster homes, group homes, multi-purpose centers and intensive treatment centers. These programs range from informal, non-security oriented places of refuge and support in dealing with personal problems to intense supervision and the utilization of highly professionalized treatment staff in dealing formally with in-residence behavioral problems. Volunteer groups which are well structured and are interested in dealing with the continuing and dynamic aspect of a changing clientele can be quite effective in working with juveniles.

In the area of public pre-commitment services, the concept of regional treatment centers holds a good deal of promise. Located within the large urban areas of the state and serving separate regions of the state, the utilization of such facilities would include the regular participation of family and close relations as well as appropriate community resources in overcoming the personal problems which lead to delinquency. The overall effect of these facilities would be twofold: (1) It would greatly decrease the need to incarcerate juveniles with adult criminals in local jail facilities, a factor which can only be viewed as detrimental to rehabilitation, and (2) It would greatly alleviate the need to commit boys to an overcrowded central institution by providing meaningful alternatives to commitment.

Another desirable alternative to commitment would be placing greater emphasis on probation services throughout the state. If more could be done at this level, more effective efforts at problem solving through deterrence could be coupled with far less expense in operations as compared to the costs, human as well as financial, of placing juveniles in institutions. To bring this about, caseloads will have to be reduced, salaries increased, and more qualified personnel utilized in a uniform and efficient effort to maximize probationary services.

#### PROPOSED FEDERAL LEGISLATION

There are many areas in which federal assistance could supplement state programs. In the past, cooperative efforts along these lines have met with success because of the matching requirements in federal assistance proposals. In Indiana, the State Legislature has not appropriated sufficient monies to fulfill the matching requirements. The only alternative available is to secure only those funds which can be developed in-kind or soft matched. The 1971 Legislature has appropriated \$150,000.00 over the next two years for use as State matching monies. In order to assure that necessary programs will receive a adequate financial support, it would be beneficial if funding could be provided on a 100% basis with no matching requirements.

The following is an analysis of various areas of concern which would benefit from federal assistance and regulation:

##### I. Staff salaries

At all levels of the juvenile justice system, supplemental federal assistance to improve and increase stable salaries is highly necessary. Special attention should be given to the initial starting salaries of all categories of correctional employees. When pay increases bring governmental jobs and services to a level which is more competitive with other sectors of employment, hiring standards will improve and the stability of the correctional work force will also improve.

\*Eight cases of inappropriate commitments are cited at the conclusion of this text.

##### II. Construction and renovation of facilities

Many institutions, juvenile as well as adult, are hindered by antiquated buildings, facilities and equipment. The cost of renovations and repairs is often too great to be provided by State Funding. Expenditures for this purpose can be justified in terms of treatment but not in terms of budgetary appropriations from the State Legislature. In this manner outmoded facilities continue to hinder innovative treatment programs.

##### III. Staff training and program development

More programs similar in function to the Law Enforcement Education Act should be sponsored by the federal government. The monies provided should be related to on-the-job training as well as more formal educational and technical training. Monies channeled in this direction would give strong impetus toward the professionalization of all correctional employees.

As far as program development is concerned, especially at the institutional level, the approach set forth by the Elementary and Secondary Act in the field of education would be a constructive example to follow. This approach would allow for the improvement of many different institutional programs in a flexible and realistic manner. Both of the areas mentioned here should profitably be funded entirely at the federal level without requiring state matching monies.

##### IV. Probation services

Throughout the state, probation services need to be more adequately staffed, better trained and more standardized. The effectiveness of probation services is a strong alternative to commitment. The more boys that can be adequately supervised and helped in the community, the less need there will be for commitment. The cost to maintain a boy under probation supervision is far less than it is to maintain him in an institution. These services need more attention than the State is providing.

##### V. Upgrading jails and detention facilities

Many jails and detention facilities throughout the state are obsolescent, inadequate and critically understaffed. Boys must often be placed in such facilities, with adult offenders, for periods of weeks and even months. The problems that result from this situation are staggering. Stories of boys being intimidated, beaten, burned or gang raped are not uncommon. Do these conditions and degrading incidents serve as the ends of rehabilitation?

##### VI. Delinquency prevention

In the local community, Youth Service Bureaus could provide effective assistance for youth in trouble and their families. Located primarily in larger urban centers, professionally trained staff can provide guidance and counseling to boys on an informal basis. In this manner, solutions to problems might be provided before boys become involved in serious trouble. In Indiana, Elkhart County has been a leader in this type of approach and has dealt with many boys successfully in their community.

A final area of attention is the existing federal child labor laws. Sound training in job skills may be entirely wasted because employment regulations make it impossible for boys to get jobs. When boys leave school at age 16, which according to State law they may do, worthwhile endeavors must be available for them. In many instances boys whose basic problem is too much time on their hands become involved in trouble. They are not entirely at fault.

#### INAPPROPRIATE COMMITMENTS

The following cases are sketches of four different categories of boys which represent inappropriate types of commitments. Their cases point to the fact that in many instances Indiana Boys' School serves as a handy dumping ground in a superficial attempt on the part of certain courts and counties to treat problems by denying them.

- Cases 1 and 2.—Boys committed for minor misconduct.
- Cases 3 and 4.—Boys committed for serious crimes.
- Cases 5 and 6.—Boys who are severely retarded.
- Cases 7 and 8.—Boys who have severe emotional problems.

## MINOR MISCONDUCT

This section deals with boys who have been involved in very minor misconduct or who have had no previous history of delinquency and for whom commitment is wholly inappropriate.

*Case No. 1.—I.B.S. No. 29194*

Ernest is a 17 year old Negro whose family lives in a predominantly rural, white community in the northern part of the state. The county itself, from which he has been committed, is made up of small towns such as the one in which the subject's family lives. They moved there from Chicago in an attempt to keep Ernest away from being intimidated into joining a gang and becoming involved in street conflicts and crime. After moving into their new home they found that the community did not accept them. It did not take long for Ernest to find himself on indefinite probation. The record shows that on 12-5-70, he was picked up for trespassing. No explanation accompanies the offense citation from the court on 12-24-70, he was found to have violated the terms of his probation by having used "obscene language on the school bus, changing seats on the school bus and getting off the bus to smoke at short stops." His dental served to carry no weight. He was committed to Boys' School on January 11, 1971.

*Case No. 2.—I.B.S. No. 29135*

Robert is a 17 year old Caucasian who has been committed from a sparsely populated county in northern Indiana. His official record indicates that he had been involved in the following offenses: 3-31-70: Drinking (no further explanation); 6-7-70: Incurable (no further explanation); and 11-21-70: Drinking. "Robert was found in a car at the F.O.P. Lodge, with alcoholic beverages in his possession." He was admitted to the Boys' School on 11-30-70. In talking to him, his Counselor stated that the subject was to have gone in for a physical examination for enlistment in the Navy two days after his most recent arrest.

## SERIOUS CRIMES

This section deals with boys who have been involved in extremely serious crimes, usually extending over a long period of time, and whose attitudes and potential for continuing severe acting-out behavior should have been sufficient factors to waive them over to criminal court for prosecution. The presence of this type of boy in a juvenile institution serves as a continual catalyst for trouble. Younger more passive boys become the victims of their influence as well as of their aggression.

*Case No. 3.—I.B.S. No. 26798*

Marvin is a 17 year old Negro who has been returned as a parole violator for his fourth stay at Boys' School. He was first admitted from Lake County on 8-9-67. Since that time has spent 20 months at this institution and 17 months on parole. He has had three separate chances on parole, but has never stayed more than 8 months before committing an act sufficient to have violated his parole. His most recent return, at age 17, was for "armed robbery and curfew." His original commitment, at age 13 in 1967, was for "assault and battery, incorrigible and bicycle theft." While awaiting questioning on these charges, he was being detained in a local jail with five accomplices. During this confinement the subject and his friends beat a white male, broke his jaw, fractured his skull and caused his confinement in the intensive care unit of a local hospital. Through the years, after numerous dealings with him for increasingly serious acts, officials have never waived him over to Criminal Court for prosecution.

*Case No. 4.—I.B.S. No. 27905*

Lee will be 18 in May of this year. This is his second time at Boys' School. He was admitted on his original commitment on 2-18-69, charged with 1st degree burglary. He operated as a member of a gang. Their method of operation was to place false fire alarms and in the excitement of investigating the fire the gang would enter the garages of residences left unattended and burglarize them. At the time of his commitment, he had serious offenses already listed on his police record including assault and battery, 1st degree burglary, missing person, bicycle theft, and fifteen (15) false fire alarms. He was at Boys' School for 5 months, was released on parole and remained on parole for four months before violating his parole and being returned to the institution on charges of assault and battery and carrying a deadly weapon. He had earlier been "strongly reprimanded and warned" for shoplifting. He was returned on 10-31-69 and is still being detained.

During his present stay he has been involved in two serious instances of misconduct. On one occasion he was granted the privilege of going home for Christmas and did not return when scheduled. Another time he was involved in an assault on an inmate in which he and another beat a more passive boy in the cottage.

## SEVERE RETARDATION

This section deals with boys who have severe problems of mental retardation. They should never have been committed but for the fact that they had been involved in delinquent acts and that more appropriate placement alternatives were not available. This type of boy cannot be adequately treated within the existing correctional framework. Professional help is unavailable and boys receive little treatment. They are only held until paroled or transferred to a more appropriate environment.

*Case No. 5.—I.B.S. No. 28957*

Robert was committed to Boys' School from Marion County (Indianapolis). At age 16 our psychometric test results show the following: "Robert could not undergo our regular testing in Orientation." This is the same type of testing (I.Q., reading ability, and vocational aptitude) that is given to all other incoming boys. He had been sent to Boys' School on charges of delinquency legally described as curfew, violation of release conditions and disorderly conduct. He had been placed in the juvenile detention center from 1-30-70 until 5-28-70. On 2-23-70, the staff psychologist at the Center administered a Stanford-Binet intelligence test. The results showed that he had an I.Q. of 43 with a mental age of 6 years 3 months. When it was found that he could not be accepted into community training programs assistance was sought from the Department of Mental Health. It was recommended that he be committed to Boys' School. He remained in our Orientation Unit from 8-17-70 until 12-18-70, at which time he finally was transferred to an appropriate Mental Health facility.

*Case No. 6.—I.B.S. No. 28552*

Roger was 15 years of age when he was committed for incorrigible behavior at home. He was easily led by older boys who supplied him on several occasions with alcoholic beverages. It was usually after these drinking episodes that he returned home and argued with his parents. He had been receiving training in special education classes at a school which is cooperatively sponsored by two neighboring counties in the northern part of the state. His home is located in one of these counties. He was definitely a slow learner but was not considered to be a behavior problem. When he arrived at Boys' School he was given special individual testing. The results on the Wechsler I.Q. test showed that he has a 48 full scale I.Q. His reading ability test out at less than 2.0. Boys' School placement was clearly inappropriate in his case. He remained in the Orientation Unit from 1-28-70 to 5-26-70. He was released on parole to return to the special school that he had attended prior to commitment and is again living with his parents.

## EMOTIONAL PROBLEMS

This section deals with boys who had been placed in Mental Health institutions and facilities in the state prior to commitment. In certain cases, boys are committed when their behavior becomes a problem for the staff at these institutions. What would be viewed as self-directed injury or minor misconduct is often sufficient cause to take them before a juvenile court judge and gain commitment to Boys' School. Unfortunately, Boys' School is less well equipped in terms of appropriate staff and facilities for these boys than are the overcrowded mental health facilities which are anxious to be rid of them.

*Case No. 7.—I.B.S. No. 29084*

Larry was adopted at five years of age by a family that could not have children of their own. The subject's natural mother did not want him. In 1968 at age 13 he placed his feet in hot water and then cut his ankles. After examination he was committed to Central State Hospital. He remained there from 4-3-68, until 6-29-70, at which time he was released due to adequate social adjustment. On 9-14-70, during a family picnic, the subject lost his temper and pushed his mother (adoptive) to the ground and struck a man who attempted to restrain him. On 10-19-70, he was committed to Boys' School. This was only four months after his release from a mental health facility in which he had been placed for more than two years. Testing shows that he has an I.Q. of 111, a total reading ability of 10.5 the highest attainable on the test which was administered to him, and vo-

cational aptitude scores which are considerably above the average. Institutional programs for him have been directed toward enhancing his self-worth concept and understanding the relationships between discipline and responsibility and discipline and love. These would have been appropriate at home as well as Boys' School.

*Case No. 8—I.B.S. No. 29109*

George is a 15 year old boy who has been placed at I.B.S. by Posey County at the request of Evansville Hospital due to constant turmoil he caused at the hospital (fights, verbal abuse, teasing patients). At age 6, the subject was referred to the Child Guidance Clinic for hitting students and attacking them with knives. He spent one year at this clinic and then placed at LaRue Carter Children's Center for 2 years. At that time he was sent to Barr Treatment Center at Central State Hospital. He was discharged from the hospital on 1-24-68, because his mother did not return him from a special Christmas release. On 2-16-68, he threatened a teacher with a knife and allegedly threatened a neighbor also. He was found to have a large collection of knives. Shortly thereafter he was placed at Evansville State Hospital. His home life is chaotic. His father now lives in New Mexico. George would like to live with him although the subject's mother (who has been married twice, has had an illegitimate child by a 16 year old boy, and now is planning her third marriage) considers the father to be cruel. George entered Boys' School on 11-12-70 and as of 3-23-71, has been paroled on completion of plans in seeking an appropriate community placement.

NEW COMMITMENTS DURING 1970

*Table 1.—Admissions by Guardianship Status*

*Table 2.—Admissions by Age*

*Table 3.—Admissions by Race*

*Table 4.—Admissions by the Month*

*Table 5.—Grade Equivalence Reading Ability by Age*

The following tables refer to admission statistics for new commitments during 1970. They are included to give a more clear picture regarding the backgrounds of boys being committed to Indiana Boys' School. Tables 1 and 5 are especially interesting because of the implication of personal frustration and dislocation of delinquent boys in their home and school environments.

Table #1	Admission by Guardianship Status											New Admittees (666)		
	0	25	50	75	100	125	150	175	200	225	250	275	300	
Parents													254	(.39)
Mother Only													277	(.41)
Father Only													62	(.09)
Relatives													24	(.04)
Mother & Stepfather													15	(.02)
Father & Stepmother													7	(.01)
Step-parents													4	(.005)
Foster Parents													3	(.005)
Adoptive Parents													6	(.01)
Wardship Status													12	(.02)
Other													1	(.00)

Table #2	Admission by Age					New Admittees (666)	
	0	50	100	150	200	250	
Age 10						1	(.00)
Age 11						4	(.005)
Age 12						17	(.025)
Age 13						47	(.07)
Age 14						104	(.16)
Age 15						197	(.30)
Age 16						200	(.30)
Age 17						96	(.145)

Table #3	Admission by Race					New Admittees (666)	
	0	100	200	300	400	500	
Caucasian						467	(.70)
Negro						188	(.28)
Mexican-American						5	(.005)
Puerto Rican						6	(.005)

Table #4	Admission by Month											New Admittees (666)	
	0	10	20	30	40	50	60	70	80	90	100		
January												47	
February												51	
March												68	
April												69	
May												63	
June												63	
July												47	
August												56	
September												44	
October												68	
November												40	
December												50	

		Age at Commitment								
		New Admittees								
		10	11	12	13	14	15	16	17	
	under 1.0									2
	1.1 to 1.5			1	1					
<u>Grade</u>	1.6 to 2.0			3	6	4	5	5	1	
	2.1 to 2.5			3	7	4	6	6	3	
<u>Equivalence</u>	2.6 to 3.0		1	2	4	8	6	5	4	
	3.1 to 3.5			1	3	4	8	3	3	
<u>Reading</u>	3.6 to 4.0	(0)	1		4	3	8	6	2	
<u>Ability</u>	4.1 to 4.5		2		3	7	12	4	3	
(Nelson	4.6 to 5.0		(4)		3	14	15	13	1	
Reading	5.1 to 5.5			1	2	10	12	14	9	
	5.6 to 6.0	1		1 (12)	3	14	18	16	13	
<u>Test)</u>	6.1 to 6.5				2	10	19	7	6	
	6.6 to 7.0			1	2 (10)	5	13	22	1	
	7.1 to 7.5			1	1	7	12	17	7	
	7.6 to 8.0			2		2 (92)	5	7	5	
	8.1 to 8.5				2	1	7	8	1	
	8.6 to 9.0				1	3	17 (163)	17	6	
	9.1 to 9.5					3	10	12	14	
	9.6 to 10.0			1	3	3	7	8 (172)	1	
	10.1 to 10.5					3	7	8	4 (84)	
	over 10.5	(1)	(0)	(5)	(7)	2 (15)	12 (36)	18 (26)	13 (13)	
	<u>Total</u>									
				<u>Deficiency</u>		<u>Non-Deficiency</u>				
				567		103				
				(84%)		(16%)				

Mr. BENNETT. Thank you, Mr. Chairman.

My testimony today describes the conditions of a large overcrowded correctional institution housing delinquent boys 12 to 18 years of age. It deals with the staff, the boys, and the conditions of facilities of this 104-year-old institution. A serious look should be taken at the overall juvenile justice system in the State of Indiana and how juveniles are processed after their first contact with a police officer. Until this is done the problems related to the Indiana Boys' School will seriously impair the institution's efforts toward progressive programming.

#### ADMINISTRATION

The basic purpose of the Indiana Boys' School is to provide for care, security, and treatment of all boys so those who are committed can be returned to their respective communities to live more adequate

lives. I feel it is my responsibility to provide a program at this institution that will be of assistance to the State of Indiana in providing public safety to the citizens of this State and provide an atmosphere at the institution so those boys committed can show positive growth and change during their stay at the institution. Positive progressive, well-defined treatment goals and methods with regulation of disciplinary procedures are essential. The superintendent or institution head is the most important person in reference to bringing about a positive therapeutic environment of any correctional institution. Even though many changes have been planned at the Indiana Boys' School prior to August 1969, when I became superintendent, much of the implementation and change came about following my appointment. I have found it necessary to inform all concerned that this institution is not accomplishing the basic goals and objectives as stated above. I find it difficult to lay the blame on any one person or on any single agency or office. The one area of greatest concern to me is that the judges in the State of Indiana who have juvenile jurisdiction in their respective counties do not have enough alternatives in which to provide a meaningful treatment program for the juvenile which sits before them. Far too many boys are sent to Boys' School because of problems in the home and/or problems at school that are related more to social factors rather than delinquent or criminal actions.

Senator BAYH. May I interrupt you?

Do you have a breakdown, in your judgment, as to what proportion of boys is delinquent and what proportion is sent to you because of various social problems in the home?

Mr. BENNETT. We do. We do say, Senator, that half of the boys at this institution could have been taken care of in alternative programs if they had been available. And, later on in my statement, I will be reading case studies, talking about boys who are retarded, who are committed to the Boys' School, and I believe that if the resources were in the hands of the judges, there could have been more appropriate programs rather than dumping them all into a large, overcrowded institution such as Boys' School.

Senator BAYH. Fine.

Mr. BENNETT. The staff at this institution is asked to work on behalf of the boy and the needs that he brings to us to be corrected. We have attempted, in recent months, to develop progressive programs with the differential treatment approach. The main administrative task is to provide for the staff a means by which to have partial knowledge of the boy's basic problems and furnish a constructive atmosphere which enhances the efforts of the staff in program development and implementation. This is extremely difficult as will be pointed out in various parts of this report because of the more than 1,100 commitments to the institution per year.

In a most recent study we found out that this is the third largest institution of its kind in the country, with reference to commitments and actual average population per year, and we feel that by keeping boys only 5 months at a time, on the average, that we are asking the staff of this institution to do the impossible. We feel with fewer commitments and really specializing in the treatment of the delinquent that we will do a much better job.

If I may analyze a little bit on the facilities: As I said earlier, it is 104 years old. I find that the physical plant is quite old and only in the last few years have there actually been additional facilities built at this institution. The bulk of the institution was built 35 years ago during the time the WPA work projects were in effect. We find these facilities very limiting and, in some areas, discouraging to the diversification in program developments. For example, the indoor recreational facilities were constructed nearly 67 years ago by staff and boys, and because of the lack of professional assistance in construction, it is deteriorating rapidly. Many of the cottage living units are in need of repair. We find that cottages designed to hold 20 boys comfortably, have been crammed with a minimum of 35 and sometimes 40 boys at a time.

Despite correctional diversification measures adopted in recent years, by adding other rehabilitation sites, we find that the population crush continues at the Boys' School campus. But at the same time, we find that the overall facility is quite old and that up-to-date programs require adequate facilities in order to provide up-to-date programs.

There are 13 regular cottage units for boys to be assigned. We find that it is difficult to administer that many cottages with many of them having over 40 boys, and to adequately supervise the staff. This is another problem related to the large numbers and the quick turnover of boys.

Senator BAYH. Were those cottages originally, or should they be, designed for family-type atmosphere?

Mr. BENNETT. That is correct. These cottages were designed for a family-living situation. In recent years, the staff members have been reluctant to work long hours; they want to work their regular 8-hour shift. So, we recently went to an 8-hour-shift basis, and, in essence, we lost, about a year ago, a program of family units. We are setting up new treatment teams, and we have reassigned the professional staff, including our social worker and counselors, by placing them into the cottages setting up these treatment teams.

Senator BAYH. You say you lost a family unit or team?

Mr. BENNETT. That is correct. We actually have changed the program from one in which cottage supervisors would work from 6 in the morning until 8 o'clock at night, by going to an 8-hour shift in the cottage department. This, of course, brings more people into the program instead of one man and his wife running the program in the cottages. It is actually a situation in which there are 8-hour shifts.

Senator BAYH. Suppose you could do it the way you wanted to do it, and you had adequate funds, would you prefer the family operation with the man and his wife, or are you satisfied with present staffing in the cottages?

Mr. BENNETT. I think it should be a combination. I think that we could have the family situation in the program, but we also need expertise in the areas of sociology and psychology within these teams. I would prefer a combination, but we find it difficult to have the manpower to do both. So, part of our difficulty in the last year has been the changeover from one program to another.

Senator BAYH. Whether it is one plan or the other or a combination, it is still a pretty large family that has 40 boys.

Mr. BENNETT. That is exactly right. As far as the future is concerned,

it is doubtful that on-campus population problems will be appreciably reduced until more can be done within the urban centers of the State or within the general area of these urban centers, to provide the necessary and workable alternatives to commitment. Until more interest is generated in such an approach, the Indiana Boys' School will continue to be plagued with too many boys, too little time to work with them, and little hope for treatment and correction of their problems. Largely because the institution is at the mercy of the courts, there is no way to limit intake quotas. The effect is that an open front door must provide for an open back door. This is to say that in order to provide room for increasing numbers of admissions the average length of stay must continually decrease. Five months is the average length of stay at our institution.

I would like to add here, Mr. Chairman, that this is a problem all over the country, and when I say that this is the third largest juvenile institution of its kind in the country, I find that it is certainly not doing the job, because of the numbers of boys involved.

#### ANALYSIS OF THE STAFF

The institutional staff can be broken down into functional assignments by department to better explain their relationship to the overall operations. Given a population of 424 boys, the following proportions can be derived: In many of the cottage-living units, the ratio of both supervisors and counselors to boys is 1 to 35. Psychologists are in a ratio of 1 to 144 to the total population. Our academic and vocational teachers are faced with a ratio to the general population of 1 to 15, or slightly better. Recreation workers have a 1-to-216 ratio to the total population.

In overall terms, the total staff has done an adequate job in accomplishing their assigned tasks. As far as all staff members are concerned, fewer boys to work with, more pay to compensate for many duties that are required to maintain a large institution, better working conditions, and more cooperation among the staff members of all departments in working with the boys are necessary. The employee-boy ratios previously mentioned attest to the fact that those staff members whose main concern is custody and supervision have felt that more discipline is needed. It is not difficult to understand why the staff feels frustrated under present circumstances. Faced with such conditions, theirs is virtually an impossible task. Those staff members who deal with the counseling functions within the institution feel frustrated by the large number of boys on their caseloads, the extremely short stay of most boys due to continuing overcrowded conditions, and the burden of paperwork requirements that are placed on them from many sources. We find also the psychological department is extremely limited in what they can do because of the extreme problems which are present and the need for psychological services. We receive many boys have to go without psychological evaluations because of the overcrowded conditions and the limited services available.

The analysis may be summed up by saying that pay increases would be one way of improving general staff qualifications in each and every staff category. For example, the starting salary for cottage supervisors has been substantially raised from \$380 to \$500 per month within the past one and a half years and yet this figure is still not high enough to

adequately compensate for job requirements. An improvement in working conditions would do the same, as would an improvement in facilities and services. However, to give all staff members the opportunity to feel that they are doing a good, solid, worthwhile job in rehabilitating boys in trouble, the answer is to reduce intake so that more time may be granted in treating fewer numbers of boys more effectively.

The education programs at our institution, I believe, are good. We have a solid academic program with remedial assistance for some boys. We have, I think, outstanding staff members, but, we find that they are frustrated because of the short stay of many boys. Often remedial programs will only increase reading abilities possibly one or two grade levels, when, actually, if boys would stay a year or two, these programs could substantially increase their reading levels and make much more workable individuals out of them.

Senator BAYH. You mention that you would be more successful if they would stay a long period. Why are the boys committed to your institution for a specific period of time to meet the requirements of their juvenile court adjudication and disposition?

Mr. BENNETT. Delinquents, sir, are committed to the custody and care of the superintendent until the parole board releases them. They are not sent for a specific number of months or years. With boys coming in at such a rate, which I stated earlier as 1,100 a year, we do not have adequate bed space to keep all of the boys as long as we know we should.

Senator BAYH. In other words, you release them prior to adequate treatment just to make space for others coming in?

Mr. BENNETT. That is correct, and it is this way in nearly all juvenile institutions all over the country.

Senator BAYH. Do you have control over release?

Do you make recommendations on this?

Mr. BENNETT. I have no control over intake whatsoever. We do make strong recommendations to the parole board, and they usually adhere to them. But if we kept all boys on the average of a year, and we have an institution of over 1,000 boys, and, actually, you try to find out what is the best you can do with the facilities and the situation at hand, certainly you have to turn them out sooner than you should.

Within the past 2 years a complete reorganizational change has taken place within the cottage supervisory and counseling staff. As far as the philosophy of supervision is concerned, the concept of the "cottage parent" approach has been completely rethought. The cottage operations managers—supervisors—now serve each cottage on three 8-hour shifts. We are setting up what we feel is a program that has worked in other institutions, that of providing a treatment-team approach.

As members of a viable and well-functioning team, these supervisors and counselors are better able to understand and support each other in their roles as behavior modification agents. In the long run, this cottage team approach will assume more and more of a guiding influence in the rehabilitative efforts regarding each boy in the institution.

Regarding institutional committees, the committee functions which have served to investigate misconduct infraction or determine proper conduct adjustment, to establish parole hearing dates, and to reclassify boys in the institution, are going to set up within the cottages, so that

the boys will actually have the decisionmaking right next to them where they live.

As far as cottage life is concerned, which is really the heart of the institution, at present, especially because of the large number of boys being housed in the cottages, some traditional custodial practices remain unchanged. For security reasons, doors must remain locked and boys must continue to be dealt with not on an individual basis but as members of a mass or a collective basis. The cottage teams, although the best to be offered in terms of allocation of staff resources at this level, will be hard pressed to function effectively until they have the opportunity to deal in depth with fewer numbers of boys over a longer period of time.

Senator BAYH. Why are the doors locked?

Why is that necessary?

Mr. BENNETT. Actually, when you have 40 or 45 boys in this cottage, we find there is very little chance for there to be adequate rapport with each individual boy, so we find, in our institution as in most correctional institutions, we must stress security. If we had 20 boys for each supervisor, who could become better acquainted with them and act like a father, then, perhaps, this situation would not have to exist.

Senator BAYH. You put them in and lock the door so that they will not get out?

Mr. BENNETT. That is correct.

Senator BAYH. Do you have bars on the windows?

Mr. BENNETT. No, sir; not on the cottages.

Senator BAYH. Do you have any security on the windows?

Mr. BENNETT. There are small regular glass windows without bars.

Senator BAYH. Can the boys get out of the windows?

Mr. BENNETT. It is possible, and sometimes they do, and the need for close surveillance is great. We find some institutions, mostly private in a few enlightened States, have been able to have smaller numbers of boys sent to them, and that there can be rapport established between staff and boys in which security is not stressed so much. But we find that in a large institution like ours, and in most institutions there is a need to emphasize security so that boys will not be a menace.

Senator BAYH. I notice you have a rather lengthy statement. We can put it all in the record. I am anxious to get some of your extemporaneous comments as to where we are going. If there are any parts of that you could omit and concentrate on others so that we could talk with Sherril, I would appreciate it.

Mr. BENNETT. Problems of overcrowding in institutions force administrators to be concerned about clothing and feeding boys adequately. We also feel that the concept of discipline is very poor in many instances.

Of course, we know that boys are sent to institutions because of their inability to control their own behavior. Apparently, the authorities in the communities, basically the judges and law enforcement officials, feel that these boys must be segregated from their families, and, to compensate this lack of self-control, discipline is essential within these institutions.

And, of course, whenever you have discipline, we find that the problem exists, in my institution or in any institution, that discipline must prevail according to the state of the facilities and existent con-

ditions. We have already stated that the Indiana Boys' School has boys for a short period of time and in an overcrowded situation, and that discipline is a very important factor.

Now, I would not run my institution in this manner if we had 20 boys in each cottage, but when there are 40 or 45—and when you only have one social worker, three psychologists and one part-time consulting psychiatrist, it is obvious that professional guidance is not adequate for this large number of boys.

Now, recently, we have tried to come up with treatment innovations and plans. In recent months, we have generated a great deal of enthusiasm for modifying our program and setting up a behavior-typological classification system. Dr. Herbert C. Quay of Temple University has been involved in classification concept at Robert F. Kennedy Youth Center. In the last 10 years, through research, he has set up what is called the Quay classification system, and we feel that it is very appropriate for the Indiana Boys' School. Because it has worked very well at the Robert F. Kennedy Youth Center, we are initiating this particular system at the Indiana Boys' School. At the same time, we are anticipating that the success at our institution will not be as great because we do not have control over intake, as does the Robert F. Kennedy Youth Center through the Federal Bureau of Prisons.

Many other programs, have been tried which we feel are successful. We are setting up a new paroling authority which will be more of a staffing function within juvenile institutions than is the present parole board that also serves the adult institutions in Indiana. This will go into effect this summer.

Senator BAYH. You will have a separate parole board, then?

Mr. BENNETT. It will be set up within the Indiana Youth Authority. The legislature gave us the paroling authority within the youth institutions, whereas before, the parole board served both juvenile and adult institutions. We feel we have a much more workable situation.

Senator BAYH. Has that board been appointed yet?

Mr. BENNETT. No, it has not.

Actually, the paroling authority within the youth authority will be a staff situation. I may choose an assistant superintendent to sit for our institution. The executive director of the youth authority is the administrator of this parole board. This will work much like many private institutions in which it is a staffing function. When they feel a boy is ready to go home they actually will set it up as a staffing function instead of using the informal parole board.

Senator BAYH. With regard to the membership on that board, does the legislation establish any criteria of excellence or qualifications?

Mr. BENNETT. That is right, they must be professional people, and within the paroling authority, the youth authority will be part of the staff of the institution. But, the adult parole board has qualifications for this.

Senator BAYH. I wish you would give us some specifics.

First of all, let me just deal with what you have here in the statement. You mention on page 14 the impact of Federal-State cooperation for proper reference in juvenile corrections, and you allude to the State criminal justice planning agency and the Indiana Youth Authority.

When did this effort to cooperate between Federal and State agencies begin in Indiana?

Mr. BENNETT. The criminal justice planning agency drew this up, out of Federal funds coming from Washington—every other State has a similar one.

Senator BAYH. I just wondered how long has Indiana been receiving those funds?

Mr. BENNETT. It is my understanding funds have been received by the State of Indiana for about 3 or 4 years. It has only been in the last 3 years that they have pinpointed programs toward corrections. We feel that there is need for more funds, but actually stressing less need for matching.

If the State legislature does not provide matching funds, then we lose our opportunity to receive these funds.

Senator BAYH. Does the Federal Government now have funds available for Indiana that have not been met by State funds appropriated by the general assembly?

Mr. BENNETT. It is my understanding there are money available if the legislature would provide the moneys to match.

Senator BAYH. Could you give us a few examples of how these Federal-State joint moneys have been spent?

Mr. BENNETT. Actually, at Indiana Boys' School we have had very little moneys coming into specific programs. We did receive some for training in the department of corrections. It has been a very good program. There has been established, as Mrs. Vanbrunt will later be talking about, a foster home, and it is my understanding that the present legislature will be providing matching funds to set up three foster homes for boys' school.

Senator BAYH. Those are in the large cities?

Mr. BENNETT. That is correct. There also will be matching funds for a corrections-mental health combination program. For many boys who have been unsuccessfully treated in the mental institutions, as well as corrections, we are going to set up a pilot project at Boys' School with matching Federal funds.

Senator BAYH. Has it been funded yet?

Mr. BENNETT. No; it has not.

Senator BAYH. Could you give us the breakdown, please, Mr. Bennett, and if you do not have it here, you can send it to the committee so that we will have a thorough study of the number of Federal funds that have been made available and the number of Federal funds that are available now that are not being taken advantage of to do the type of things you are talking about? Would you now give us some of these case histories? I am anxious to have in the record expert testimony relative to the kinds of young men that are sent to your institution that have no business being there, as to how they got there, and how they might have been treated otherwise more effectively.

(The information requested was subsequently supplied by Mr. Bennett,  
was marked "Exhibit No. 6," and is as follows:)

Exhibit No. 6

CERTIFICATION OF MAINTENANCE OF LOCAL EFFORT

- A) Name and Address of Applicant: Department of Correction  
801 State Office Building  
Indianapolis, Indiana 46204
- B) The applicant for Federal Assistance under the provision of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, hereby certifies that funds or other resources of the applicant normally devoted to programs and activities designed to meet the needs of law enforcement will not be diminished in any way as a result of a grant award of Federal Funds.
- C) The applicant further certifies that the program for which assistance is requested will be in addition to, and not a substitute for, law enforcement services previously provided without Federal assistance.
- D) Verifying Data:

Law Enforcement Expenditures:

Fiscal 1969: \$ 21,362,899.85

Fiscal 1968: \$ 20,106,867.36

Fiscal 1967: \$ 18,331,920.97

Average FY 1969-1968-1967: \$ 19,940,572.73

- E) Name and Title of Individual Empowered to Commit the Applicant to this Agreement:

Name: Robert P. Keyne Title: Commissioner

Signature \_\_\_\_\_ Date: \_\_\_\_\_

INDIANA CRIMINAL JUSTICE PLANNING AGENCY  
State Office Building  
Indianapolis, Indiana 46204  
Telephone: 317-633-4000

GRANT APPLICATION FORM

Type of Grant	Per Cent of Funding Requested	Application Date
( ) Planning (x) Action	(40 20% (60 80% ( ) 100%	_____, 19__

PART I. Project Identification Information

1. Project Identification Department of Correction  
A. Title Special Experimental Cottage Unit  
B. Functional Area Provide needed treatment for emotionally disturbed juvenile offenders.

2. Applicant  
A. Agency Department of Correction  
B. Project Director Mr. Alfred Bennett  
C. Address Indiana Boys' School  
City Plainfield State Indiana Zip 46168  
D. Telephone 839-6535

3. Regional Planning Board  
A. Name \_\_\_\_\_  
B. Address \_\_\_\_\_  
City State Zip  
C. Telephone \_\_\_\_\_

4. Regional Board Administrator  
A. Name \_\_\_\_\_  
B. Address \_\_\_\_\_  
City State Zip  
C. Telephone \_\_\_\_\_

5. Fiscal Planning Officer  
A. Name Eldon C. Woods, Director of Administrative Services  
B. Address 801 State Office Building  
City Indianapolis State Indiana Zip 46204  
C. Telephone 633-4587

6. Funding  
A. FY 19\_\_ Allocation \$ \_\_\_\_\_  
B. Total Project Budget \$ 265,815.00  
C. Total Grant Request \$ 265,815.00

## PART II. Project Description

## 7. (Brief Outline - maximum 200 words)

Experimental cottage at Indiana Boys' School for selected acting out juveniles showing a mixture of neurotic and character disorder elements.

The purpose of the special treatment unit will be to design experimental treatment approaches emphasizing mental health orientation in a correctional setting. This will be designed for a type of boy that has not favorably responded to either Correctional or Mental Health treatment approaches. We are of the opinion that there are basic needs in a particular type of disturbed adolescent that have not been met by either Department, and we propose to examine the possibilities of combining the knowledge and skills of the professionals in both departments to see if a more effective approach can be designed and implemented for the disturbed adolescent.

This program would be unique in that it would be implemented in a juvenile training school but would as far as practicable be programmed by Mental Health professionals.

The thrust of the experiment would be to better equip correctional and Mental Health people to effectively treat these selected cases by combining the expertise of both departments.

An added dimension would be to closely tie the field services of the Indiana Youth Authority to the training school by utilizing trained liaison persons who would work with the experimental unit, the field parole personnel, and of most importance with the families of the juveniles assigned to the experimental cottage.

The research aspect of the program would be heavily emphasized to determine effectiveness of the experimental approaches.

## PART II. (Continued)

## 8. Detailed Narrative Description of Project

All admissions to Indiana Boys' School are currently being evaluated by the typological approach developed by Herbert C. Quay, Ph.D. This system is being used at the Robert F. Kennedy Youth Center in Morgantown, West Virginia. (See the Differential Behavioral Classification of the Juvenile Offender by Herbert C. Quay, Ph.D. and Lowell B. Parsons, Ph.D., 1967, available through the Kennedy Youth Center.)

It is proposed that the population for the experimental cottage be randomly selected from the population of Indiana Boys' School displaying the trait syndromes revealed by this screening device and generally described as possessing a mixture of neurotic and character disorder elements. (At any given time this sub-population will consist of approximately 150 boys.)

The participants in the experimental program will be selected randomly from this group, as will a comparable number which will serve as a control group.

Knowledgeable people in the areas of Mental Health and Corrections have long recognized that there is a type of adolescent who is emotionally disturbed and for which neither Department seems to have effective treatment programs. These juveniles usually show a mixture of neurotic and character disorder elements. Current testing and screening devices at the Indiana Boys' School indicate that approximately one-third of the population possess a mixture of sociopathic and neurotic patterns.

Because Correctional and Mental Health problems are intertwined and often interdependent, it appears that the best professional thinking of Corrections and Mental Health, particularly in the area of juvenile offenders, be combined to attack this ever increasing problem.

The Indiana Youth Authority of the Indiana Department of Correction is proposing that an experimental treatment unit be established on the grounds of Indiana Boys' School at Plainfield, Indiana, for the primary purpose of developing more effective approaches to treating the emotionally disturbed juveniles.

It is proposed that an existing cottage be set aside for this specific program and also that experimental approaches in the treatment of the disturbed juvenile be formulated by specialists in the field of Mental Health.

It must be clearly emphasized that, while certain treatment facilities at the Boys' School such as the academic school and specific recreational facilities may be utilized, the treatment program will be outlined, programmed, and ultimately evaluated by the Mental Health specialists who will be assigned to the project in either a full-time, consulting, or advisory capacity.

We anticipate handling a select group of twenty-five to thirty-five adolescents. We expect that the majority of these adolescents will be boys who have been committed by the courts having juvenile jurisdiction, and who have been selected by Indiana Boys' School staff and Mental Health personnel as cases

## PART II. (Continued)

## 8. Detailed Narrative Description of Project (Cont'd)

that have proven to be resistant or not amenable to traditional treatment programs for the juvenile offender. They will be or have been "acting out" or hard to handle cases.

Since the thrust of this experimental program is to design more effective treatment programs for both Corrections and Mental Health, it is anticipated that certain juveniles selected by the Department of Mental Health who have proven to be resistant or not amenable to the treatment programs of mental hospitals may also be included in the population of this special treatment unit. This will be effected through special court actions applying specifically to those selected adolescents, and they will possess essentially the same personality patterns as those selected from the population of the Indiana Boys' School.

The staff of the Indiana Youth Authority and the staff of the Division of Child Mental Health Services of the Department of Mental Health, and the Steering Committee to the project will meet and agree on a general criteria for selecting the boys that are to be included in the population of the special treatment unit.

Physical Facilities:

Cottage 17, a single cottage billeting up to thirty boys on the same floor, will be set aside for use as an experimental unit housing the boys selected for this project.

This cottage will function with as much autonomy as is feasible. Educational, medical, social service, recreational, and other institutional facilities of the Indiana Boys' School will be made available if in the opinion of the staff of the experimental cottage they will positively contribute to the project undertaking.

Selection Process:

Since all admissions to Indiana Boys' School are psychologically tested, physically examined; and since field reports and casework interviews are a part of each record, this data will be made available to the Steering Committee and the staff, both regular and consultant to the experimental cottage. They will establish general criteria for this cottage population but ultimate selection will be done on the basis of the personality patterns of the individual.

Staffing of the Experimental Cottage:

- 1.) The Director and Assistant Director of this experimental unit will be persons with strong activity therapy backgrounds and well alive to group dynamics. The personnel classification Coordinator of Activity Therapy-3683 will be utilized.

Form SCJPA-1

## PART II. (Continued)

## 8. Detailed Narrative Description of Project, (Cont'd)

- 2.) The Superintendent of the Indiana Boys' School, in conjunction with the treatment team and the Steering Committee will select from the cottage staff of the Indiana Boys' School those cottage supervisors who possess the traits and flexibility to work with the type of boy assigned to the experimental cottage and with the treatment team.
- 3.) A clinical psychologist experienced in working with children and youth will be employed part-time to assist the staff of the experimental unit, provide clinical evaluations, and contribute to the research and evaluation of the project. He will be available to the field staff.
- 4.) A liaison worker trained in social work will spend half time at the unit and half time in the field working with the Youth Authority agents and the families of those juveniles assigned to the unit.
- 5.) Two secretaries, one assigned to the unit to prepare social histories, psychological and psychiatric reports, observations of the treatment team and data needed for research and evaluation.

The other secretary will be responsible to the Director of the after-care team. She will document routine supervision reports, placement reports, home evaluations, and other necessary data for research and project evaluation.

Release:

Release of individual cases to field supervision shall be determined by the treatment team, in conjunction with the Paroling Authority of the Indiana Youth Authority. Time and condition of release shall be established by the treatment team in conjunction with the field services of the Indiana Youth Authority and the Steering Committee of the experimental project.

Short Term Goals of the Experimental Cottage:

- 1.) Generally decreased level of disruptive behavior.
- 2.) Academic progress.
- 3.) Increased level of responsible behavior to authority figures.
- 4.) Increased level of responsible behavior to peers.
- 5.) Development of coping mechanisms that are not self-defeating or destructive to others.
- 6.) Increased ability to delay immediate gratification of desires.
- 7.) Increased ability to establish a cause and effect relationship.

Form SCJPA-1

## PART II. (Cont'd)

## 8. Detailed Narrative Description of Project, (Cont'd)

Staffing of the After-care Team:

- 1.) A seasoned parole agent of the Indiana Youth Authority parole supervision staff will be Director of the after-care team. He will be assigned full time to the project, and be responsible for the after-care services for all boys released on parole from the unit. His specific responsibilities will include placement and general supervision, in addition to legal mandates as they pertain to inmates on parole status. The liaison worker will cooperate with and be responsible to the parole agent in dealing with family problems and implementing the recommendations of the treatment unit staff.
- 2.) It is anticipated that the recommendations of the treatment unit staff will generally reflect a need for vocational training, assistance in obtaining employment, and employment counseling during the period of after-care. A vocational rehabilitation person will devote his full time to these areas and keep abreast of and utilize all available resources as they pertain to employment in meeting the needs of the individual participant and the goals of the program.

After-care Objectives:

- 1.) Increased responsibility and efficiency in academic endeavors and/or employment towards satisfactory community adjustment.
- 2.) Increased involvement of families in resolving problems that affect both the participant and the family unit as a whole.
- 3.) Increased support for participant enjoying the rewards of legitimate social experiences.
- 4.) Decrease in delinquent activity.

METHODPHASE I: (First six months after employing Director.)

Cottage 17 at the Indiana Boys' School will normally contain 25 - 30 boys. This population will remain as is, (representing a variety of delinquents), during the six month exploratory stage. This will serve to introduce the staff of this experimental unit to a cross section of delinquents received at the Indiana Boys' School.

The project Director and his assistant will select, with the advice of the Steering Committee, five cottage supervisors from the existing staff at the Indiana Boys' School. The grant will provide for the employment of an additional three persons to serve as cottage supervisors. This will provide for two persons and the Director or Assistant Director to be on duty for two shifts out of every twenty-four hours.

## PART II. (Continued)

## 8. Detailed Narrative Description of Project, (Cont'd)

The Director and Assistant Director will be responsible, with the advice of the Steering Committee for the hiring of other personnel set forth in the project description.

During the initial phase contractual arrangements will also be made for any psychiatric, neurological, or other examinations that might be needed which cannot be supplied by the Indiana Boys' School. Secretarial staff will be employed, office equipment will be purchased, and necessary therapeutic materials will be acquired.

At this juncture, the Research Psychologist will be employed part time in the institution and the field to thoroughly familiarize himself with the problems and to initiate a preliminary research design.

It is anticipated that staffing will be completed during this period and that the staff will become somewhat familiar with the program's problems and potential of the Boys' School.

During this period the Director of Community Services for the Indiana Youth Authority, in conjunction with the Director of the Experimental Unit and Steering Committee, will be employing the liaison worker, special education teacher, and vocational rehabilitation worker. The need to thoroughly familiarize the staff of the Boys' School experimental unit with the Community Services for the Indiana Youth Authority is vital, and will be supervised by Mr. Duvall during the exploratory period.

PHASE II: (Experimental phase--second six months after employing Director.)

During this period the staff of the special unit, the after-care team, in conjunction with the Steering Committee will document a program and/or approaches which, after observation, they believe will bring about the project description.

Since several disciplines will be involved in this undertaking, it is important that programs be developed after observation of the boys and their milieu so that preconceived approaches can be blended with the collective thinking of the group.

During Phase II, the homogeneous group of Cottage 17 will be gradually replaced with those boys for which a special program will be devised. The selection process will occur through normal attrition. This will allow staff to become adjusted to the unit while an approach is being developed.

During this six month period various approaches will be examined, documented, and tried. Community Services will be kept fully informed as to approaches being utilized.

At the end of the six month second phase, a treatment program will be outlined for the boy displaying a combination of neurotic and character disorder elements who would have been hard to handle or to rehabilitate. At this juncture,

## PART II. (Continued)

## 8. Detailed Narrative Description of Project (Cont'd)

decisions will be made as to whether or how other facilities at Indiana Boys' School or in Community Services may be used. With the passing of an amendment to the Youth Authority Act, power to parole, return, discharge, etc., is vested in the office of the Youth Authority. This certainly can be a treatment tool.

PHASE III: (18 months)

During this phase the program devised by the experimental unit, the after-care team, and the Steering Committee will be implemented. The research psychologist will have thoroughly familiarized himself with the unit, selection criteria, and will have assisted in structuring the mechanics essential to research and evaluation in both the unit and the field. The Research Psychologist will be responsible for the final analysis and formal evaluation of the special treatment unit.

PHASE IV: (Six months)

Formal evaluation and future planning will be finalized during this phase. Final Summary will include an analysis of the effectiveness of the program, specific recommendations for handling this particular type of child, and recommendations relative to treatment approaches of the Indiana Youth Authority, Indiana Boys' School, and Community Services for the Indiana Youth Authority.

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Frank Ryan, Executive Director of the Marion County Association of Retarded Children, Inc., has indicated that the Association, which handles several grants for the Department of Mental Health, will hire the persons not presently employed by the State of Indiana, and will disburse such payments as are necessary to these contractual personnel. They will also perform necessary auditing. Monies for this will be provided for in the grant.

## PART II. (Continued)

## 8. Detailed Narrative Description of Project, (Cont'd)

STEERING COMMITTEE

A Steering Committee composed of knowledgeable persons with expertise in corrections and Mental Health, will determine the general treatment approaches, policy, and scope of the program. They would advise both the unit treatment team and the after-care team.

The Steering Committee will be composed of:

C. Raymond Kiefer, M.D., Director of Child Mental Health, Department of Mental Health.

Richard McHabb, M.D., Department of Psychiatry, Department of Mental Health.

Robert E. Hardin, Assistant Commissioner and Executive Director of the Indiana Youth Authority.

Alfred R. Bennett, Superintendent, Indiana Boys' School.

Don Churchill, M.D., Child Psychiatrist and Consultant to the Indiana Boys' School.

Dean Duvall, Director of Community Services for the Indiana Youth Authority.

Herbert Stern, Ph.D., Chief Psychologist, Veterans Hospital, Indianapolis

Hanus Grosz, M.D., Psychiatrist, Consultant to the Indiana Girls' School.

James Simmons, M.D., Department of Psychiatry, Indiana Medical Center.

Frank Conally, Ph.D., Clinical Psychologist, Department of Psychiatry, Indiana Medical Center.

Ray Benson, Director of Activity Therapy, Department of Mental Health.

Frank J. Ryan, Executive Director, Marion County Association for Retarded Children, Inc.

## PART III. Budget

BUDGET RATIONALE:

The special treatment unit will house 25-35 boys for one year at an Indiana Boys' School per capita cost rate of \$9.00 per day, or \$3,285.00 per boy per year. Total cost per year: \$114,975.00

One parole agent from the Indiana Youth Authority would devote his full time to the project, supervising parolees from the unit and serve as Director of the after-care team, at a cost of: \$9,000.00

The above would more than cover the State matching portion for funding the project.

The treatment unit staffing, equipment, travel, and research costs would be satisfied by Federal funds.

BUDGET BREAKDOWN -- (State)

Thirty-five boys at \$9.00 per day x 365 =	\$ 114,975.00
(Includes cost of five Correctional Officer III's working in cottage.)	
One parole agent, full time, (after-care) =	<u>9,000.00</u>
Grand Total =	<u>\$ 123,975.00</u>
(Excess Matching Funds) =	<u>\$27,649.00</u>

BUDGET BREAKDOWN -- (Federal)

(Staff)	\$ 14,000.00
Coordinating Activity Therapist =	12,000.00
Assistant Activity Therapist =	
Three Correctional Officer III's at \$600.00 per month x 12 =	21,600.00
Liaison Worker, (Correctional Social Worker) =	10,800.00
Two Clerk Stenographer II, at \$6,000.00 per year =	12,000.00
Special Education Teacher =	10,000.00
Vocational Rehabilitation Worker =	<u>12,000.00</u>
TOTAL SALARIES =	<u>\$ 92,400.00</u>
Consulting Clinical Psychologist, (Part-time) =	\$ 10,000.00
Research Psychologist, (part-time), and Psychiatric	
Evaluative Services =	18,000.00
FICA =	4,900.00
Parole Agent Travel =	1,500.00
Staff Travel =	5,000.00
Office, Recreation Equip., and Therapeutic Materials =	5,000.00
Corporation Book-work, (estimated cost based on approximately 504 hours of work.) =	<u>5,040.00</u>
(Provided by Marion County Assoc. for Retarded Children, Inc.)	
TOTAL =	<u>\$ 49,440.00</u>
GRAND TOTAL =	<u>\$ 141,840.00</u>

Form SCJPA-1

## PART III Budget, (Continued)

## (Summary)

Federal Funds:	\$159,489.00 = 60% of \$265,815.00
State Funds:	\$106,326.00 = 40% of \$265,815.00
GRAND TOTAL:	<u>\$265,815.00</u>

The foregoing grant request covers the first year of the unit operation; Phase I and Phase II. During Phase III and Phase IV, (two years), the unit program in its entirety will be implemented. Formal evaluation will take place during Phase IV. These latter two phases will require additional funding and a grant request will be prepared and submitted at the appropriate time.

Form SCJPA-1

## PART III. Budget

Category	Requested Costs
A. Personnel (Salaries and Employee Benefits)	\$ 111,400.00
B. Consultant Service (Not to exceed 1/3 of Federal Grant Funds)	\$ 28,000.00
C. Travel	\$ 5,500.00
D. All Other Expenses	\$ 129,015.00
E. Total Requested Costs (Items A, B, C, D)	\$ 273,915.00
F. Non-Allowable Costs	\$
G. Net Allowable Costs (Item E minus F)	\$ 265,815.00

## PART IV. Source of Funds

Source	Amount
A. Federal	\$ 159,189.00
B. State	\$ 106,326.00
C. Local	\$
D. Other	\$
E. Total	\$ 265,815.00
F. Specify how non-federal share will be provided:	

Form SXJPA-1

## PART V. Approval and Acceptance Conditions

It is understood and agreed by the grant recipient (s) that funds received as a result of this application are subject to the regulations contained in the Indiana State Criminal Justice Planning Agency Policy, Guidelines, and Rules Manual.

## A. Submitted on behalf of the Local Planning Agency by:

1. Name \_\_\_\_\_ Date \_\_\_\_\_ 19\_\_\_\_  
 2. Title \_\_\_\_\_  
 3. Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_  
 4. Signature \_\_\_\_\_

## B. Approved by participating jurisdictions:

Local Jurisdiction	Signature and Title	Date
Indiana Department of Correction	ROBERT P. MEYER, COMMISSIONER	

C. Project Director      Alfred R. Bennett, Superintendent  
    Indiana Boys' School

Signature \_\_\_\_\_

This section is to be completed by the State Criminal Justice Planning Agency.

## D. Authorization to Approve Grant

1. Name \_\_\_\_\_ Date \_\_\_\_\_ 19\_\_\_\_  
 2. Title \_\_\_\_\_  
 3. Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_  
 4. Signature \_\_\_\_\_

## E. Project's significance to comprehensive plans:

Form SCJPA-1

Mr. BENNETT. In our prepared text here we have divided the appropriate commitments up into four groups. One is for minor misconduct, one for serious crimes, another for seriously retarded youngsters, and the fourth are those who have severe emotional problems.

To take an example of minor misconduct, Ernest is a 17-year-old Negro whose family lives in a predominantly rural, white community in the northern part of the State. The county, itself, from which he was committed, is made up of small towns such as the one in which the subject's family lives.

They moved there from Chicago in an attempt to keep Ernest away from being intimidated into joining a gang and becoming involved in street conflicts and crime. After moving into the new home, they found that the community did not accept them; it did not take long for Ernest to find himself on indefinite probation. The record shows that on December 5, 1970 he was picked up for trespassing. No explanation accompanies the offense from the court. On December 24, 1970, he was found to have violated the terms of his probation by having used obscene language on the schoolbus, changing seats on the schoolbus and getting off the bus to smoke at short stops. His denials served to carry no weight. He was committed to Boys' School on January 11, 1971.

We feel that this is a youngster that if he was delinquent should not be sent away from his family, away from his community to a large institution, and, in effect, could have been helped in some type of alternative program.

Senator BAYH. What did his parents have to say about this?

Were they in favor of his commitment or opposed to it?

Mr. BENNETT. Mr. Chairman, I have not talked to his parents, but I am quite certain that they would not agree with that.

Senator BAYH. Did he have any hearing? What judicial process was followed before he was committed?

Mr. BENNETT. It is my understanding that he went through a regular juvenile hearing.

Senator BAYH. How was that hearing conducted?

Mr. BENNETT. But I am not too sure if he received legal assistance or not. We did not check that part out. We only checked our own records. But the fact remains that our concern is that the minor offenses, that these minor offenses were enough to say that he is not the type of boy that should be sent to our institution.

Senator BAYH. Do you have a further definition of trespassing?

Mr. BENNETT. We do not; we did not receive further word from the court on that.

Senator BAYH. It is rather interesting to see that as crowded as your facilities are and as complicated as the problem is, not even taking consideration of the impact on the boy at all, a 17-year-old lad who uses obscene language and changes seats in the schoolbus and gets off to smoke is enough to have him committed to State custody.

What about Robert?

Mr. BENNETT. Robert is a 17-year-old white boy who has been committed from a sparsely populated county in northern Indiana, the northern part of the State. His official record indicates just that he had been involved in the following offenses: drinking and being incorrigible. Drinking, and the statement stated: "Robert was found in a ca-

at the F.O.P. lodge, with alcohol beverages in his possession." He was admitted to boys' school on November 30, 1970, and in talking to him his counselor stated that the subject was to have gone in for a physical examination for enlistment in the Navy 2 days after his most recent arrest.

We feel that, obviously, the record is not adequate, but more importantly Robert is the type of boy that could have been helped in another situation if he had difficulties in his community.

Also, we find that we have our share of youngsters that are very much a problem who are the passive-type youngsters, and sometimes the passive youngsters become victims of their aggressors, and we feel it is important that some counties take a look at their pattern of long-criminal behavior, and in many cases they should be waived to adult court. Boys' school, not having control of their intake, obviously, must take them.

Marvin is a 17-year-old youngster who was returned for a parole violation four different times. He was first admitted from Lake County. Since that time he has spent 20 months at the institution and 17 months on parole. He has adjusted very poorly in both situations. He has had three separate chances on parole, but has never stayed more than 8 months before committing an act sufficient to have violated his parole. His most recent return, at age 17, was for armed robbery and curfew. His original commitment at 13 in 1957 was for assault and battery, incorrigible, and theft of a bicycle. While awaiting questioning on these charges, he was detained in a local jail with five of his friends. During his confinement, the subject beat up another person, breaking his jaw, fracturing his skull and causing his confinement in the intensive care unit of the local hospital. Through the years, after numerous dealings with him for increasingly serious acts, officials have never waived him over to criminal court for prosecution. This is a youngster that needs external controls. Indiana Boys' School, other than locked doors to the cottages, is all the external controls we can provide, but we need adequate programs other than what we are able to give.

Other States, for example, have, perhaps, maximum security units for a disturbed or criminal-type youngster like this. The State of Indiana does not.

Lee is a boy in the same predicament. He will be 18 in May. This is the second time at boys' school. He was admitted on his original commitment February 18, 1969, charged with first-degree burglary. He operated as a member of a gang and admitted their method of operation was to place false fire alarms, and in the excitement of investigating the fire, the gang would enter garages of residences unattended and burglarize them. He actually had a long list of criminal behavior, which included assault and battery, first-degree burglary, and also a missing person, bicycle theft, and 15 false fire alarms. He was at boys' school for 5 months and released on parole and remained on parole for 4 months before violating his parole and being returned to the institution charged with assault and battery and carrying a deadly weapon. He had earlier been strongly reprimanded and warned for shoplifting. He was returned October 31, 1969, and is still being detained.

During his present stay, he has been involved in two serious instances of misconduct. On one occasion, he was granted the privilege of

going home for Christmas and did not return, and at another time he was involved in an assault on another boy in which he and another boy beat a more passive boy in the cottage.

Senator BAYH. Tell us about the boys who are mentally retarded. Mr. BENNETT. We have one boy here by the name of Robert who came in from juvenile court in Indianapolis at the age of 16. Our psychometric testing unit results show that Robert could not undergo our regular testing in orientation units. This is the same type of testing for IQ, reading, and vocational aptitudes that is given to all of our incoming boys. He had been sent to boys' school on charges of delinquency legally described as curfew violation of release conditions and disorderly conduct. He had been placed in the juvenile detention center from January to May 1970. He was, on February 23, 1970, taken to the staff psychologist at the center which administers the intelligence test and the result showed his IQ was 43, with a mental age of 6 years 3 months.

When it was found that he could not be accepted in the community training program, assistance was sought from the department of mental health. It was recommended that he be committed to the Indiana Boys' School. He remained in our orientation units for several months, at which time he was finally transferred to the appropriate mental health facilities. Almost a year was lost in treating this youngster by sending him to the boys' school when, actually, the court should have sent him to a mental health facility and not to a correctional institution.

Roger is a boy that was committed at the age of 15 for incorrigible behavior at home. He was easily led by older boys who supplied him on several occasions with alcoholic beverages. It was usually after these drinking episodes that he would return home and argue with his parents. He had been receiving training in special education classes at school which is cooperatively sponsored by two neighboring counties in the northern part of the State. His home is located in one of these counties. He was definitely a slow learner but was not considered to be a behavior problem in school.

He arrived at boys' school and was given the special individual testing and the result was that he was shown to have an IQ of 48. His reading ability tested at being about the second-grade level. Boys' school placement was clearly inappropriate in this case. He remained in our orientation unit for approximately 5 months. He was released on parole to return to a special school that he had attended prior to commitment, and he is again living with his parents.

Both of these cases are social problems that are not criminal situations. We feel that in both cases, they would have been much better off in a mental institution rather than in a State correctional institution.

Senator BAYH. I understand the last category involves boys who have previously been committed because of mental retardation to the mental institutions and then because of emotional acts they are committed to you at the boys' school.

What sense does that make, if they have emotional-mental problems to take them out of the mental institution and incarcerate them with the other youngsters?

Mr. BENNETT. Mr. Chairman, it simply states that the authorities

have given up on these youngsters and because everyone else states that they cannot help them, then they can put them away for a few months at the end, in a boys' school. I feel it is necessary to have some control over this type of commitment.

My recommendation would be that all youngsters going into State correction institutions should go through a diagnostic workup, and then if the treatment is appropriate, they can be committed to an institution; in other words place them where they can be helped.

Senator BAYH. Yesterday, I was alarmed at reports of the number of youngsters that have been admitted to various so-called juvenile institutions in another State because of the domestic problems within the home. Several examples were brought to our attention where you would have a second, or a third or a fourth marriage, where a child was unwanted by the new parent and did not want the new parent either, and that the child was then branded as incorrigible by the new parent or both parents. They were really turned over to the State or the local institutions as sort of babysitters. Do you have instances of that in the boys' school in Indiana?

Mr. BENNETT. Yes; we do. It is not unusual. We are used more as an orphanage than we are as a correctional institution, and, obviously, what they learn there is not much worse than what they can learn in a small foster home, with treatment there in the community. There are outstanding alternative programs that could be placed into effect in most any community, and Indiana Boys' School is misused in that respect.

Senator BAYH. Well, now, you say there are outstanding alternative programs available that could be used. Are any of them functioning?

Mr. BENNETT. Yes; there are functioning programs. There are not many in the State of Indiana, but the few that are functioning do work, and we find that they are outstanding alternatives to commitment in large institutions like Boys' School.

Senator BAYH. Well, is there a relationship between one of these functioning programs or the absence thereof and the numbers of youths who are committed to the Boys' School as the result of domestic problems at home?

In a county where you have a foster home working, does that judge still continue to send domestic problem children to your institution, or are they pretty well taken care of in the community?

Mr. BENNETT. We have found a few instances where there are foster home situations where judges use them. Many counties find it not necessary to set up alternatives, and we find that we will receive many of their youngsters that should have been sent to a program that is not available.

Senator BAYH. Could we talk with Sherril here?

I am anxious to hear of his experience.

How old are you, Sherril?

Mr. NESS. Sixteen.

Senator BAYH. Could you just think out loud and tell us what your thoughts are?

Try not to be nervous, if you can.

What part of the State are you from?

Mr. NESS. Fulton County.

Senator BAYH. Fulton County?

Mr. NESS. Yes, sir.

Senator BAYH. Do you live in Rochester?

Mr. NESS. Yes, sir.

Senator BAYH. Where do you go to school now?

Mr. NESS. I went to the Rochester Community High School.

Senator BAYH. You went to the Rochester Community High School? Are you in the Boys' School now?

Mr. NESS. Yes, sir.

Senator BAYH. How and why were you committed?

Mr. NESS. Well, they committed me for a violation of probation. I was originally put on probation for theft.

Senator BAYH. You were originally detained for theft?

Mr. NESS. Yes.

Senator BAYH. What kind of theft was it?

Mr. NESS. Well, it was actually sort of a prank, but—

Senator BAYH. Could you tell us what it is?

I do not want it to be embarrassing to you, but we are trying to find out how a young man gets where you are, and Mr. Bennett says that you should not be there.

Mr. NESS. A friend of mine was working at a car wash, and I went to visit him one afternoon. And he was in the process of emptying a coin box, the coin boxes, and he pulled one out and dropped it and a lot of the quarters fell on the ground, and I was helping him pick them up, and he said that I had better not steal any of them, and I said, "I will if I want to," and we quarreled a little bit, and, well, it came up that I took three of them, and I told him that I was not going to give them back to him.

Senator BAYH. I still cannot hear. I am sorry.

Mr. NESS. It came up that I took three quarters, and I did not give them back to him, and he said he was going to get me sent to prison and all of this stuff. But, eventually, his boss found out, and I was arrested for that, taking the quarters, and placed on probation for 6 months.

And, then, one of the terms of my probation was that I attend school regularly and be a good school citizen, and I was a little over an hour late to school one morning, and they took me back to court for violation of probation where they added 6 months on my probation and gave me 10 days in juvenile detention. Then, they also placed me in my brother's custody and I had to live with him.

Senator BAYH. Who were you living with before you were placed in your brother's custody?

Mr. NESS. I lived with my mother.

Approximately 2 months after I started living with my brother, I did not like it and I could not take much more of it, and I figured if I would get into some more trouble so that they could see that I was not getting along out there, that they might let me go back home.

So, I vandalized, I guess you could call it, the school, by tearing up waste containers and two phosphorescent lights which caused a damage of about \$20. Then, they committed me to boys' school.

Senator BAYH. With regard to the 10 days' juvenile detention, where was that held?

Mr. NESS. In the Fulton County jail.

Senator BAYH. What did you do while you were there?

Mr. NESS. Read and slept.

Senator BAYH. Were you in a cell?

Mr. NESS. Yes.

Senator BAYH. 24 hours a day?

Mr. NESS. Yes, sir. I was never taken out. I was in there all the time, and they brought me my food and I just stayed there.

Senator BAYH. What did your mother have to say about all of this?

Mr. NESS. Well, she was in a way confused and in a way was very unhappy about it, but there was not a whole lot she could do about it.

Senator BAYH. Did you have a lawyer present at any time?

Mr. NESS. You mean when I was committed, sir?

Senator BAYH. Well, yes. When you were adjudicated a delinquent and put on probation for the theft of the 3 quarters, did you have a lawyer present?

Mr. NESS. Yes, sir; the first time I did.

Senator BAYH. What advice did he give you?

Mr. NESS. He did not have a whole lot to say. He really did not do me a whole lot of good, which is one reason why the second and third time I did not think at first of having the lawyer, because the first time he did not do very much good.

Senator BAYH. You did not have a lawyer the second and third times?

Mr. NESS. No, sir. I was going to, but then my mother asked the probation officer and the judge if they felt I would need a lawyer, and they said they could not advise her because it was against the law for them to do that. And then she asked if they could recess for a little while so that she could call my other brother and ask him what he thought, but they said there was no need to because a lawyer would not do me any good anyway.

Senator BAYH. What has happened since you have been at Plainfield?

I understand that there was an essay contest that you participated in there at school?

Mr. NESS. Yes, sir. I participated in a speech contest.

Senator BAYH. How did you do?

Mr. NESS. I came in in third place.

Senator BAYH. Third place? That is in the Plainfield Public School there?

Mr. NESS. Yes, sir. This was all of the area schools who were able to participate.

Senator BAYH. You do go to school at boys' school in Plainfield?

Mr. NESS. Yes, sir; I am in school.

Senator BAYH. Do you have any idea when you are going to get out of the institution?

Mr. NESS. I go before the parole board the 18th of this month, and if I make my parole board I will go home the 27th.

Senator BAYH. How long have you been there?

Mr. NESS. When I am released, if I am released on the 27th, it would be 151 days.

Senator BAYH. Has your mother been to see you?

Mr. NESS. Yes; quite a few times, and some other members of my family, also.

Senator BAYH. Your brother?

Mr. NESS. Yes; not the one I was living with, but one of my other brothers.

Senator BAYH. Your brother that you were living with, is he married?

Mr. NESS. Yes; he is.

Senator BAYH. Do they have children?

Mr. NESS. Yes.

Senator BAYH. What are their ages?

Mr. NESS. A girl who is 14, and a boy who is 11.

Senator BAYH. You did not like living there?

Mr. NESS. No, sir.

Senator BAYH. Would you care to tell us if your father is alive?

Mr. NESS. No, sir; he died 2 months before I was born.

Senator BAYH. I am sorry. When you are released, what are you going to do then? Go home, or what?

Mr. NESS. Yes. I was going to see about getting an out-of-State parole to go ---

Senator BAYH. Pardon?

Mr. NESS. I was going to get an out-of-State parole and go live with one of my other brothers but, instead, I decided to go back home.

Senator BAYH. To live with your mother?

Mr. NESS. Yes, because she has shown that she wanted me to come back and live with her; so, I guess I will go back to school when I get out.

Senator BAYH. Are you going to go back to the Rochester Public School?

Mr. NESS. No. My brother said that he would pay the tuition for me to go to a different school, because the school was one of my problems.

Senator BAYH. What school will you be going to?

Mr. NESS. Acron School System about 12 miles from Rochester.

Senator BAYH. What was it that you did not like about the school where you were before?

Mr. NESS. Well, all of my—well, not all, but most of the teachers and the principal, they all knew my family from before and two of my brothers were in fairly serious trouble, and that was sort of hung over my head.

Senator BAYH. Could you tell us what kind of trouble your brothers were in?

Mr. NESS. My next to the oldest brother, who is 27, he was at Henryville and Pendleton, and Michigan City, and my other brother, who I was living with, he was in Leavenworth for a period of 18 months I believe.

Senator BAYH. Let me get this straight.

In other words, the judge that ultimately sent you to Plainfield took you away from your mother, and put you in the custody of a brother who had been at Leavenworth?

Mr. NESS. Yes, sir.

Senator BAYH. Do you have a third brother?

Mr. NESS. Yes, sir; I have four brothers.

Senator BAYH. And one of those other two brothers, I suppose, is the one who is responsible for you going to the Acron School?

Mr. NESS. Yes, sir.

Senator BAYH. Would it have been possible for you to live with one of them instead of your mother?

Mr. NESS. Yes, sir; it would have been possible for me to live with either of my four sisters, or my four brothers, but while I was

detention in the Fulton County jail my oldest brother went and saw a probation officer, and I guess showed him that it would do me some good to live with him, out in the country on a farm, but, myself, in my own opinion, I think he just wanted me to go out there and work for him.

Senator BAYH. Pardon me?

Mr. NESS. I think he wanted me out there to work for him.

Senator BAYH. What did you do while you were with him?

Mr. NESS. I just worked for him. I worked for him, baled hay. He has a pony farm, and I took care of the horses. He never allowed me to go into town for anything. I just stayed there.

Senator BAYH. Were you treated differently than his own children?

Mr. NESS. No, but that is not saying a whole lot, because his own children were not treated very well. His oldest daughter about 6 weeks ago was sent to his wife's sister's house to live because she was in some trouble. Instead of sending her to girls' school, they sent her down there, and the reason I was sent up here—for one reason—when I went to court the last time, my brother and sister-in-law were present, and they asked me—the judge and the probation officer both asked me—if I went back to live with them could I get along, and I told them that I did not believe so. I told them that I would just as soon be sent to Boys' School, as to live there. And, now that I have been there, it is a lot better place to me than that.

Senator BAYH. Which is better?

Mr. NESS. Boys' School.

Senator BAYH. What do you want to do when you get out of school?

Mr. NESS. What occupation do you mean?

Senator BAYH. Yes.

Mr. NESS. Well, I would like to be a chemist, or computer repairman or computer processor.

Senator BAYH. What grade will you be in when you get to Acron?

Mr. NESS. I will be in the 10th grade.

Senator BAYH. Have you been able to keep up your studies at the Boys' School?

Mr. NESS. Yes, I have been enrolled; I am in the vocational classes in the morning, and in the afternoon I am in school, and I will be able to pick up enough credits and keep up enough.

Senator BAYH. So, you will be in the 10th grade?

Mr. NESS. Yes, sir.

Senator BAYH. Mr. Bennett, is it ethical for me to ask if Sherril's parole will be recommended by you?

Mr. BENNETT. Yes, very much so. We feel that Sherril has done a good job at the institution. He has participated in the treatment program at his cottage. His vocation is printing, and he has picked up some skills in learning the printing trade and also some high school credits. He has progressed well, and the staff will recommend a parole.

Senator BAYH. I notice that he said that he wanted to be a chemist. What academic training is available at the school for someone who wants to be a chemist.

Mr. BENNETT. We would not have an education program for a chemist.

Of course, he would receive most of those courses in high school at a higher grade level. We do not have sufficient programs for this type

of a youngster, and we have so few that come to the institution, that, really, the program is remedial in nature.

Senator BAYH. Sherril, do you think you can put this experience behind you and go to Acon and go back to your mother and start all over again?

Mr. NESS. Yes, sir; I really think I can. I actually think it has been a very good experience. I have been in a new cottage there. It has been open 3 months, and it has done me quite a bit of good, in learning to get along with people. I get along with people a lot better, which I think was the worst problem I had when I came to Boys' School. I think I will be able to get along very well. My only problem is when they put me on parole they sent me up here for not very much the first time, and I am afraid I might be recommitted.

Senator BAYH. Well, I trust that you will not have to tear up any more lights or wastebaskets.

Mr. NESS. I hope not.

Senator BAYH. Well, thank you, gentlemen. I really appreciate your taking the time to come here and appear before our committee.

And, Sherril, I hope you can put this behind you, and I congratulate you on the competition in this speech contest. I hope you will keep competing and take this experience and go ahead and make your dreams come true.

Mr. NESS. Yes, sir.

Senator BAYH. Thank you, Mr. Bennett.

Mr. BENNETT. Thank you, Mr. Chairman.

Senator BAYH. I hope we can continue discussing some of these programs with you.

Mr. BENNETT. I will be very happy to.

Senator BAYH. Our next witness is Mrs. Dorothy Vanbrunt who is the superintendent of the Indiana Girls' School in Indianapolis.

She has a young lady with her.

Mrs. Vanbrunt, would you please introduce her?

**STATEMENT OF MRS. DOROTHY VANBRUNT, SUPERINTENDENT, INDIANA GIRLS' SCHOOL, INDIANAPOLIS, IND., ACCOMPANIED BY SHARON RUSHIN, JUVENILE COMMITTED TO INDIANA GIRLS' SCHOOL**

Mrs. VANBRUNT. Yes. I would like to introduce Miss Sharon Rushin.  
Senator BAYH. Will you please move up to the microphone and proceed?

Mrs. VANBRUNT. Yes, I would like to request that our statement be entered into the record, and I will try to consolidate it.

(The prepared statement of Mrs. Vanbrunt follows:)

PREPARED STATEMENT OF MRS. DOROTHY A. VANBRUNT

**PHILOSOPHY OF ADMINISTRATION**

I would like to present the philosophy of the Indiana Girls' School from the Indiana Girls' School Manual of Policies and Procedures:

"The Indiana Girls' School is an institution created for the purpose of rehabilitation of adolescent girls whose behavior has resulted in commitment for delinquency. The purpose and function of this institution is to assess each individual's needs and strengths, utilize the facilities available to meet each one's needs

as much as possible, and to develop strengths to become a more stable, productive, law-abiding citizen. The goals of the institution are to have an integrated program for each girl to mature and develop to the maximum of each one's capacity—physically, emotionally, intellectually and spiritually.

"The total program is based on the use of education, social services, psychological and psychiatric services, medical and dental services, homemaking services, proper nutrition, and religion to develop mental and physical health and to learn attitudes and values that will help them to live satisfactorily in society."

To administer the Indiana Girls' School to achieve the purpose that is stated in philosophy takes many facets, both internal to the institution, and outward to the community and other functions of government, both of the state and local communities. To best achieve the goals of the institution requires careful selection of the most competent staff who can creatively work in behalf of our girls. This not only requires careful selection but also ongoing staff development and training. The encouragement of all staff to grow and think creatively of new ways of handling girls is strongly encouraged by administrative policy and through supervision. We have long known that many of the traditional practices have not been particularly successful in rehabilitating delinquent youth. For this reason a great deal of effort is put in to controlled experimentation and innovation. The Indiana Girls' School has had many research projects carried out from universities and we hope by constant searching, to be able to develop more effective ways of dealing with our population.

I also feel a strong sense of responsibility toward consultation and collaboration to interested communities to help them to think of other alternatives to help youth. I do have a great deal of dialogue and communication, both with judges, probation officers, and other social agencies to increase their awareness of alternatives to this institutional care. The responsibility also is to develop policies and help legislators and other departments in state government to understand the unique problems that are presented by delinquent girls. Too often, delinquent girls are lost in the large, adult-male felony world of corrections without people understanding that delinquent girls are very seldom criminal in their behavior, but yet are very much in need of sound treatment resources because they do become mothers and have quite an impact on future generations and their families. I feel that a correctional administrator must be more than an institution "boss", but I also do work with the leadership of the girls' population through a campus council to help them to develop positive youth leadership which hopefully will enhance their personal development as well as learning from the "consumers of our services" suggestions to improve programs.

**INSTITUTION AND PHYSICAL PLANT ANALYSIS AND DESCRIPTION**

We have started a several-phased reconstruction program. At this time a new activities building, a central kitchen and dining area and three cottages have been constructed. The chapel and school building are about twenty years old and are in need of some current repair but are structurally sound. The Indiana Girls' School inmates' housing was built in 1907 and is considered to be unsafe and unhealthful for human habitation. The floors are of wooden construction and these buildings have been condemned as fire hazards by the State Fire Marshal. The plastering is crumbling, the plumbing is the original plumbing in most of the cottages. To rehabilitate these cottages would be extremely expensive and their design would still be basically not good for rehabilitating adolescent girls. The Indiana State Board of Health has added criticism to describing the unhealthful physical plant.

Cottage four and cottage eight, which are our security buildings, are in very bad shape and need to be replaced. Toilet facilities are not adequate and plumbing is in poor condition.

The floor in the school building presently has a tile floor which is coming loose and breaking. Several times we have had to attempt to patch this. This requires mixing a concrete like material to build a subfloor to lay the tile on. It is just a matter of time when this floor will be nothing but patches and the process will be never ending. Tile experts said that they would not touch it unless a new subfloor was put in.

The power plant, sewage plant, tunnel piping, coal elevator, and administration building, etc., are all in need of extensive repair. A new sanitary and storm sewer is being started.

Construction will be started on two additional cottages within six months. Long-range projection for all housing units to be replaced.

Cottages were originally constructed to house approximately thirty girls. It is my understanding that the current legislature has approved funds for more construction to replace the unsafe and unhealthful units.

*Cottage capacity*

Cottage No.—

1	-----
2	-----
3	-----
4	-----
6	-----
7	-----
8	-----
9	-----

*Population as of April 19, 1971*

Cottage No.—

1	-----
2	-----
3	-----
4	-----
6	-----
7	-----
8	-----
9	-----

CRITICAL ANALYSIS OF STAFF, PROFESSIONAL AND CUSTODIAL

The professional staff is composed of three social workers, eight counselors, one psychiatric consultant, three consulting psychologists and two recreational workers. The social workers are currently working either in administration or supervision. The eight counselors range in age from twenty-three to forty-eight. All but two have some education beyond the Bachelor's Degree, and the group is racially mixed. All but one had experience in working with people with problems, prior to becoming employed here. The counselors are concerned, caring people who function adequately within the limits of their education and experience. In view of the fact that many disturbed girls are committed, there is an increasing need for trained and experienced staff who are qualified to handle problems and bring about changes. The consulting psychiatrist is unusually well trained and has rich experience in working with delinquent institutionalized girls. However, as a consultant there is a limitation as to how many girls he can treat. He can only see the most disturbed girls and give consultation on a limited few. He has made an important contribution in teaching a number of counselors how to do group therapy and in doing needed research. Presently, he is carrying out a research project to determine the effectiveness of group therapy with institutionalized girls and boys. The three consulting psychologists each give a day every two weeks which also limits the service. Each works with staff rather than giving individual testing or treatment to the girls. While this is a valid service to the institution, benefit could be obtained from having psychologists who could have the time to give individual or group therapy to the girls.

The recreation director is an innovative person who has set up many interesting programs to help round out the treatment process. One drawback in relationship to the recreation department has been the lack of sufficient funds to carry out projects. The majority of the equipment available for the girls' use has been given by volunteers or charity minded social organizations. If more funds were available to the recreational department activities could be carried on in an appropriate, meaningful manner without having to wait and fit programs around available money. All of the girls are involved in some way with recreation. A good portion of them have recreation geared especially to meet their needs. There are other girls who could benefit from a program tailored for them however, there is not sufficient staff in the recreation department to do this. In the summer time the need for additional staff is quite apparent.

The custodial staff is composed of forty-eight housemothers and their three supervisors, nine maintenance men, six power plant workers and one security man. In terms of numbers, the staff is sufficient except in the area of security. Enough positions have not been allocated by state personnel officials to ade-

quately cover security posts. The salary range is also too low to attract competent employees for these security positions. In emergency situations it is necessary to use men who are employed in other capacities rather than train qualified men which is a handicap. On the whole, the housemothers offer warm, consistent supervision to the girls. The housemothers who seek employment here generally want to be of service and they relate in a helping way to the girls and other staff. However, these women, through their own life experiences and education have not been trained to deal with the complexities of the girls committed to this institution. There is a need for more intensive in-service training to help housemothers to better understand behavior and to be able to more adequately carry out treatment programs.

For the most part all staff members are dedicated to the girls and all want the girls to benefit from their stay here. There are times when there is a lack of communication between all levels of staff. It would be beneficial to the institution to work on improving communication and to enable the various departments to function more as a complete unit, rather than separate sub-units.

CRITICAL ANALYSIS OF EDUCATIONAL AND VOCATIONAL TRAINING

The present academic school, Eliza Hendricks Junior-Senior High School, is comprised of two buildings connected by a passageway. The building housing most of the classrooms and offices was built in 1951. This modern, two-story brick building has fluorescent lights, is well ventilated, has accoustical tile ceilings, and asphalt tile flooring. The decor is light in color and venetian shades are used in all the classrooms and offices.

The Activities Building, built in 1967, is also brick. This building houses the recreation office, a fully equipped gymnasium, a swimming pool, locker room, room, and a sound proof music room. The total physical plant houses thirteen classrooms, nine offices, a small auditorium, gymnasium, and swimming pool.

The academic school is fully accredited so that the students' credits are honored by any high school to which they might return. The eighteen-member teaching staff, six males and twelve females, are all licensed in the areas in which they teach. One-third of the staff hold Master's Degrees or above.

The school term begins September first and continues through the middle of August with fall, spring, and summer terms coordinated with community school schedules. Two full-time counselors provide guidance service and handle discipline problems. Each new student is given a battery of tests to determine intellectual potential and academic achievement level upon entering the school.

One teacher spends full-time tutoring students in two closed cottages. The curriculum is composed of regular academic subjects leading to graduation from eighth grade or to a general education diploma from high school. The school also offers courses in Business Education, Home Economics, Music, Art, Physical Education, Remedial Reading, and Remedial Math. A licensed Beauty School provides one area of vocational training. There have been two students who passed the State Beauty Board examination for beauticians and one manicurist during the past semester.

The second vocational training area is the Work-Study Program funded under Title I of Public Law 89-10. This program is deemed to increase motivation toward completion of high school. It is also a preparation for adulthood and return to the home community through occupational training and job experience while institutionalized. The participants, sixteen years or older, attend school half day and after job training are placed in the community on part-time jobs. Money earned is placed in the student's trust fund to be used under supervision when she is paroled.

Listed below are numerical figures which describe the degree of accomplishment of our Work-Study Program.

Number who completed training	199
Number who have been placed on job (some twice)	246
Number who have run (AWOL) from job	11
Number who are presently working	16
Number who are presently in waitress class	11
Number of places (business) girls have worked	26
Highest amount earned by (1) girl	\$1,525.76
Total amount earned in approximately (3) years (part-time jobs)	\$51,000.00

The deficiencies in the curriculum are in the area of vocational training and remedial reading and math. The Work-Study Program as presently operating

trains mainly for food service jobs. It is felt the general office training and nurse aide or geriatric aide training would also be beneficial to our students. About one-half of our students are retarded three or more years in reading and/or math when entering the school program. Additional remedial class would allow more help to these students than we can presently offer.

#### REFERENCES TO TREATMENT METHODOLOGY AND COUNSELING-ANALYSIS OF EFFECTIVENESS

The basic purpose of the Girls' School is to rehabilitate delinquent girls. In order to reach such a goal the use of a variety of methods is necessary. First, there must be an atmosphere in which the staff can feel comfortable in the treatment of the girls. The approach used here is one of therapeutic treatment as opposed to only custodial care. The treatment involves the use of social casework, group work, psychiatric therapy, education, recreation and religion, while insuring that each girl is given good physical care. Delinquent girls usually have a multiplicity of problems. As a beginning, it is important to know what brought the girls here, what are her own unique problem areas and what strengths can be utilized. After the individualized study has been started it then becomes a matter of making use of the existing services in the degree needed by the youth. The treatment of delinquents here also involves the use of non-punitive authority, and therapeutic handling of feelings about current situations. Limit-setting is another treatment tool. The use of limitations indicates to the girl that she is cared about and helps in the process of the girl beginning to control her own behavior. The use of authority provides a way for unsatisfied dependency needs to be met. In the area of counseling there is a counselor assigned to each cottage. Counselors are basically responsible for involving each girl in a treatment program to meet individual needs. They are also responsible to meet needs of the girls in a group living situation. Each counselor has the responsibility to collaborate often and regularly with cottage staff so that consistency in handling the girls is promoted with both individuals and the cottage group. The counseling is carried out under the supervision of correctional social workers with needed psychiatric consultation being provided by the four consultants available to the institution. Beyond the on-going treatment process, counselors are expected to work with parents when possible. Due to the fact that the institution services the whole state, it is not always possible to have contact with parents. However, the strengthening of family ties is done whenever feasible. One way of evaluating effectiveness is to observe changes in attitudes. Attitudinal changes can take place in relation to a girl's feelings about herself, her family and authority. At the Girls' School the majority of the girls do experience such changes. Many for the first time have been able to have some success and to learn one can be liked and respected as a person. A socializing process takes place with girls learning how to talk about problems individually and in groups and to begin having control of ones self and what happens to one in relation to others. In the milieu here girls do change their attitude about authority figures and are able to transfer their feelings back to situations in their own community. It is possible for changes to occur and for girls to be helped in moving toward becoming adequate adults. Many times girls make gains within the institution, but when released the pressures of home and community become too much and she is again in difficulty. Effectiveness of treatment could be enhanced with more intensive work with the family. All too often the girl has left the problems at home when she is institutionalized and she returns to the problems with no changes having occurred there.

#### CRITICAL ANALYSIS OF COTTAGE LIFE AND ENVIRONMENT

The Girls' School is composed of eight cottages housing an average of thirty girls each. Five of the cottages date back to 1907 when the present Girls' School was built. These buildings have been condemned by the Health Department and by the Fire Department. They are two-story structures with the girls' bedrooms located on the second floor and the recreational area on the first floor. There are three new attractive single story cottages. The new cottages have large recreational areas which enable the girls to have more freedom of movement and a greater opportunity to make appropriate use of leisure time. Individual rooms are available for the minority of girls, although a small selected number share rooms. The new cottages offer a very different environment from the old cottages in that they are bright, cheerful, and more functional. The old cottages are dark and there are many problems with plumbing and heating. In all cottages a

housemother is on duty at all times. The housemothers work an eight hour shift for six days and are then off work for three days. The housemothers act as a parent substitute and are responsible for the supervision of the girls while in the cottage, the dining room or in certain recreational activities. Each girl is responsible for keeping her own room clean. She may decorate the room to suit her own taste. The girls take turns in cleaning the cottages under the housemother's supervision. Meals are eaten in a central dining room located in the foods building. In terms of food served, there is no discrimination between girls and staff.

Six of the cottages are open with the remaining two being closed-door cottages. In the open cottages the girls have full privileges such as going to school alone, attending recreational activities and working both on and off campus. One closed-door cottage is used for housing new admissions during a two-week orientation program. After the first week the new girls become involved in school and out-of-the-cottage recreational activities. In addition to new admissions this cottage is used for a small number of girls who need more structure than is found in an open cottage. Through treatment processes these girls work toward being able to function in an open cottage. The remaining closed cottage is maximum security and is used for girls who are dangerous to themselves or to others. These girls are usually quite aggressive with little inner controls or severely disturbed. Through the use of a team composed of housemothers, counselors, group therapists, and consultants, the girls are helped to change their behavior and become able to function in an open situation.

Cottage life is the backbone of the institution and the manner in which the housemother handles the girls reflects in their behavior. At times problems can be created by housemothers lack of consistency in following the rules relating to cottage life. It happens both with new housemothers and with some more seasoned housemothers. There is a need, not only for adequate training of new employees, but for continuous supervising efforts geared toward helping staff in cottage life to be consistent and more involved in the total treatment process. In addition to the effectiveness of good staff on the girls, the comfortableness of the living quarters also contributes to the girls feeling of well being. Generally, the institution reflects an open, relaxed atmosphere. There are no walls and the girls, through staff effort, are usually comfortable and at ease. There are the drawbacks associated with the older buildings. Two new buildings are in the planning stages and should help relieve the present situation. Until the time they are completed it will be necessary to use the existing inadequate buildings and to suffer at times from over-crowded conditions.

#### CONCEPTS OF DISCIPLINE

Overall disciplinary practices at the Indiana Girls' School are based upon the theory that discipline should be consistent, reasonable, objective, firm, individualized and prompt. The ultimate aim being the development of self-discipline and self-controls within the girl; not merely conformity to institutional rules and regulations, but the ability and the desire to conform to accepted standards of society. Our disciplinary and treatment programs are also interdependent upon the other in order that both may be as effective as possible. The use of severe disciplinary measures, such as corporal punishment, are not used as it is considered not to be effective nor therapeutic in working with our girls. These kinds of measures only serve to embitter adolescent girls rather than deter them. A common example of the absence of internal restraint and inability to check hostile impulses, is to be found in the child who has been subjected to some brutal corporal punishment.

Basically, a combination of counseling and external controls (various forms) is most often used. If the routine measures were categorized the types would be:

1. *Counsel and Reprimand.*—A written report of each misconduct which is read and signed by the girl is given to the girl's counselor and one copy is filed in her folder. Quite often the writing and filing process will serve to discourage future misconduct. Counseling will help the girl recognize the problem and know that a "good record" is important when considering parole.

2. *Loss of Privileges and Activities.*—This action is most effective if the loss of a privilege (canteen) is directly related to the infraction. This is based on the concept that acceptable behavior brings rewards and satisfaction. The rewards serve as incentives. The accomplished satisfaction improves many inadequate self-concepts.

3. *Confinement—Detention—Isolation, etc.*, are used interchangeably. This is a last resort measure. When other actions prove inadequate, or where the safety of others is involved, or if the seriousness of the offense makes it necessary, confinement is used. Confinement is always of a short-term duration. Treatment is very much on an individualized basis.

Our overall institutional program is continually being reviewed to determine how we can be of maximum benefit to our clientele.

#### REFERENCES TO RULE INFRACTIONS

Corporal punishment is not used at Indiana Girls' School. Brief detention may be used for the following rule infractions:

1. Upon being returned to Indiana Girls' School from A.W.O.L.
2. Escape or attempted escape.
3. Attacking a staff member.
4. Attacking, threatening, bullying other inmates.
5. Fighting.
6. Destruction of property.
7. Theft.
8. Possession of cigarettes and matches.
9. Refusal to report for work assignment or leaving work assignment without permission.
10. Very foul abusive language directed toward a staff member or an inmate.
11. Consistent refusal to obey any certain rule or regulation.
12. Consistent, violent outbursts of temper, sass, impudence.
13. Illicit sexual activity.

#### NEW AND INNOVATIVE TREATMENT METHODS

Many new treatment programs have been introduced at the Indiana Girls' School since August of 1966. Some of the following programs have been operated as ongoing major changes and others were short-term pilot programs. While all of these may not have been new to the field of juvenile treatment in general, all of these are new to the Indiana Girls' School.

*Point System for positive reinforcement of good behavior:* A system was worked out to reward girls for good behavior. In the past negative behavior was often punished, but there was very little motivation to improve behavior. The system is to reinforce school attendance, good work habits, and control of aggression. From this one point per hour would be given for each school class attended or each hour of work satisfactorily completed. Selected bonus points could be given for cooperation and getting along with others. To give these points value to the girls, a system was worked out whereby the points could then be spent on visits home, telephone calls, beauty school processes, extra cigarettes for older girls who were permitted to smoke, off campus pop concerts, and other rewards that had significance to the girls. The benefits of this program were to elicit the kinds of behavior that we set value on, but a valuable secondary gain was in having girls learn to manage their earned points in order to wisely get long-term benefits such as delaying the immediate gratification of a pop concert in favor of furlough home a few weeks away. Girls earn and spend their points very much as others do money. Some are spendthrifts, and others are quite good managers.

*Expansion of Group Therapy and Group Counseling:* It is found that many adolescents are much more responsive to peer interactions than they are to adult authority. It is found through group therapy, under the supervision of a consulting psychiatrist, that many girls did make rapid treatment gains that probably would not have been evidenced in the more traditional one-to-one casework. This program has resulted also in many other staff members becoming trained in group counseling techniques to expand the program. We have had a variety of types of groups from the regular traditional therapy groups, counseling for pregnant group, co-educational groups with boys from the Indiana Boys' School, a drug abuse group, and a student council of elected leaders who are trained in leadership. We feel that this has been an excellent addition to the programs at the Indiana Girls' School.

*Work Study:* It was found that many of our girls do leave the institution needing to enter the labor market immediately. The Work Study Program has been a program developed to teach good work attitudes and work habits. Most

employees who lose employment are fired, not from lack of work skills but through not being dependable, inability to take directions, or conflicts with other employees. It is for this reason that the focus is based on helping girls to understand, not only what it takes to get a job, but to keep one. A selected group of employers work very closely with a work study coordinator to develop a better understanding of the world of work. The girls are paid at the going rate and their funds are held in trust for their personal needs or as a nest egg after they leave. We feel that this has been one of our better additions to help older girls be better able to take care of themselves upon release. This program was federally funded to our school.

*Mexican-American Culture Study:* In 1968 the numbers of Mexican-American children committed to the Indiana Girls' School increased rapidly. The staff felt that there was a need for a better understanding of this group. Because of this we did initiate a program to improve the treatment and help to this group of girls. Part of this program was intensive training to cottage mothers, teachers, and counselors, to understand the cultural differences which many of the Mexican-American migrant children had. A course in international cooking was taught to give more understandings of other foods than central Indiana farm cooking. A caseworker was employed to work with the parents in the community, most of whom were located in Lake County (near Chicago). She helped parents to understand what was happening with their daughters and then shared her experiences with other staff to better understand the background of this group. A class in Spanish was taught, in that many of these girls were bilingual, but were getting no training in their native tongue. The overall result of this project was a greater ability in the Indiana Girls' School staff to help this minority group.

*Recreation:* It has been noted that many of the girls who are committed to the Indiana Girls' School have very few positive healthful recreation skills. With many of them, their idle time has been spent in watching television, sexual acting out, or hanging around with gangs of idle youth who get in to difficulties with the law. Feeling that adolescents need a healthy release of their energies, we have created a recreation program which we hope will develop socially acceptable recreation skills, release their overwhelming emotional and physical energy, and enhance a girl's self image.

Swimming has been used extensively for both fun, but also to teach basic swimming skills and lifesaving techniques. Some girls have actually moved from fear of the water to becoming competent, certified life guards. We have introduced a great deal of outdoor activities such as hiking, camping, and fishing. Many girls come from concrete, inner-city jungles and they have had no experience in learning the rehabilitative value of learning about nature and enjoying outdoor experiences. This has been particularly good for many girls to camp out and get away from mechanized services. During the last year and one half, much of the recreation has been co-educational. Too many of our wards are socially retarded in how to relate to the opposite sex except in a seductive or exploiting manner. The co-educational recreation has helped our girls to learn to relate to boys in some other way than by fighting or sexually acting out.

*The Little People's Club:* As a part of recreation the Little People's Club was started to meet the needs of certain types of girls who did not fit comfortably into the regular program. The club is made up of very immature twelve to fourteen old girls, whose functioning is limited by mental retardation or social and emotional problems. They participate in very active types of recreation and are taken to visit places that would appeal to young children, such as the zoo, museums, humane society, plus picnics, hikes and biking outings. The individual specialized attention has helped to socialize many of these girls.

*Temporary Absences:* Girls committed here usually come from families with many problems. Although they have frequently run from home and many received harsh treatment, after arriving at the Girls' School they begin to idolize the family situation. It became apparent that girls did need an opportunity to go back home for brief periods of time to really see how it was and also to test out gains they have made through therapy. It was decided that periodic temporary absences would be used as a method of allowing girls to go home for brief periods of time. These temporary absences are scheduled for at least once a month. The girls must have been at the Girls' School for at least sixty days and to have earned sufficient points to pay for the temporary absences. They leave the Girls' School Friday afternoon and return on Sunday afternoon. This has been an especially meaningful program to the girls. It has helped them to delay gratification by planning wisely so that they may have sufficient points to go home. It

has given them an opportunity to reunite themselves with their family and try to work out problems at home. This program has also been beneficial to girls who are going into foster care as it has given them an opportunity to begin to have a relationship with foster parents. The program has also helped girls to not become too institutionalized.

**Liberal Visiting:** In the early part of this administration visiting was liberalized. Parents are allowed to come the first weekend after a girl is admitted here. They may visit on either Saturday or Sunday. The visiting can be either on campus or off campus. Boyfriends are allowed to visit when accompanied by the girls' parents, and other relatives are also allowed to visit. If a parent is unable to arrange to come on the weekend it can be arranged for them to visit during the week. Counselors usually plan to have an interview with parents when they come to visit their daughters.

**Volunteer Parole Officers:** The initial adjustment from institution to parole is difficult at best. It is especially difficult for those girls who are slow to form relationships. A program was started to help this situation. Specific girls, from counties surrounding the Girls' School, were assigned to counselors with the plan that counseling services would be given by the Girls' School counselor in the institution and would continue to be given through the parole process. The counselor gives all services normally given by a parole officer. The program has been successful and has given continuity of service from admission to the institution through discharge from parole. The counselors also act as Volunteer Parole Officers for girls who live in a parole group home.

**Group Home:** To alleviate a critical problem relating to placement of older girls who were eligible for parole but had no place to go, a group home was started. The home was begun in connection with the Volunteers of America, using state and federal funds. Presently ten girls are living there and are either in school or working.

**Goodwill Club:** As a means of giving the girls an opportunity to be of service to others, arrangements were made to have them work with young children at the Cerebral Palsy Clinic at the I.U. Medical Center. The Goodwill Club was then founded and girls volunteered to be involved in this project. At the present time twenty girls work each day at the clinic. Ten girls go in the morning and ten in the afternoon with their school schedules arranged so that they do not miss time out of school. This program is in operation Monday through Friday from September through May. The girls help feed the children and also work on a one-to-one basis with the children, giving them exercises, under the direction of the occupational therapist. The program has had a two fold purpose in that it has given girls an opportunity to be of service to others and at the same time it has helped the clinic to function better. Several girls have become interested in this type of work as a future vocation.

**Counseling to Families:** Prior to the present administration little contact was made with parents. In line with what is known about delinquent children and the problems with their families it seemed important to begin involving the treatment staff more with parents. The more in depth casework has been done with parents in the Indianapolis area. However, parents from other parts of the state have been involved in on-going counseling whenever it has been feasible. Weekly sessions with selected girls and their families has been very helpful.

**Volunteer Services:** An active volunteer program under the supervision of a volunteer coordinator has been a vital part of the institution during the present administration. Volunteers have supplied countless items that otherwise would not have been available to the girls. They have provided clothing, recreational equipment, cosmetics, money for our camping, bicycles, etc. The volunteers have also given of themselves in terms of visiting with the girls, providing off campus experiences, giving parties, and writing to the girls. This has been especially meaningful for those girls who have little contact with family.

**Male Counselors:** Girls committed here have usually had negative relationships with males. All too frequently they were used or abused by men and were generally distrustful of men. The hiring of male counselors was started to give the girls an opportunity to relate to a decent man who could be of therapeutic help to them. The male counselors have generally been a valuable addition to the staff. It has helped the girls in working through some of their problems. It has also helped alleviate problems which can come from a one-sex institution.

**Graduate Students:** An extensive program has been maintained in reference to having students do field work or practicums. The types of students who have been involved have been seminary, social work, rehabilitation counseling, teachers,

recreation, nursing residents in psychiatry, and clinical psychologists. Some excellent research has been done in addition to learning and good services to girls.

**Special Programs Added to the Academic School:** A number of additions were made to the school program including: Remedial Reading classes, Sex Education, Mother and Child Care, Charm and Grooming classes, and Afro-American History.

**Tuesday Club:** The Tuesday Club brings ministers who are particularly interested in youth to the Girls' School each Tuesday for inspirational addresses and discussions. This has enriched the religious services beyond the more traditional Sunday sermons and masses.

**Alateen and Teenala Groups:** Many girls who are committed have problems that are related to alcohol. Some actually have serious drinking problems themselves, but many more have critical family problems with alcoholic parents. We have a chapter of Alateen for girls with alcoholic parents to help them to understand and live with this problem.

**Teenala** is a unique club based on alcoholic anonymous principles for girls who have been heavy drinkers before admission. Both groups are led by the Chaplain and volunteers.

**Special Training:** We have used the services offered by Goodwill Industries and Indiana Vocational School for Vocational Training for girls with special problems.

**Family Planning and Planned Parenthood:** These services have been made available to girls being paroled who desire some form of contraceptives. An initial two-month supply is issued in Marion County after an orientation session with referral made to the local county where the girl is being paroled. The service is free and counseling is available to the girl as well as family.

#### DIAGNOSTIC ASSESSMENTS

The Indiana Youth Authority Act provides for short-term commitments to be used for the purpose of completing diagnostic work-ups. During a thirty-day period a careful study of the particular girl and her family is made using social services, psychiatric, psychological and medical services. At the completion of the study, recommendations are made to the county suggesting either continuation of commitment or replacement in the community. Suggestions are also made as to appropriate treatment for the child.

#### School counselor program

Beginning last summer a group of school counselors from the public school system of the two largest counties, Lake and Marion, participated in a project involving visiting the Girls' School for a two-week period. During this time the counselors became involved in getting to know the girls who would be returning to the counselor's school. The counselors, not only interviewed the girls, but participated in all activities involving the girls in the institution. This program was highly successful in that it helped the girls in planning for return to the county and made their re-entry into the school more meaningful and less painful. It also served as a means of informing school counselors of the experiences girls had here and increased the quality of the counseling services when the girls returned home. The program will be expanded this summer to include Allen and St. Joseph Counties, the third and fourth largest committing counties.

#### COOPERATION BETWEEN THE STATE CRIMINAL JUSTICE PLANNING AGENCIES AND THE INDIANA YOUTH AUTHORITY

I am not able to assess the cooperation between the State Criminal Justice Planning Agency and the Indiana Youth Authority except as it does affect programs that have been initiated from the Indiana Girls' School. In regards specifically to the Girls' School, we have submitted only two requests for programs from this institution. One was a request for funding for a group home in cooperation with the Volunteers of America. This program was submitted early in 1970, and was quite slow in being considered. I was not certain as to why this program was not processed without a great deal of pressure from the local news media, but it was eventually funded. It is my understanding that during 1970 the State Criminal Justice Planning Agency was going through a great deal of organization and reorganization and reorganization pains and that this contributed to the delay in funding of this program. In 1971, however, we submitted another grant for the expansion of our recreation facilities and this program was scheduled promptly for consideration and was approved by the State Criminal

Justice Agency. Mr. William Greeman, Director, and Mr. George Stults, Correctional Coordinator, were both very helpful to the Girls' School staff in expediting this latest program. We anticipate further cooperation to the Girls' School projects.

One deterrent to extensive use of Criminal Justice money has been the short supply of money for matching funds. This year the legislature was asked to budget money for matching funds, but we are not certain at this time, however, as to the amount allocated. It is my understanding that overall cooperation to the Department of Correction for department training programs has been excellent. The Girls' School staff has been and is continuing to benefit from these programs.

#### ALTERNATIVE TO INSTITUTIONALIZATION

The Indiana Youth Authority has few alternatives for adjudicated delinquent girls. Initially when a girl is adjudicated delinquent and committed to the Youth Authority, she must be admitted to Indiana Girls' School which is the only girls' correctional institution in the state of Indiana. After commitment to the Girls' School she must remain at the institution until she is paroled. The possibilities for parole are to a group home, housing only ten girls, family foster home care for girls who are attending school, placement with parents or relatives, or a wage home situation. The most recent legislature passed bills that will be helpful to this situation in giving paroling authority to the Indiana Youth Authority and a bill to create regional centers for diagnosis and treatment.

#### ALTERNATIVES TO COMMITMENT

Referring to question eleven, as the Youth Authority is presently organized, there are few alternatives available after adjudication has been made. The need for alternatives is self-evident. Very often the problems a girl may have are in the home or community from which she comes; therefore, alternatives should be available at a local level before arriving at Indiana Girls' School. Quite often commitments to Indiana Girls' School are inappropriate, and it would have been in the girl's best interest *not* to have been committed to Indiana Girls' School; however, from her local court's point of view, "they had no other choice".

We would suggest such an alternative as committing a girl to Youth Diagnostic Centers which should be developed which would include the Youth Authority services as an option. Having a diagnostic center available where the girl could go for an assessment and evaluation in terms of appropriate placement would be helpful. If committed to the overall department, more resources would be available.

Regional group or half-way houses or centers for short-term placements out of the home. If the girl's placement is regional, overcrowding can be alleviated at Indiana Girls' School and the opportunity for work with the families would increase. As it is now, the location of Indiana Girls' School makes personal contact, in many cases, between family and institutional staff very limited. It is our belief that the more resources that can be involved in treatment with the girls, the better we will be able to be of service to the girl, her family and the community. Outreach can be the most important part of any successful treatment program.

A recent study, February 24, 1971, of the two hundred eight girls present indicates one hundred twenty five have "runaway" as a cause and nineteen have "truancy" as a cause for commitment. These offenses are not criminal nor a threat to public safety. There ought to be other resources short of expensive closed, institutional care. I present these cases as evidence of needless commitment.

The following summaries represent examples of inappropriate commitments to the Girls' School:

#### *Jane Brown (fictitious)*

Jane, a sixteen-year-old girl, was committed on her first offense. Several girls from her community were involved in making a bomb threat to the local police department involving the high school. Jane's participation was to lend a dime to the girls who were making the call. She had never been in any kind of trouble before. Her school attendance had been good and her achievement was in line with her I.Q. which was considered to be dull normal. The diagnostic assessment at the institution indicated a normal, well adjusted child with no delinquent characteristics. The parole officer's report was positive in relationship to the family's character as well as to Jane's character. Jane had been in the county

jail for one week prior to her commitment. She was discharged from the Girls' School being here eight days, as it was felt the commitment was inappropriate and the experience of continued placement here would be damaging to this child and to her family.

#### *Betty Williams*

Betty, a fourteen-year-old, is a product of a dysfunctional family. Her father has been in and out of state prisons through the years for non-support. The mother has a long history of emotional problems and is considered mentally incompetent. As the parents were never able to provide an adequate home, Betty was placed in foster care in October, 1964. The foster family was very conservative and restrictive with Betty. Betty began lying about being a "welfare child" and would go without lunch, rather than reveal her status. She began stealing small items and seemed to have some confusion in identity which would be understandable considering her experiences. The foster family could not accept any kind of behavior problems. As no other resources were available, Betty was committed to the Girls' School.

#### *Lucy Miller*

Lucy is a sixteen-year-old girl, who was committed on the charge of being a delinquent. Her commitment papers indicated that she had violated curfew and dated older boys. Her parents are divorced and her mother finds it difficult to place any controls on Lucy. Lucy is a very sweet non-delinquent girl. She has not been involved in the usual acting-out episodes. She is agreeable and most accepting of authority. The other girls look upon her as being naive and unusual. She will probably learn too much in her experiences with girls who are actually delinquent.

#### *Sue Jones*

Sue Jones was a fifteen-year-old girl committed for using intoxicating beverages, curfew, and truancy.

Sue Jones was discovered one evening in a parking lot in her small, county seat town with a can of beer in the company of a girlfriend. When questioned by police she seemed to be intoxicated and acting rather smartalecky. She was questioned at the police station and released to her parents. Two weeks later when she appeared in court on this charge she was committed to the Indiana Girls' School. When the probation officer advised that she had been absent from school occasionally without good reason, the court's recommendation was that she would not be a good subject for probation but needed close supervision. At the Indiana Girls' School she has achieved in school at a superior level and has had no problems in behavior. It is felt that this girl should have been worked with in the community to improve school attendance and perhaps her adjustment would have been better with help.

#### OPTIONS TO ALLEVIATE OVERCROWDING

There are few options available to the Indiana Girls' School to alleviate overcrowding at the institution; however, this has not been an acute problem during my administration except for the period of January 1 through July of 1970. The situation was handled at that time by putting two girls into large rooms which had originally been designated as single rooms. The roommates were selected carefully and no undue problems were discovered and some advantages were seen. If the overcrowding should become more serious in the future we do have an older habitable cottage which was closed in 1969 because of a staff reduction. This cottage could be opened again but would necessitate the hiring of additional staff to supervise the cottage. July 1, 1970, a group home was started in the city of Indianapolis which did offer living facilities for certain older girls who were not in need of a closed institution but did not have a suitable family living situation. The group home or half-way house program could be expanded with great advantage to house girls who are at the Indiana Girls' School because of a lack of a home or suitable family space but who do not need the close supervision and security of a closed institution.

At this time the Indiana Girls' School has little control over intake or release but we have managed to admit girls immediately after commitment without developing a waiting list, nor have we had to pressure our Parole Board to release girls before we feel that they are eligible for release or have a suitable living situation worked out. Overcrowding in institutions could certainly be prevented by communities and courts being thoughtful in assessment of community

resources to be used instead of commitment to a correctional school. It would seem that girls with problems only pertinent to school attendance should be referred to special education programs, remedial programs, or intensive counseling to see if the problem could not be handled where it is in the communities—in the community schools. With other girls whose only difficulties seem to have been familial problems which have caused her to repeatedly run away. The possibilities of placement with other relatives, group homes, or foster home care should be explored before she is committed to large institutions. One often hears from judges in small rural communities that they are quite concerned about the youth in their communities but are pretty much at a loss to get diagnostic services for girls, and they have few resources for those who need special educational programs, psychiatric outpatient services, family counseling, or foster living arrangements. Very often the tax base in some of the poorer counties is so low that they cannot afford to support, within their community, all of the services that are needed for some of their children. Often these will be the girls that will be committed with a request for "psychiatric care," "child welfare services," "protection," and many other things other than for rehabilitation from delinquency.

It is not a desire to punish very often that causes judges to commit girls to this institution, but a sincere belief that the rehabilitative services will be better than any they can offer in the community. Should this practice spread extensively, I can foresee great overcrowding at the Girls' School. Recent state legislation to develop regional centers may help this critical situation.

#### RECOMMENDATIONS FOR FEDERAL LEGISLATION

Stipulations in funding agencies for federal programs to be approved and operated upon mutual approval of the Federal Funding Agency and the State Agency benefiting from the funds without being restricted to policy regulations which apply to the expenditure of the state funds. The result is the loss of many federal dollars which could be utilized in program expansion.

Federal guidelines are needed to define delinquency. Children are being jailed and incarcerated in correctional institutions for months and often for years for acts that would not be criminal if they were adult. Some such acts are running away from home, truancy, curfew violations, incorrigibility, sexual intercourse, and pregnancy out of wedlock. Children are often damaged and deprived of their right to a normal adolescence when they are thrown into jails and institutions and treated as hardened criminals. One often sees children treated (in the guise of protection and help) in a manner that no one would dare apply to even the most hardened adults.

Surplus foods should be more liberally distributed to non-tax supported group homes and institutions caring for youth.

There is a need for interstate compact services for institutional girls whose parents reside in another state.

Mrs. VANBRUNT. We would like to present, first, our philosophy of administration at the Indiana Girls' School.

We attempt to individualize as much as we can to help girls to realize their full potentials. We have a very broad spectrum of problems and troubled girls presented to us, and we attempt, through the use of educational services, social services, psychological and psychiatric services, medical and dental services, homemaking services, nutrition, and religion to develop mental and physical health and to learn attitudes and values that will help them to live and get along better in society.

In addition, I feel that we, the administration, also have an obligation to help others to understand the girls that we work with. I think this not only includes consultation with the communities who are failing in their efforts to take care of the children as they should be, but also to helping legislators and lawmakers to make significant laws to take care of our children as well as we do some of our natural resources in the United States.

I feel that the children of our country have been pretty generally a neglected group, and particularly those who have in some way or other offended the communities in which they lived. I think we see the products of neglect and abuse very clearly from day to day when we are around our children that we work with in institutions.

The Indiana Girls' School is an older institution. It was developed in 1907, and it was thought to be quite progressive at the time in that they were separating girls from women in the women's prison. But I think that is about where much of the progress stopped, in 1907, in that we are still putting girls into jails and handling them in the same manner that we would the most dangerous and offensive older offender. Our girls' school was built in 1907, as I said. The buildings, some of them, are still in existence and are being used. Our older facilities have been condemned by the fire marshal, the board of health, and almost any other inspecting agency you can think of as being unsafe and unsuited for human habitation.

We have had a beginning on the building program and have three new cottages that have replaced the older units, but we still have a long way to go.

We have a fairly new school and activities building. Recently, 2 years ago, we developed a new food service building so that we have more healthy, sanitary food service. But I think that until we do complete the entire rehabilitation program or start handling our young women in other ways than the large institution, we will be certainly failing our youth.

I would say at this point that Indiana Girls' School is not particularly overcrowded. Our units are pretty much operated within the capacity for which they were built. However, they are filled at a much larger capacity, much higher, than the standard set by the Child Welfare League and other standard-setting agencies that state that a maximum of 17 children living in one unit is preferred. We have some units built for as many as 32 and 33 girls which may not be crowded by the physical plant standards but are over optimum conditions for housing.

Senator BAYH. You say you have a cottage with 32 girls in it?

Mrs. VANBRUNT. We actually do not have any cottages that have as many as 32. I think the maximum in any cottage is 30 girls at this point, but if we have this reduced by about 13 girls down to around 17, or under 20, it would be easier to individualize and better for treatment, according to most child welfare standards.

Senator BAYH. What type of counseling, custodial care, or however you want to describe it, is given to a group of girls, say, 30 of them, living together in one cottage?

Mrs. VANBRUNT. A cottage has a housemother on duty at all times. This would be one housemother for the 23 to 30 girls, plus one counselor who has an office in the cottage, and the housemother and the counselor work together as a team. Our housemothers work 8-hour shifts, so that there would be three main housemothers involved in the daytime hours working with the counselor who is assigned. In addition, they also have psychiatric, psychological consultation and social work and supervision. I think that we are getting girls with increasingly complicated problems, and they are certainly not problems that are criminal, but do need all of the professional intensive care that can

be given. Our caseloads are not as large as those described by Mr. Bennett, but I think we still are spread pretty thin when you get 30 girls for one supervisor.

Senator BAYH. Do you have examples of girls that have been committed to the Indiana Girls' School that should not have been committed there, in your judgment?

Mrs. VANBRUNT. Yes; we do. I did include some case summaries. I think I could have put in 100 if we had the time, space, and energy.

Senator BAYH. Why don't you just give us a good example, just take one and give us an example?

Mrs. VANBRUNT. I think we have one with us today, if you want. I think the type that is very typical is the child in the rural county who will be brought into the court situation for some minor offense, and rather summarily, without any type of probation services, any home study or anything of this sort, be caught up and committed. I feel that so many of our girls are the products of either school neglect or nonexisting or marginal family ties, and they will be committed to us to get them out of the community.

Senator BAYH. You mention in your statement that the February 24 study of 208 girls showed that 125 had run away as a cause, and 19 had truancy as a cause for commitment. These offenses are not criminal nor threats to public safety. Who makes the determination?

How does the girl who has run away end up in your home?

Mrs. VANBRUNT. I think that when a parent has a daughter who disappears from home and is a girl of tender years, they are usually very, very concerned, very frightened, and immediately report this to the law-enforcement authorities because of their tremendous concern and anxiety. The general ground rules in Indiana are that if a child has been reported as a runaway and then is located, that they automatically will be referred to the court situation, and this is, theoretically, to protect her and to give the court an opportunity to investigate and find out why she did run away.

Senator BAYH. You say the normal proceeding, but in your statement you just said that the normal proceeding in Indiana is that a girl who is reported as missing can be referred to the court situation, but in your statement you say that this offense of running away is not criminal.

Mrs. VANBRUNT. That is right. It is not criminal. However, written into this large market basket law we call the Juvenile Court Act as one of the conditions of delinquency—and there are 17 or 18 counts in the Juvenile Court Act in our State—and I think this is typical of most States—there are charges. That, if one were an adult, would never come to the attention of the criminal justice system. Originally the juvenile court was developed in an effort to protect, help, support and take care of children. I think what has happened to it, however, is that children are often punished and treated very summarily in the name of preventive protection of the court. I feel that running away certainly is an area of concern to any community. As to why a child finds conditions so intolerable that she needs to run away from home, that should be an area of concern.

But, it may not have been that they were that intolerable. I think if they are that intolerable we should do something about it, but I am not sure throwing her in the county jail is the best help we can give her, and this is often what happens.

Senator BAYH. Let me pursue two possible avenues of girls running away. A parent whose daughter does not show up for supper at night is going to be concerned. And I would.

Mrs. VANBRUNT. Sure.

Senator BAYH. You would be?

Mrs. VANBRUNT. Yes.

Senator BAYH. And you would resort to any means to try to find out where that child is?

Mrs. VANBRUNT. Yes.

Senator BAYH. So you report it to the police and ultimately the child is found, say maybe the next day, days later, or 2 weeks later, or as far as that is concerned 2 months later. Now, there would be one situation where the parents want the child to remain in the home.

Mrs. VANBRUNT. Yes.

Senator BAYH. Do you have examples of girls who have been committed to you over their parents' objections after having been reported as runaways?

Mrs. VANBRUNT. Oh, yes; we have many very concerned parents who want nothing more than to have the child in their home. They want them and care desperately when they are committed. And not all of them—

Senator BAYH. In other words, they are committed for no other act than running away?

Mrs. VANBRUNT. That is right.

Senator BAYH. The parent reports the runaway, the child is returned to the home and then the parents want the child in the home and yet, some judge determines that the child should be sent on to the girls' school?

Mrs. VANBRUNT. Yes. In most cases it is not just one act of runaway that commits the child to the girls school. But, I have seen it happen. I can think of one girl within the last year who ran away from home one night and was reported as being missing from home, came back home the next morning. The police, when she was reported back, did take her to court. She was then committed to an Indiana girls school without much more happening than that. But, this is unusual and usually it is sort of like baseball, three times and you are out. If a child runs away once she will be warned, twice she will get probation and three times commitment. This is sort of an oversimplification, but I think this seems to be the magic number in many courts.

Senator BAYH. How many of these runaways or commitments in your judgment are the result of serious domestic problems between a man and his wife, or a second or a third marriage in which a child feels unwanted?

Mrs. VANBRUNT. I do not have accurate statistics on this, but I would say a large number with the rejecting stepfather, for instance. That is, we have some that the stepfather is maybe sexually or physically molesting the child and she will try to escape from the intolerable situation. We have others where there may be serious problems of alcoholism, or problems of gross physical abuse, neglect. Sometimes, the girl may run away from home because she has been expected to be perhaps the mother, the fill-in mother. Her own mother may be occupied with her own affairs, or may be out earning a living and at 13, 14, and

15 these girls are expected to take care of several younger children in the family, and I think she would like to be given the opportunity for a normal adolescence, and she is finding herself burdened with an adult responsibility. She may become very discouraged and run away. I think there are many types of family difficulties that can cause the run-away. I think particularly we see this in the family where there is very little money, maybe just one parent, one mother supporting several children and she may be having to work, and placing responsibility on the girl that should not be placed on a teenager.

Senator BAYH. Do you have examples at the girls school similar to those I related, such as those brought to our attention yesterday in another State where the parents had become tired of the inconvenience of the child, or with the new domestic relationship, the new mother or new father that the child was unwanted and so the parents then branded the child as incorrigible and the child was placed in the girls school?

Mrs. VANBRUNT. Right. Certainly the only way a girl can be committed for being incorrigible is if the parent comes in and asks the court to take over the management of the child. This means "I cannot adequately be a parent to my child, I am asking the law enforcement system to take over my child."

I think the saddest, most poignant family situation one sees would be a mother who has a large family, has married and is somewhat dependent upon the stepfather for support of the other children. She possibly very much loves him as a husband, but he decides that the particular daughter should not be in the home and makes this point so strongly to the mother, He might say, "If she comes home I am leaving you." This puts the mother in the position of making a choice, my child or my husband, and this is a very difficult decision for any woman, but I think it is extremely damaging to the daughter when she finds herself often in second place. To help her understand that her mother may care about her, but also has other needs in addition to hers, makes our job more complicated.

Senator BAYH. What else is available there, Mrs. Vanbrunt? With regard to the runaway with obvious problems at home: Is the only alternative available for that judge to send that girl to you?

Mrs. VANBRUNT. Well, too often in many communities it seems to be, unless there are other relatives willing to take on the responsibility of a teenage girl. That might be the only possibility. As to the possibilities of foster homes, many communities either do not have foster homes or maybe they have not bothered to develop foster homes for girls that are in need of care and shelter. It is very difficult for adolescents to be accepted in traditional foster home care. I think many foster parents can take a cuddly little baby and we can expect them to be good substitute parents, but with teenagers they expect a lot more than this and they should from an adolescent. I think what generally works better for the teenage group are small group homes which give some of the semblance of family living, but they still are using community resources and yet without the emotional demands of being taken into another family. I know of very few group homes around certain sections of our State, but I understand that some States have done a lot more to develop halfway houses, group homes, and larger foster home settings. But, we are a little bit behind on that in Indiana. I hope that we start catching up pretty soon.

Senator BAYH. Mr. Bennett referred to one class of boys that he felt should not have been committed to the boys school who are hardened, obviously violent, and violence oriented youngsters who should have been treated as adult criminals rather than juvenile delinquents. Do you have girls who fit in that category that are commingled with the other girls?

Mrs. VANBRUNT. Not too much. You know, girls handle their problems so often in other ways and their acts are not criminal. We get very few girls that are ever committed for charges that would be criminal if they were adults. I think primarily our girls are committed for more interpersonal difficulties, school, family, running away, sexual acting out. While some of the girls are a lot more sophisticated in their handling of their personal life than others, it is usually not the dangerous or destructive type. Their delinquent acts would not be a felony. Shoplifting is probably apt to be the most common criminal action girls would have, but very often it is stealing trinkets, clothes or things that they need but are unable to get.

Senator BAYH. What are the age limits at the girls school?

Mrs. VANBRUNT. The girls should be between the age of 12 and 18 to be committed, but we have very few 12-year-olds committed, but occasionally we do. Usually the ones who are 12 who are committed have extremely complex problems that communities, I think, have been waiting for them to get old enough so they can dump them on to us. Maybe a child has been in the State hospital for 4 years, from 8 to 12, until they can say she is now old enough to go to girls school and she is cured of her mental illness. It may be a retarded child that they have been worrying along with, and this would be a good way to do this. I think a classic example is a little girl we did actually take at age 11 who had suffered from tubercular meningitis when she was 3 and had been in a coma for many months and she has brain damage and is not educated. She had been in two State mental hospitals and in schools for the retarded. Many foster homes and lots of other services, and as the judge poignantly described, she was not psychotic, so she could not go to a State hospital. She was too bright for the State school for the retarded. The child welfare department said well, she was too emotionally disturbed for a foster home, and then they ran through a list of private institutions and agencies and why she did not fit into their program, and so she was sent to us. It was either send her to us or leave her in a county jail, which is where she had been for 1 month while they tried to find some place to take this tiny, little, underdeveloped, damaged child. While we know we are inappropriate for commitment, we also feel that we are better than the county jail.

Senator BAYH. Could I ask you a couple of questions about personnel? Are you able to recruit and retain qualified personnel sufficient to do the job?

Mrs. VANBRUNT. Yes. We are able to recruit some kinds of personnel that we need to do our job. We find it is very difficult to get male counselors because our wages are not as good as many of them can earn in other places, but we find many dedicated professional women who are willing to work with us. We do not have any trouble recruiting teachers because we pay the same wage scale as the Indianapolis public schools which makes us able to get very highly qualified male and female teachers for whatever we want. We have a dozen

applications for every opening, which seldom come up. I think the area we have the greatest difficulty in recruiting is housemothers at this point, because wages have not moved up for a housemother as they have for other custodial persons in the correctional system. The male custodial officers have had their wages increased rapidly but they have not included the women into that, so our women are starting out pretty low. We do get some excellent women, but to provide them in great quantities is pretty difficult.

Senator BAYH. Could we talk with Sharon a minute?

Mrs. VANBRUNT. Yes..

Senator BAYH. We appreciate your being with us. How old are you, Sharon?

Miss RUSHIN. I am 17.

Senator BAYH. Seventeen? When were you committed to the girls school?

Miss RUSHIN. May of 1969.

Senator BAYH. May of 1969, and you have been there a couple of years then almost?

Miss RUSHIN. Yes, sir.

Senator BAYH. Had you been there before?

Miss RUSHIN. No.

Senator BAYH. Is this your first time in the girls school?

Miss RUSHIN. Yes.

Senator BAYH. Could you give us an idea of how you got there, what happened?

Miss RUSHIN. Well, I was downtown one night and it was after curfew.

Senator BAYH. Where is home?

Miss RUSHIN. Attica, Ind.

Senator BAYH. Over on the Wabash?

Miss RUSHIN. Yes; it is a real small town.

Senator BAYH. I have been there many times.

Miss RUSHIN. So, I was walking down the street, and so I had a can of beer in my hand, and so they stopped me and they asked me what I was doing out late and I just told them it was my business. So, I was getting smart with them and they took me to jail and then about a week later they told me I would have to go and appear in court. So, they took me in court, and I did not have a lawyer or anything with me and he told me I had skipped school and been out after curfew, and I was incorrigible and so they sent me up for 6 months. And I got paroled but it was too awful just being in the little town because I had been away from it for 6 months, so I ran away again and they sent me back up again and I have been there ever since.

Senator BAYH. So, it is really your second time at the girls school?

Miss RUSHIN. Yes, sir.

Senator BAYH. In Attica were you living with your parents or who were you living with?

Miss RUSHIN. Yes; both my parents.

Senator BAYH. Do you have any brothers and sisters?

Miss RUSHIN. Yes, I have two older brothers and one older sister. One of them is married.

Senator BAYH. Two older brothers and two sisters?

Miss RUSHIN. One older sister.

Senator BAYH. How old is your sister and how old are your brothers. Are they much older than you?

Miss RUSHIN. My oldest brother is 29, and the other is 25 and my sister is 21.

Senator BAYH. What did your parents think about all of this? What time of night was it when you were walking on the main thoroughfare of Attica, Ind., with a can of beer?

Miss RUSHIN. I do not know. It was just a Saturday night and everyone else was just down there walking around.

Senator BAYH. What time of night?

Miss RUSHIN. It was about 10 o'clock.

Senator BAYH. What did your parents say about all of this when they asked you to come to court?

Miss RUSHIN. Well, both of my parents were very upset about it, and they wanted me to stay at home. They told them I would have to go and be committed for about 6 months. My parents were real upset about it because they wanted me to stay at home, because I was the youngest, and so they told them, you know they would do anything that they asked them to do for me, and they told them I would have to go up there for my time.

Senator BAYH. Do you love your parents?

Miss RUSHIN. Yes, sir.

Senator BAYH. Were you happy at home?

Miss RUSHIN. Yes.

Senator BAYH. You did not want to go to girls school?

Miss RUSHIN. No.

Senator BAYH. Had you run away previously?

Miss RUSHIN. No, sir. I had one curfew one other time.

Senator BAYH. What is the curfew violation?

Miss RUSHIN. Well, I was just out after curfew. I was out later than I was supposed to be.

Senator BAYH. When is curfew in Attica?

Miss RUSHIN. It is 9 o'clock during the week and 11 o'clock on weekends.

Senator BAYH. Your second curfew was before 11?

Miss RUSHIN. Yes.

Senator BAYH. Now, when you were out the other time on the curfew violation did your parents know where you were?

Miss RUSHIN. No, sir.

Senator BAYH. But they wanted you to stay at home?

Miss RUSHIN. Yes, they very much wanted me to.

Senator BAYH. And you wanted to stay at home?

Miss RUSHIN. Yes.

Senator BAYH. Had you ever committed any crimes, have you shoplifted, or poked anybody in the nose or anything like that?

Miss RUSHIN. No, sir.

Senator BAYH. And when you came back 6 months later you ran away?

Miss RUSHIN. Yes.

Senator BAYH. Tell us what it is like at the girls school. What do you do, do you go to school, do you work, what is it like in the cottages?

Miss RUSHIN. Well, I just get up at 6 and get ready for school and then I have a job off campus as a waitress, and I get back then at 1 and go ahead and go to school and when school is out I just go back to the cottage.

Senator BAYH. Where do you work?

Miss RUSHIN. I work at a Burger Chef in Brownsburg.

Senator BAYH. How many hours a day do you work there?

Miss RUSHIN. During the day I just work 2 hours and on Sunday I work 7 hours.

Senator BAYH. Do you get paid for it?

Miss RUSHIN. Yes, sir.

Senator BAYH. What do you do with the money?

Miss RUSHIN. I keep it in my account, and I can withdraw it and go out and they will take me shopping or do whatever I want to do with it.

Senator BAYH. You buy your own clothes?

Miss RUSHIN. Yes, sir.

Senator BAYH. That is a pretty dress.

Miss RUSHIN. Thank you.

Senator BAYH. What is it like in the cottage?

Miss RUSHIN. It is pretty fair. Most of the housemothers are just like a regular mother to you, they try to be during the time you are there and I get along with most of the girls.

Senator BAYH. What do you think of the other girls? Are they all OK or are some of them with it and some of them not?

Miss RUSHIN. Well, yes. Naturally I like some more than others but I think they are all OK.

Senator BAYH. Do any of the girls give you a real hard time?

Miss RUSHIN. No.

Senator BAYH. Do you have a counselor?

Miss RUSHIN. Yes, sir.

Senator BAYH. How often do you get to see her?

Miss RUSHIN. I usually see her about every other day.

Senator BAYH. Every other day? What does she talk to you about?

Miss RUSHIN. I do not know. I just tell her if I have a problem, I tell her that I want to talk to her and she will come over to the cottage to the office and call me in and we will just sit there and talk.

Senator BAYH. Do you see her as often as you want to?

Miss RUSHIN. Well, when she has the time and sometime she is busy and has lots to do but many times she has a lot of paperwork, but if it is an emergency she will make time.

Senator BAYH. She is pretty nice then?

Miss RUSHIN. Yes.

Senator BAYH. Is there anything about being at the girls school that bothers you? Are you anxious to get out?

Miss RUSHIN. Just more or less being homesick, not being home with my parents.

Senator BAYH. Do your parents come up to see you often?

Miss RUSHIN. Yes. I get like a weekend pass once a month, and they always come up and take me home for that.

Senator BAYH. And Attica is not too far away, is it?

Miss RUSHIN. No.

Senator BAYH. How about your brothers and sisters, do they come see you?

Miss RUSHIN. Well, my brother comes, the one that is married, he always brings his wife up and they come visit.

Senator BAYH. How long do you have to stay there?

Miss RUSHIN. I get out on the 11th of this month.

Senator BAYH. The 11th of this month? Is that a parole situation or what will be the actual aspect of the limitations on your freedom?

Miss RUSHIN. I will be on parole for a year.

Senator BAYH. Parole for a year? What are you going to do? Are you going to go back to Attica?

Miss RUSHIN. I want to go ahead and finish high school and then I would like to get a job so that my parents will not have to buy me everything.

Senator BAYH. Will you be a senior next year at Attica?

Miss RUSHIN. No; I will be a junior.

Senator BAYH. So, you have 2 more years?

Miss RUSHIN. Yes, sir.

Senator BAYH. How is it going to be going back to Attica? You did not like it the first time, when you went back.

Miss RUSHIN. I am going to see if I can go to another school because I cannot adjust too well to the school in Attica and my parents told me they would pay my tuition to go to another school if that is what I wanted.

Senator BAYH. Do you know where you are going?

Miss RUSHIN. To Williamsport, which is just a few miles away.

Senator BAYH. Across the river?

Miss RUSHIN. Yes.

Senator BAYH. Mrs. Van Brunt, what about Sharon's records now? She has a record of two commitments to girls school. After she leaves and serves the year's probation, then what happens to her record?

Mrs. VANBRUNT. They could be all eradicated and destroyed if she would go to a great deal of effort to petition the court. Other than that in theory, all records as a juvenile delinquent are supposed to be kept confidential. This, however, is not necessarily so, and there are often times, you know, there are records with police and courts, and institutions that are always hanging around. I feel that many people completely misunderstand the original meaning of delinquency. I think often it is considered as being a criminal record and I think so many children who are charged and adjudicated as being delinquent are not criminal. However, this is pretty difficult to sort out in the minds of many employers or schools and a lot of places. We find that our girls find when they get back into the community that there are not all of the friendly, outreaching hands that one would like to think there are. And, when girls often return to some of the schools all over the State of Indiana, with several exceptions, of course, I should add, they are greeted very coolly or even harshly and some of the quotes I have heard girls state as to how they were received when they enter a high school from a dean or a counselor would shock you. I also know this is true because I did work in parole for 3 years and sometimes when you go in to talk about the child getting enrolled in school, you are greeted with, "We do not want her here," and some schools actually do refuse to accept our girls back. It is certainly a tremendous hardship. I mean, these schools carry records on where the girl went and what happened before commitment.

Senator BAYH. Was there a lawyer with you either of the two times that you were sent to the girls school? Did you have a lawyer?

Miss RUSHIN. No, sir.

Senator BAYH. Well, when Sharon goes home and graduates from high school, applies for a job, and has to fill out an application that says: "Have you ever been convicted of a criminal act or confined in a penal institution," how would she answer that question?

Mrs. VANBRUNT. In theory she could answer it "No," because she has not been convicted of a criminal offense. However, with many girls, and I have talked to them; if they say, "No; I have not been; I do not have a criminal record," and then the employer discovers they have been to girls schools they would probably let them go for having misrepresented it. It is a pretty difficult dilemma for a girl to know what to say on applications because actually they have not committed a crime; they do not have criminal records, but many people think girls school commitment is for criminal acts.

Senator BAYH. Did you come here of your own free will?

Mrs. VANBRUNT. Me?

Senator BAYH. Yes.

Mrs. VANBRUNT. Oh, yes, sir.

Senator BAYH. Has anyone indicated any threats or intimidations toward you and your future employment because you are here, or if you did not come?

Mrs. VANBRUNT. I hope not; no.

Senator BAYH. There has been some concern expressed, and this would be the last thing in the world I would want to have happen. What we are trying to do, of course, is to find out through your experience what we can do to share that experience with others; to stimulate a national consciousness of the need to do better. I appreciate very much that you and Sharon came here to testify, and I trust when you go back to Attica, you go to Williamsport and you will have a good time and then you will have nothing but kindness in your heart toward Attica, except when Williamsport plays them in basketball.

Miss RUSHIN. OK.

Senator BAYH. Because I know with that rivalry it might be difficult to do.

Thank you both very much for coming.

Mrs. VANBRUNT. Thank you.

Senator BAYH. Our next witness is Rev. Luther Hicks. Mr. Luther Hicks is director of Dignity House in Indianapolis, and I have known him for some time. I am partially familiar with the good work he has done, and the Dignity House has done for Dignity Unlimited.

Reverend Hicks, we appreciate your being here, and why don't we just say the ball is yours, so you run with it.

Reverend Hicks. All right.

**STATEMENT OF REV. LUTHER HICKS, DIRECTOR, DIGNITY UNLIMITED, INC., INDIANAPOLIS, IND.**

Mr. Hicks. My name is Luther C. Hicks. I am an ordained minister of the Indianapolis northeast district of the United Methodist Church. I am also the director of "Dignity Unlimited, Inc.," a nonprofit organization, designed to give direct service to the disinherited within the inner city.

"Dignity Unlimited" is sponsored by the Metropolitan Mission Board of the United Methodist Church and the Indianapolis Anti-Defamation League, B'nai B'rith, and by Model Cities of Indianapolis, a Federal project whose interest in our endeavor has made it possible for us to implement our program. "Dignity House" is also referred to as "Project Transition."

Dignity House is a demonstration project located in the northeast residential section of Indianapolis, merged into the neighborhood as all other family structures are. Unlike the other homes, Dignity House is designed to be one possible alternative to keeping the youthful offenders in the juvenile detention center, or committing them to another State warehouses, known as the boilerplate language. I would like to shoot you some tidbits, what you call the boilerplate language. We think of our primary function as one of treatment. Our goal is to work with youngsters whose needs are between institutionalization and remaining at home. In this area we feel that we are unique with a program that looks at problems not in a traditional way—a program that would be willing to take a risk, to chart new courses. We believe our approach is conservative in the best sense of the word, and we want to conserve our most precious resource, human beings.

We also try to conserve the dollars, taxpayers money, both the black ones and the white ones, dollars wasted in traditional methods of dealing with so-called law violations.

For example, many citizens view the cost of locking up a prisoner at an institution like Pendleton—you heard not long ago about the Pendleton massacre—at the annual cost of \$2,300 per prisoner. All it does is cost \$2,300 to keep a guy there, but that figure is inaccurate. What are the real costs? The costs that can be saved by avoiding incarceration and by salvaging a human being? What does it cost to process a car thief? A lot of the guys that we've prosecuted as juvenile delinquents went riding in somebody else's automobile without permission—what are the real costs?

Well, the car is stolen; let us assume the car is worth about \$5,000. The owner calls the police and his insurance company. Then, several weeks later the car is found demolished and stripped. Did it cost that man \$5,000 for that car plus the cost of car rental perhaps, and it cost the insurance \$5,000 less the salvage value, and it cost \$200 by the time you put in reports and an investigation on the man and so forth for 40 man-hours at a cost of \$5 an hour. Before the criminal is apprehended we have a cost of more than \$10,000 and nothing is charged to the ledger for inconvenience.

Finally the criminal is apprehended and he pays for his counsel. If he cannot afford one, then the State provides some kind of counsel. The State pays for the prosecution, the judges, clerks, stenographers, witnesses, and a jury which are all involved, and the estimate for the cost for a 1-day trial is \$2,000, a moderate estimate.

If we kept the accused in jail for 30 days prior to trial, we have another \$300 invested. There may be appeals or there may be a new trial. If so, let us add another \$1,200. By the time he is processed, examined, transported, and incarcerated we have already invested \$15,000. And, with the recidivism rate of 60 percent, then it means that we will go through the process all over again and with six out of 10 people in prison you can see the cost would run up. If our hypothetical case

is one of the six, the costs are double or triple our estimate. So, now we can see the cost.

One of the goals of Dignity Unlimited is for transition house not only to salvage the guy who is incarcerated either in a boy's school, or detention center, or sent into some of these concentration camps and jailhouses throughout the State of Indiana and throughout the country of the so-called United States of America. We are trying to keep him from getting into the kind of atmosphere that will move him further and further into antisocial behavior because he would become bitter, and disillusioned which would cause his antisocial behavior to get him into crime and this is what it is all about. We think of our primary function as one of treatment. Our goal is to work with the youngster whose needs are between institutionalization and remaining at home. In this area we feel that we differ from halfway houses. There are people, folks who will say that they are better off in a halfway house, and I always ask myself the question, halfway from what to what? It is a misnomer, you see.

We have attempted to make Dignity House as unstructured as we possibly can and yet remain effective. Consequently, we have no guards. I was a penal chaplain for a few years and I am of the opinion that we do not need a lot of the guards for a lot of the people we have incarcerated both on the juvenile level and on the felony level. We have no guards and no bars, no unwarranted punishment and I am sure some of you saw the documentary on TV the other night, it is true, very true. You know, you have to excuse me but I do not see why we do not get up in arms about this. We got up in arms about Calley and all of that and I think we should about juvenile delinquency. Yet, we punish them and push them around and we have a bunch of bigots and sadists and they have no sensitivity. We talk about the rise in crime, the FBI reports, and all of the other nonsensical stuff, and I see some of that other stuff, you know, we see it and we have this little regimentation, a space, and we talk about the generation gap. I listen to these kids sitting here this morning and it has been my experience that with this generation gap a lot of us are responsible for keeping it because we do not listen.

Also we try to create an environment in which a lad can develop responsibly for making decisions affecting his own life and those with whom he lives. So often we try to impose our decisions upon them. We have an atmosphere here to orient the lads to responsibility in the community. Just because he happens to be 12 or 13 or 14 or 15 or 16 or 17 or 18, it does not mean that he does not have some individual responsibilities that he interprets his own way. And, the doggone school system and sometimes the church, and sometimes organizations we have within our community try to impose upon them what we think their responsibilities are.

How do we go about achieving these goals? These goals are achieved through formal group discussions in which the lads themselves crystallize their problems and suggest their own solutions, with the guidance of this staff and the trained and registered social worker and the peer group where he begins to think in terms of a different and more positive level and defines this more positive level of performance.

In order that our residents may experience a continuous confrontation with society and its demands and in turn maintain a wholesome

tie with the community, we ask them all or require them to attend school. For, it is through school that he has a legitimate reason to be away from Dignity House continuously and he finds additional opportunities for cultural cultivation, his mobility increases and new and sometimes more meaningful relationships are established.

Realizing that one of the main offenses is truancy, one of the staff has the specific duty of working with the lads on this level. He is referred to as our education specialist. He has established contact with the deans, counselors, and teachers in the schools our lads attend. There is a daily check kept on their attendance through channels. Any problem a lad encounters in school, the education specialist is notified and he is in turn the one who deals with it.

We incarcerate them, we detain them, we cut them off from society, and then we expect when we release these guys that they are going to be able to go out and build wholesome relationships, free, and this is not so. You cannot incarcerate a bunch of guys, you cannot detain them and keep them locked up 24 hours in an 8 by 12 cell and go through the nonsensical treatments that we put them through and expect them to come out and enter into meaningful and wholesome experiences with people. The experience has been too traumatic, for the life of me I cannot understand this.

With our education specialist, when he is notified about truancy and deals with this, this does two things. One, it makes the teachers of their schools understand that there is someone outside who is interested in this boy. There is beginning to be a rare occasion when we find a parent, particularly in the inner-city area, that would have the time or interest or motivation to go down to the school system, not raise hell, but to try to relate to the teachers and make them understand when they come from suburbia or some other middle-class area, both black and white, that they are dealing with children who come to school with problems and those problems are usually manifested by their attitude toward the teacher. Sometimes they are hungry and as Paul Laurence Dunbar says, "It is pretty easy to smile when the stew is piping hot, but it is mighty hard to giggle when there is nothing in the pot," and a lot of kids come to school and there is nothing in the pot, and they are hungry. And sometimes they are cold and they are born and reared in an atmosphere of violence, and sometimes they have to unwind and they come down with these kinds of problems, and when they get there something triggers them off, and we say they are incorrigible and we have to have someone who can relate to this teacher, sort of a liaison between them and us.

A person who comes in our house for the first time usually is surprised by the physical structure of the building and the cleanliness. We have the center there and we see a lot of social workers come in there, and they start looking for dirt, and they find that it is very clean. The house is a spacious old residence, three stories high and tailored to the specific needs of the residents at a renovating cost of approximately \$20,000. It is light and it is bright, and it is open as an echo, as a refrain of pride and freedom.

There is a good stove in the kitchen with a cook that knows the art of soul food cooking, and from the butler's pantry one comes into a large dining room where the lads eat their three meals of freshly prepared food a day, family style. Now, let me throw this at you, you will.

be surprised at the kids we have to teach how to eat. They are used to eating a bologna sandwich that someone throws on the table, or donuts going to school in the morning, or they buy candy, and chewing gum and pop, and this is a meal and we have to teach them to eat a balanced diet. And with this \$12,000 budget through the model cities we buy good food and we cook good food, and we try to entice them to eat good food.

And sometimes the lads are hungry before bedtime, and young teenage boys are always hungry, and what do you do, it is a proverbial thing in anybody who knows anything about growing up boys knows they eat all of the time, and in the summertime when they play basketball, and baseball and they are running around the guy is hungry, and they have to eat. And in many institutions, the time they eat their last meal is at 3 o'clock and a lot of us are gorging ourselves and look how we fight the battle of the bulge. You know, we take more pills than these guys in the institution, these growing boys eat their last meal at 3 o'clock and it is nonsensical and it is enough to make them antisocial, and mean and incorrigible, horrible—all these nonsensical things we do.

We have both color and black and white TV, and what we want to do you know, is not to make this the kind of thing where we give him the wrong sense of values, but let him know that he can also enjoy the American dream of other things that everybody else would have in their household. Our lads belong to organizations such as the youth and campus life movement and other neighborhood clubs. Three of our lads are enrolled in their respective school ROTC units and we encourage our lads to seek their own entertainment.

We undertake, just like the Navy, routine chores around the house which we perform daily. There are two reasons. Men working, living in close proximity to one another should keep things clean, and orderly minds are manifested by order living quarters, one, and I am still of the opinion that idle minds will make a devils workshop, and it will keep people busy instead of laying on their tails in the sack 24 hours a day and doing nothing. All rugs or carpets are vacuumed daily except Sunday, the toilets or washrooms are maintained daily, and there is a washing machine and a dryer where they can do their own laundry.

When a resident is first admitted to Dignity, he goes with a counselor and picks out new clothes for himself. A lot of the guys who come in there have very little and everybody is interested in clothes, particularly on this level, and it becomes a competitive thing and he wants to wear his clothes. It is sort of a subcultural thing, the California colors, the orange trousers, and the red trousers, and the indigo and the violet trousers, and we let him buy these because it is important to him, and we manage to get him fitted inside out, clean underwear and sox and everything else and this is important to have pride in the basics.

From the time he arises, at 6:30 a.m., with a hot breakfast at 7:15, until he sacks in at night we try to plan and work and live and play together as a family. So, we have to have a competent staff, people who are dedicated, but even more than that, people who are sensitive to the program of what we are trying to do. I say, sir, that one of the reasons why we have so much trouble without our penal institutions and other areas of detention is because it is just a job. It must be

people that are sensitive to the needs of the youngsters that are put within their care by the unfeeling and cold judicial system across this country. We try to treat them as the children of light rather than children of darkness, always with pleasant surroundings and an introduction with new opportunities because if they are young, if they are free they are going to be creative and I think one of the greatest things in this damn country that we are always trying to destroy is the great creativity of our youth because we think we are threatened; but we do not have the depth to understand where they are.

Now, I am finished. As a summation, let me call your attention to what I call the fact sheet concerning Project Transition, and there, sir, you have it. You can read it. We began our official operation on August 1, 1970, and received our first resident on September 25, 1970. We employ 10 black adults at a cost of \$58,000 per year, and, of course, we have five volunteers who also work, one psychologist, three tutors, and one utilitarian who is the man that will do everything that nobody else will do.

We have referrals from the juvenile court, the Indiana Youth Authority, Marion County Department of Public Welfare, the Wayne County Department of Public Welfare, the Division of Social Services, the adolescent unit of the Central State Hospital, the public defender. Here is something that I do not know whether you have heard or not sir, but it is my understanding that if a guy is severely retarded or if a guy has a severe medical problem, like maybe diabetes that calls for a controlled diet and so forth, that it is difficult to take him to a boys school or wherever they would send him, so they send him to Central State Hospital to the adolescent unit which is a place for sort of mentally ill people.

But, we have the referrals from the adolescent unit of the Central State Hospital, the public defender in the State of Indiana, the private attorneys seeking to relieve injustice in handling of adolescents and the Indianapolis Human Rights Commission.

On clientele statistics since 1970, we received a total of 15 as residents, received a total of three as outpatient clients. We have returned to the institution only four and I think that is good for a record of 15 young fellows. Totaled to date we have 30 documented referrals from various agencies. To date we have five waiting to be considered, I think it is now eight. We had two residents receive major medical operations, two residents referred for in depth counseling by a psychiatrist, 15 received dental treatment, 15 received complete mental and medical examinations. Eight residents are enrolled in school. Two made a trip to Washington, D.C. in December and they were entertained by 25 young ladies from the girls school during the Christmas holidays.

Success is a factor of time. In our short existence we have achieved an 80-percent success rate. Three out of 15 youths handled since September of 1970 have failed by our standards and have had to be returned to the more traditional handling of lock-up and warehousing. We attribute this initial success to empathy and understanding rather than sympathy and rigid control. One of the guys really required more maximum security because of his behavior. And there are three or four questions in my mind where we have a boy of this kind who is fighting.

The uniqueness of the project lies in the attempt of creating a therapeutic family community in which all segments can participate in meaningful dialogue; thereby communicating on a level that develops mutual trust, mutual respect, support instead of destructive criticism, and No. 4, an appreciation of thoughtful perusal of alternatives to self and societal destruction through meaningful conflict.

The Western reader is well aware of Diogenes, who reputedly went through the streets of Athens, candle in hand, looking for a man. And the man called me and said, he is a man, and in my opinion if a man is a man he is an honest one and there is no question about that. The writer of the book of Jeremiah records a similar experience, but he whose task it was to search for a male, instructions were more explicit: "Run ye to and fro through the streets of Jerusalem, and see now, and know, and seek in the broad places thereof, if you can find a man." That is the King James version.

"One who does justice and seeks truth," that is the revised standard version.

Now, we, the residents at Dignity House, and those on the staff of Dignity House, are continuously working toward that goal, where they who are seeking men, may find them among us.

We purchased just the other day another house at 1244 North New Jersey, and we may find some there.

I am finished.

Senator BAYN. Thank you. I ask that your prepared statement and a pamphlet describing Dignity House, entitled, "Two Strikes, But Not Out," be inserted in the record at this point.

(The prepared statement of Rev. Luther C. Hicks follows):

#### PREPARED STATEMENT OF REVEREND LUTHER C. HICKS

My name is Luther C. Hicks. I am an ordained minister of the Indianapolis Northeast District of the United Methodist Church. I am also the Director of "Dignity Unlimited Inc." a non-profit organization, designed to give direct service to the disinherited within the inner-city. "Dignity Unlimited" is sponsored by the Metropolitan Mission Board of the United Methodist Church and the Indianapolis Anti-Defamation League B'nai B'rith. "Dignity House," a home for the treatment of juvenile delinquent boys, and one of the projects of Dignity Unlimited, also owes much of its reason for existence, not only to the United Methodist Church and the Indianapolis Anti-Defamation League, but to Mod Cities of Indianapolis, a federal project whose interest in our endeavor has made it possible for us to implement our program. "Dignity House" is also referred to as "Project Transition".

"Dignity House" is a demonstration project located in the northeast residential section of Indianapolis, merged into the neighborhood as all other family structures are. Unlike the other homes, "Dignity House" is designed to be one possible alternative to keeping the youthful offenders in the juvenile detention center or committing them to another state warehouse, known as the Boy's School. We think of our primary function as one of treatment. Our goal is to work with youngsters whose needs are between institutionalization and remain at home. In this area we feel that we are unique, for it removes us from the category of a halfway house or foster home per se.

We have attempted to make "Dignity House" as unstructured as we possibly can, and yet remain effective. Consequently there are no guards or bars, unwarranted punishment, and as little regimentation as possible. We just are providing:

- a. An environment in which a lad can develop responsibility for making decisions affecting his own life and those with whom he lives.
- b. An atmosphere geared to orient the lads to their responsibilities in community.

These goals are achieved through formal group discussions in which the lads themselves crystallize their problems and suggest solutions. With the guidance of the staff, and a trained and registered social worker the peer group defines and begins to think in terms of a different or more positive level of performance.

In order that our residents may experience a continuous confrontation with society and its demands, and in turn maintain a wholesome tie with the community, they must attend public school. For it is through the school that he has legitimate reason to be away from Dignity House continuously, he finds additional opportunities for cultural cultivation, his mobility increases, and new and sometimes more meaningful relationships are established.

Realizing that one of the main offenses is truancy, one of the staff has the specific duty of working with the lads on this level. He is referred to as our "education specialist".

He has established contact with the deans, counselors, and teachers in the schools our lads attend. There is a daily check kept on their attendance through channels. Any problem the lad encounters in school, the education specialist is notified and he in turn deals with it. It is a welcomed concept as we attempt to keep our lads in the ghetto schools with all his problems and theirs to contend with. Like AVIS we try harder.

Any visitor within our house for the first time is usually surprised by the physical structure of the building and its cleanliness. The house is a spacious old building, three stories high, and tailored to the specific needs of the residents at a renovating cost of approximately \$20,000.00. Its light and bright openness echoes a refrain of pride and freedom.

There is a big stove in the kitchen with a cook who knows the art of soul-food cooking. Leaving in one direction from the kitchen through the butler's pantry, one comes into a large dining room where the lads eat three meals of freshly prepared food a day, family style. Should any lad after the evening meal become hungry before bedtime, as young growing teen-age boys are wont to do, there's always the "proverbial snack".

Both color and black and white T.V. are available to him, as well as pool, ping-pong, boxing gloves, limiting visits inside or outside the house during week days. Our lads belong to organizations, such as the "Youth and Campus Life Movement" and other neighborhood clubs. Three of our lads are enrolled in their respective high school R.O.T.C. units. We encourage our lads to seek their own entertainment.

Just like the Navy, we have routine chores around the house to perform daily. All rugs or carpets are vacuumed daily except Sunday, toilets or washrooms maintained daily, etc. There is a washing machine and dryer that they may do their laundry.

When a resident is first admitted to Dignity, he goes with a counselor and picks out new clothes for himself. Usually he's like a jay-bird, ragged. Although money is tight, he manages to get fitted from inside out. As clothes are important to them, we try to keep them supplied with the basics, for we all pass through the "Caesar Higgins" stage.

From the time we arouse in the morning, 6:30 A.M., with hot breakfast at 7:15, until we sack-in at night, we try to plan and work and live and play together as a family. We are not by any means without error sometimes, we are acutely aware of our limitations, but we strive to find and maintain a quality of life that can be enjoyed by the lads. To treat them as "children of light" rather than "children of darkness," always with pleasant surroundings and introduction of new opportunities.

As a summation of all I have said here, let me call your attention to what I call a fact sheet concerning Project Transition, Dignity House.

Success is a factor of time. In our short existence we have achieved an 80% success rate, 3 out of 15 youths handled since September of 1970 have failed by our standards and have had to be returned to the more traditional handling of lock-up and warehousing. We attribute this initial success to empathy and understanding rather than sympathy and rigid control.

The uniqueness of the project lies in the attempt of creating a therapeutic family and community in which all segments can participate in meaningful dialogue; thereby communicating on a level that develops mutual trust, mutual respect, support instead of destructive criticism, and an appreciation of thoughtful perusal of alternatives to self and societal destruction through meaningless conflict.

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We, the residents and staff at "Dignity House" are continuously working towards that goal, where they who are seeking men, may find them among us.

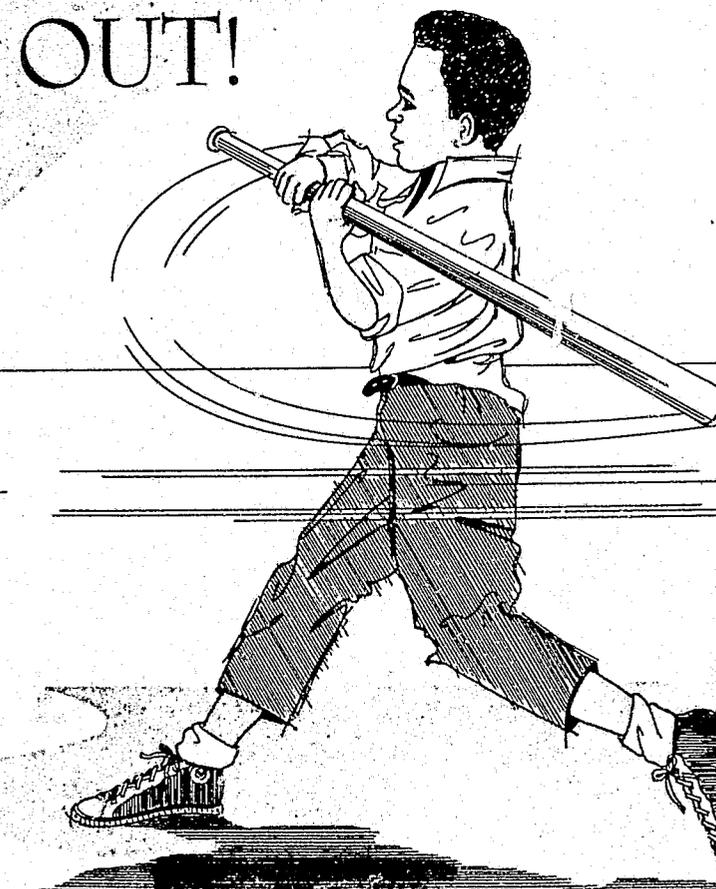
#### FACT SHEET—PROJECT TRANSITION

1. Official operation began August 1, 1970
2. Received first resident September 25, 1970
3. Ten (10) adults employed at a total cost of \$58,000.00 per year.
  - (A) Director, five counselors, one cook, fulltime.
  - (B) One consultant, two counselors, part-time.
4. Five volunteer workers (Three (3) females)
  - (A) One Psychologist
  - (B) Three (3) Tutors
  - (C) One Utilitarian
5. Referral Agencies
  - (A) Juvenile Court of Indianapolis
  - (B) Indiana Youth Authority
  - (C) Marion County Department of Public Welfare
  - (D) Wayne County Department of Public Welfare
  - (E) Division of Social Service (Indianapolis Public Schools)
  - (F) Adolescent Unit, Central State Hospital
  - (G) Public Defender, State
  - (H) Private Attorneys seeking to relieve injustice in handling of adolescent
6. Clientele Statistics since September 1970.
  - (A) Received total of fifteen as residents
  - (B) Received total of three as outpatient clients
  - (C) Returned to institution four
  - (D) Total to date of thirty documented referrals from various agencies
  - (E) To date five waiting to be considered
  - (F) Two residents received major medical operations
    - Two residents referred for depth counseling (Psychiatrist)
    - 15 received dental treatment
    - 15 received complete mental and medical examinations
    - Eight residents presently enrolled in school
  - (G) Two made trip to Washington D.C. in December
  - (H) Entertained twenty-five (25) inmates from Girls' School in Coed Project during Christmas Holidays.

EXHIBIT 7

# TWO STRIKES ... BUT NOT OUT!

A look at  
DIGNITY  
HOUSE  
of  
INDIANAPOLIS





The Rev. Luther C. Hicks, seated, supervises a staff of 10, including four full-time counselors, at Dignity House.

Working daily in the kitchen is part of the daily routine for teen-agers who are participants in Project Transition.

## Dignity Unlimited — Project

In one of his major addresses, the late President Kennedy alerted the American people to the fact that thousands of our nation's youth enter the world every year with one strike against them.

These are the children born into poverty and deprivation—among Blacks, Appalachians, and inner city slum-dwellers.

As might be expected some of these youngsters—lacking adequate parental guidance and often developing a "chip on the shoulder" attitude toward an indifferent society—find themselves in minor brushes with the law. Before they realize it, they have two strikes!

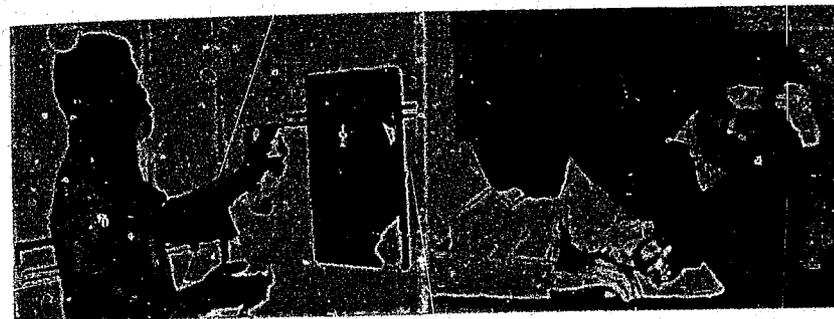
In a large city like Indianapolis, there are hundreds of such teen-agers—handicapped from the outset and badly "messed up" before they've even had a chance at responsible adulthood. Many people simply write them off with cruel stereotypes like "Once a jailbird, always a jailbird" or "You can't change a rotten apple!"

The Dignity Unlimited-Project Transition program, operating out of Dignity House at 1241 N. New Jersey, is built on the belief that these youngsters, despite their two strikes, can still play useful roles in the "game" of life. And Dignity House is proving it!

This inter-faith program, drawing support from private and federal sources, provides a home for young parolees and pre-delinquents. This extension of the parole system gives wayward youth a second chance to make successful adjustment to mature family and community living.

Under the guidance of a trained program director, assisted by professional staff and volunteers, Dignity House provides many self-help features. These include job placement, use of nearby public schools for those with academic potential, job training for those needing additional skills, public health services, and mental health guidance for those with emotional problems.

The home, a former girls' dormitory that has been refurbished into a clean, orderly facility with a home-like atmosphere, will accommodate about a dozen



The uncommonly clean look at Dignity House stems from a complete clean-up of the home every night after the meal.

Fully-trained tutors, some of them former high school teachers, help the youth with their studies each evening.

## A PROGRAM OF Transition: YOUTH REHABILITATION

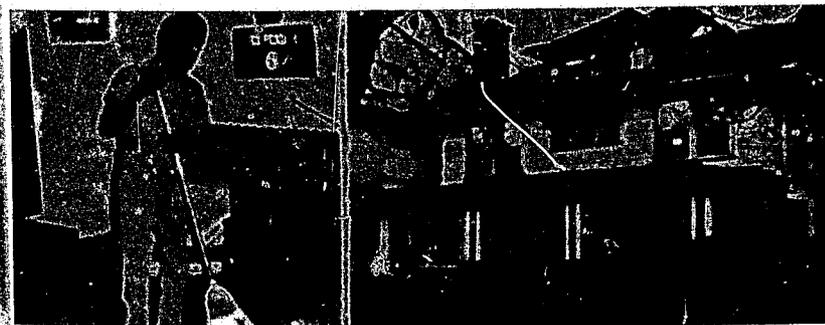
youth and four full-time counselors. The young men—most of them are between 14 and 18—remain several months at Dignity House until the courts and the professional staff are satisfied that they are ready to be reunited with families or to be placed in foster homes.

Dignity House is licensed by the state and works in close cooperation with the Indiana Department of Corrections, the State Parole Division, the Marion County Juvenile Court, the Marion County Probation Department, and other civic agencies.

In an area where there are ten times more youthful parolees than can be placed in foster homes, Dignity House is meeting a vital need. Its focus is preventive rather than remedial—to prevent that early encounter with the law from becoming a headlong plunge into the life of the hardened criminal.

That would be the crucial third strike—and, as everyone knows, it's tough to make a comeback when you're "out" so early in the "game."

*Support Dignity House . . .  
and keep 'em "at bat!"*



## What Others say:

"With the problem of delinquency reaching crisis proportions, we feel that programs such as yours are greatly needed in the community. Dignity House has provided a stable, wholesome, and stimulating environment for our parolees who are living there. Your project has served the community well and also has served as a tremendous resource for the Department of Correction. During the short time that your project has been in operation, we have seen these parolees who are living at the Dignity House make great strides toward the transition from delinquent to non-delinquent behavior. In just a short time we have seen tangible evidence as a result of your rehabilitative efforts."

JOSEPH D. ROMER  
Senior Parole Agent  
Indiana Department of Correction

"It is especially gratifying in learning of the existence of a licensed home like Dignity House whose program is aimed at helping youth to cope with their problems in the community. It is the kind of resource the Juvenile Court can use where a youth needs placement outside of his home and neighborhood but who does not need commitment to Boys' School."

WILLIAM THOMAS  
Casework Supervisor  
Juvenile Court of Marion County

"The Indianapolis Urban League strongly endorses the concept and design of Project Transition. We are delighted that this new service, which is filling a long unmet need in our community, is now a viable operation. . . . It is our earnest hope that such a program could be expanded and be made available to a larger number of young people in Indianapolis."

SAM H. JONES  
Executive Director  
Indianapolis Urban League, Inc.

Senator BAYH. I have been in Dignity House, and you describe it accurately. So far I have not been given the opportunity of eating some of that soul food you describe, but perhaps I can prevail on you later for that opportunity.

Perhaps, first of all, let us put this in perspective. What are the ages of the boys we are talking about, Reverend Hicks?

Mr. HICKS. The lads we have now are between the ages of 14 and 16.

Senator BAYH. They have had some confrontation with the law?

Mr. HICKS. Oh, yes.

Senator BAYH. Give us a range of perspective there. What type of confrontations?

Mr. HICKS. You name it; burglary, auto theft, truancy, first and second degree burglary. This is the biggest thing.

Senator BAYH. These are the lads that have had what we really would call the legal confrontation with the law, and not the domestic type of referrals that were described earlier by Mrs. Vanbrunt from the girls' school and Mr. Bennett from the boys' school?

Mr. HICKS. Correct; these boys have had two or three confrontations with the law.

Senator BAYH. You are dealing with the lads that have the most significant problems, I suppose. You have been operational since September of last year. Now, I am aware of what you have done prior to that time relative to mowing lawns in some of the shopping centers, and really making it possible for some of these young men for the first time in their lives to have a little green in their pockets which separates one man from another. Are you going to do this this spring and summer? Could you give us some information for the record as to what you are going to do along this line?

Reverend HICKS. Yes; we have incorporated that into the program, and we call it our feeder program.

Now, when these lads are out of school during the summer then we will be able to keep them busy by giving them some jobs to do, and we will put a little cake in their pockets. Before we were out in the neighborhood when we used to operate, and now when our lads get out of school, in June, we already have a contract with the Indianapolis Real Estate Board to cut their grass and clean up a lot of the rented houses and other little jobs. We are looking for jobs and we are paying our lads anywhere from \$1 to \$1.75 an hour, depending on their willingness to work and their willingness to perform, and we will give them some money, and the guys have to have some money, and at the end of the season they will have something in their pockets.

This does something else, too, though. Now, the counselors are required to work with them and hence they will relate to these fellows, not only in the households but out on the job where all of the barriers are down, and you get this real nitty gritty level of conversation and talk to one another and you show by example of yourself that you can and will work, and you are able to teach working habits, the dignity of labor. That is the whole idea.

Senator BAYH. What are the attitudes of the parents of these boys? Do they have parents?

Reverend HICKS. They have parents, but we really do not see them, and one of the problems we have with most of the lads at Dignity House, is that in lieu of being sent to boys' school or back home, they are sent to us because the court has determined that the home is not a wholesome atmosphere.

So, when these fellows are ready to leave we still have to find some place for them to go. They cannot go back home. They come out of very poor family backgrounds.

Senator BAYH. Are they assigned to you for a specific period of time or until you feel they are rehabilitated or what?

Reverend HICKS. Until they get better.

Senator BAYH. Until they get better? If you put them right back into a bad home environment, then how long would they stay better?

Reverend HICKS. Well, this is true, but, you know—what is a bad home environment? It has been my experience that sometimes working with the boy and the family, you see, you might relate something. And I might tell you about something I saw while working in Chicago. They had this little girl up before the bar and talking about how bad her mother was and all of this kind of stuff, and they were trying to find a foster home to send her to. And, nobody wanted her, and so they looked at her and they said, "Do you want to go home to your mama?" And she said, "Yes, because a bad mama is better than no mama."

Now, we allow these guys to go out on a pass every weekend, and do you know where they go? They go home. My feelings are that with the stability and guidance that they get at Dignity House, particularly the male figure, getting away from all of it, but particularly starting with a male figure, with someone who is interested and can relate to them, they are not afraid of them being so-called incorrigible. If we can make the parents see this, and make them work with the parents also they should go home, because this is their atmosphere; this is their world.

What we try to do is teach them values and the ability to think in a crisis situation; give them some alternatives so that they might be able to maneuver in whatever atmosphere they are in, sir, and they will be able to equate themselves in a way that is accountable and pleasing to all of those individuals.

Senator BAYH. What has been the community attitude since you first moved into the area to set up Dignity House?

Reverend HICKS. Well, the first thing they called it was "The Black Thing," and it is a monument to black creativity in that blacks are running it, and we are not biased. Mr. Bennett will tell you that. We have had two white lads through there, but the city will not send us any white boys. That is all right by me, because I would just as soon work with black boys anyway, and the attitude has been to "watch that Hicks down there," and I have been through a lot of that. They are saying, "All they are doing is making them criminals again," the same nonsensical, stupid attitudes that we have from the general public when they do not understand the dynamics of a progressive program.

Senator BAYH. Have you managed to overcome this negative attitude?

Reverend HICKS. Well, you see, we have overlooked a lot of things and that is why we bought the second house last week, and the image is coming along. They are beginning to see our guys. You know, for instance, you take some of the bigs that run the school system in Indianapolis, and they are beginning to realize that they need us for not only when we work with the boys here.

I would like to be able to keep the statistics on the countless number of boys that come by there for advice and for guidance, and for some

of the things that we do beyond having the juvenile delinquents that are assigned to us by the judicial system. There are many others that are not committed to us who come by for advice.

Senator BAYH. In the second house, Reverend Hicks, I hope you will be able to succeed. How many boys will you be able to take there?

Reverend HICKS. Ten.

Senator BAYH. So that will be a total of 25?

Reverend HICKS. I will have a total of 20 lads.

Senator BAYH. Twenty lads?

Reverend HICKS. Yes; according to our license from the department of public health we are only allowed 10 lads within the house. We do not want to strain the facilities; we do not want them to feel that we are warehousing them, you see. We want them to have plenty of room, and we want them to be comfortable, because we are talking about a home away from home. We do not want the old lady in a shoe kind of concept.

And if we spend all of the money that we spend, for instance, and we do not have anything to do with it, because, you know, the criminal justice man in the agency can give it to the State of Indiana, can give them \$25,000 or \$300,000 or \$40,000 for helicopters, and we ought to be able to pick up enough money to buy up enough houses to put throughout the State.

You see, we try to merge these houses with the neighborhoods and let them be just another house so that we can house these lads in our treatment centers.

Senator BAYH. Have the State and Federal agencies kept in touch with you? You have gotten LEAA funds, I suppose, through model cities. Has the State criminal justice agency sent people down to Dignity House, or are they aware of what is going on?

Reverend HICKS. No, they have not. They are beginning to hear about us now. Let me throw something through here to you which is a fact. The average black project in the average city in America, now that we have finished with all the building in the cities, if it is a forceful and a worthwhile project it is difficult to get funding anywhere. Only the projects that are not doing very much, those that do not have autonomy, those that are not very progressive can get the funding. And, we have been very ambivalent about our funding, anyway.

We feel that the best way we can continue to be effective is to do our own thing, and we have already put out the message that regardless of who you are, if you are coming to fund us you are going to have to accept us on our own terms, you see.

We also feel that no institution can ever become a viable and effective institution if it has to continue to depend upon funding from private sources over given amounts of time. Somehow this program must become an independent program finally, or otherwise we have not done a whole lot of hollering around about the funding.

Senator BAYH. Let me ask you: Do you get any help from the church on that?

Reverend HICKS. The United Methodist Church, in which I am ordained, God bless their hearts; they have been very helpful. They give me what I want, within reason.

Senator BAYH. Are you able to handle some of the much-discussed and written about traits that seem to exist in the large institutions such as homosexuality, abuse and brutality, and drug abuse? I know

that it is probably too early to have a real case history on that, but do you think you are on top of it when you deal with a small number of boys?

Reverend Hicks. Yes, sir. My experience is that in this atmosphere we have not had that problem and will not, anyway, because they are not in that close relation all of the time, and they are not in a setting where they see all of this sexual stuff on TV and they are locked away from it. When these lads get home from school in the evening they have free time and they are permitted to go into the neighborhood and have relationships. I served as a prison chaplain among felons, not among juveniles. As I talked to fellows who worked in the jobs at the various places I found that you do not have as much homosexuality in our kind of program as you would among those other fellows, anyway. The kind of program we run, we do not have the necessity of being worried about homosexual behavior because the guys go out. They can entertain company, and the girls can come in and see them, you see, and that makes a big difference.

Add to that, sir, that we are talking about values; we are talking about morals; we are talking about individual responsibilities. You see, all of this adds up to a behavior pattern.

Let me just say that suppose we caught a guy engaging in homosexual behavior with another guy. I guarantee you one thing that would not happen is that we would not take them both and tie them spread-eagle to the bed, or punish them, and if you have been in the Navy and been around the world, and have seen these cravings for sexual freedom—we have seen the pictures of boys in bed and all of this kind of stuff—you see, it will not blow our minds. We would not make an example of it, ostracize or criticize him if this is his pattern of behavior. We try to deal with the whole situation by trying to find out if it was by consent of the two, why they would have to go this way, what their desires are when it comes to interrelationships with other people, and then send them for the kind of proper treatment that would probably help them change their behavioral pattern.

Now, I think this is the only wholesome approach to it; I really do.

Senator BAYH. Well, I thank you very much for your patience and the contributions you have made. It has been very helpful.

I might say that this kind of facility as I know it, and as you have described it, if it were developed all over the country, it would be extremely beneficial. Our previous witnesses, Mr. Bennett and Mrs. VanBrunt, while I would not ask them specifically, but I see Mr. Bennett nodding his head in the affirmative, I am sure would agree that this is the kind of flexibility we need as far as juvenile treatment is concerned, if we are really going to get on top of this.

So, this is the type of treatment programs we need, and the time has come for accommodations that are more interrelated to the unique characteristics of the children, the boys and girls, that are sent there.

I know we can maintain our communications with one another, and I would be most anxious to know how your program develops. I would be willing to bet on its success.

Thank you, and thank all of you, and special thanks to those of you who have come from Indiana, in letting us have the benefit of your experiences.

Thank you very much.

(Whereupon, at 12:45 p.m. the hearing was recessed to reconvene May 5, 1971, at 10 a.m.)

## JUVENILE CONFINEMENT INSTITUTIONS AND CORRECTIONAL SYSTEMS

WEDNESDAY, MAY 5, 1971

U.S. SENATE,  
SUBCOMMITTEE TO INVESTIGATE  
JUVENILE DELINQUENCY OF THE  
COMMITTEE ON THE JUDICIARY,  
Washington, D.C.

The subcommittee (composed of Senators Bayh, Hart, Burdick, Kennedy, Byrd, Cook, Hruska, Fong, and Mathias) met, pursuant to recess, at 10:15 a.m., in room 318, Old Senate Office Building, Hon. Birch Bayh (chairman of the subcommittee) presiding.

Present: Senator Bayh.

Also present: Lawrence Speiser, staff director and chief counsel, William C. Mooney, investigator; John M. Rector, deputy chief counsel; Mathea Falco, deputy chief counsel; Peter Freivalds, research director; Mary K. Jolly, chief clerk; Nancy L. Smith, research assistant; Elizabeth Marten, secretary; Cheryl Wolf, assistant chief clerk; Stanley Ebner, Esq., assistant to Senator Hruska, and Ronald Meredith, Esq., legislative assistant to Senator Cook.

Senator BAYH. We will reconvene.

Our first witness this morning is Mr. Patrick Murphy of the Legal Aid Society in Chicago.

Mr. Murphy, we appreciate very much that you took the time to be with us and share your thoughts on the whole problem of juvenile delinquency, how it can be best treated, and what the institutional problem is, as you see it.

### STATEMENT OF PATRICK THOMAS MURPHY, CHIEF ATTORNEY OF THE JUVENILE OFFICE, LEGAL AID BUREAU OF CHICAGO

Mr. MURPHY. Thank you. My testimony has been prepared prior to coming here, and I believe the Senator has a copy of it.

If you wish to have me summarize any parts of it or make it briefer, I will—

Senator BAYH. Why don't you just pursue it as you see fit?

Normally, around these halls, if you summarize a 15-minute statement, it takes an hour, but if you want to extemporize, that will be fine with me.

Mr. MURPHY. Fine. Our offices, the Legal Aid offices, operate primarily on OEO funds. Until about a year ago, we represented juveniles charged with delinquent acts in Chicago along with the Public Defender's office which is supported by State funds. However, we began to see a certain pattern of children who had been institution-

alized or incarcerated who were having serious complaints of what we thought were of a constitutional nature concerning their commitment, and we began to become involved in the postconviction and post-institutionalization of minor children.

Though the court is constitutionally and legally bound to inform the child of his right to appeal in delinquency cases, it does not do that. In Illinois, though the Public Defender, by Illinois Supreme Court rule and very probably by U.S. Supreme Court case law, is supposed to represent the children on appeal and inform them of their rights, they do not do that for one reason or another.

When we initially became involved in all this postconviction problem, it was very similar to picking up a flat, damp rock and seeing a lot of worms and bugs under it. Your initial response is to put the rock down and walk away.

When we do get involved in a more quantitative and qualitative state, we discovered a bureaucratic quagmire within the various State agencies set up to aid children which deprived both children and the families of basic constitutional rights, not because of the viciousness of an individual employee but, primarily, through the smooth functioning of Parkinson's law. Furthermore, many of these same bureaucrats who often refer to themselves as child-care workers and social workers, when they have absolutely no professional training, do everything in the name of the best interests of the child, and, in fact, when attorneys attempt to become involved with their constitutional rights, they are often criticized because they are not thinking of what is in the best interest of the child. Very rapidly, you come to realize just as it is easier to kill in the name of God, apparently, also, it is easier to confine a child and perhaps hurt him in the name of his own best interests.

There are several categories of youngsters to whom we go and with whom we come in contact at the institutions and through the courts.

There are the youngsters who commit serious crimes which violate the criminal law of the State.

There are youngsters who are neglected by their parents because of their environmental or personal parental neglect.

There are many youngsters who are committed to the department of mental health because of alleged mental retardation or emotional illness.

There are youngsters who are truant from school and those who have run away from home, and very young children come in contact with the courts, because they have committed minimal delinquent acts; for instance, the 8-year-old child who steals candy from the local candy store.

The juvenile court operates most efficiently when it deals with a minor who has committed a serious offense, such as rape, murder, or armed robbery. Then, if the proof is beyond a reasonable doubt, the child is either placed on probation or sent to the so-called industrial school or training school which Gault and Urbasek pointed out are really nothing more than juvenile jails.

Once the child hits the institution he will be incarcerated for a longer or shorter period of time, depending upon the State and the family resources.

In Illinois, if a child has a family of moderate resources and with a fair amount of cohesion, his stay will not be lengthy and, normally, within 6 months the child would be released.

Theoretically, a child might be incarcerated until his 21st birthday and is a ward of the court until that time.

Of course, the theory is that the State as "parens patriae" is raising the children and preventing them from becoming criminals as adults.

Unfortunately, children who stay in these State industrial schools the greatest length of time are those whose families do not want them or whose families are not very cohesive.

So, that normally is the child who is truant from school, who runs away, the young child who is committed there because of some type of neglect and the parents cannot handle him, so the court looks for a technical crime that the child has committed and institutionalize him or incarcerate him.

That child will stay in that State industrial school much longer than the child who commits a delinquent act but whose family wants him.

So, if a child runs away from home and there is a conflict between the parents and the child, then that child might stay at an industrial school for 1, 2 or 3 years, whereas a child who committed a crime of arson, rape, he might not even go there. No 1, because of a cohesive family, and if he does it might be just for 6 months.

Senator BAYNE. Mr. Murphy, pardon me, if I interrupt you from time to time. I think it is pertinent that you find an inconsistency between the ways we treat delinquent and nondelinquent juvenile acts. Of course, we are aware of the fact that there is a great distinction between the way juveniles and adults are treated: An adult might receive a 10- or 30-day sentence, or perhaps a minor dollar fine, yet for similar conduct a juvenile is often committed for a number of years.

We hear of distinctions between how a juvenile or nonjuvenile or delinquents or nondelinquents are committed. We hear that the State is doing only what is best for the child. But how should we deal with the case of 15-year-old girl who is picked up for alleged curfew violation, and although her parents want her to remain in their home, is sentenced to a term at a State girl's school?

How can we do a better job of keeping the assignment more related to the child and his environment and the act in question?

Mr. MURPHY. Well, obviously, my own belief is that we do not just incarcerate a person for that type of act; it should be against the law. Maybe, we should have curfew laws, but certainly incarceration is no remedy. This is particularly true in the case where the parents want the child. There is obviously a problem where the parents do not want the child, and that could be worked out, but I do not see incarceration as ever an answer.

Senator BAYNE. Well, I asked you the question because you are with Legal Aid, an organization of men and women extremely aware of community attitudes. It is easy enough for us to sit here behind this table, and for me, as chairman of this subcommittee, to think in grandiose terms of what we need in the way of landmark legislation to deal with juvenile problems, such as the adoption by States of uniform juvenile codes, but, in the final analysis is it not true that the critical determination is the one made at the local level by the local judge, magistrate, or officer?

Several witnesses before this committee Monday testified that youngsters, age 10 through 13, were committed in El Paso, Tex., without a hearing. Now, how in the world do we get the necessary reform at that level?

Mr. MURPHY. Well, insofar as the El Paso situation was concerned, that was so patently unconstitutional—and I do not know whether a Legal Aid attorney was involved in that, but certainly I do not know of any Federal judge or, particularly, court of appeals that would not have put that out in 5 minutes.

Senator BAYH. The Legal Aid people did get them out on habeas corpus. Perhaps, they were a day late and a dollar short, but they did get them out.

Mr. MURPHY. Well, the only way, really, I think to keep on top of things at the local level is by having efficient and knowledgeable Legal Aid offices.

I do not think there are enough of them around.

Now, let me say this, about the legal services offices.

Quite often the lawyers who represent juveniles think of it as a different area of law than anything else, and it really is not. You are just dealing with a human being, with his problems, legal problems, problems with the law, and you treat them like anyone else. And, therefore, if a child runs away from home and is incarcerated, you appeal it, you appeal the constitutionality of the law. Even if you lose, if you do that enough, then pretty soon you are letting the higher courts know what is happening, and in that way you are letting the State legislatures know what is happening. Too often they do not know, for instance, that one-half of the population at the Illinois State Training School for Girls consists of runaways but only about 5 percent of the girls charged with crimes are charged with runaway, which means that most of the girls charged with crimes and convicted of crimes are given probation. When they run away from home, they are sent to jail. The legislators do not know this, because it is not brought to their attention. I think, if they knew about things like that, they would pretty soon pass a law saying that you cannot incarcerate a runaway girl. We have, in fact, appealed this in both the State and Federal courts, and since we have, though both cases are still pending, there is a bill down in Springfield, at the State legislature, asking that this law be repealed, the law allowing for the incarceration of runaways.

Senator BAYH. Are these officials acting unconstitutionally when they incarcerate young people as "incorrigible"? A term that defies meaningful description.

Mr. MURPHY. The Federal court in San Francisco has said that it is unconstitutional for lack of clearness on due process grounds, and I think more and more if we challenge that type of law this will be brought to people's attention. I can only operate as a lawyer. I really can't talk as a psychiatrist, a sociologist or a social worker. I know absolutely nothing about children; so, I have to approach this just as a lawyer; and as far as the law is concerned, I think it is bad, it is not clear. When we are talking about incorrigibles and runaways, it is not clearly enough defined, and I think it is violative of the 14th amendment and also possibly violative of the eighth amendment in that it is cruel and unusual punishment to take a runaway person and put them in jail for 2, 3 or 4 years, and I have seen this happen. In most States there are four agencies that have direct dealings with

children: Boards of education, departments of what we call in Illinois children and families services, departments of corrections, and the departments of mental health.

I would like to give a few case histories of children whom we have represented, if I may. Some are black, one is Appalachian, one is Puerto Rican, and one is from a poor white family. The only thing that each of these children have in common is that they all are desperately poor.

The 7 years that I have practiced law—and all of it being in the criminal field primarily—I have seen middle class and wealthy adults incarcerated for having committed crimes; however, I have never seen a middle class or wealthy child incarcerated or put in an institution for having committed a crime though I have seen them convicted of such crimes. The one exception is the case of the runaway adolescent girl; no matter what her background, if she does not get along with her parents, she will be put in an institution. In fact, it seems like the more middle class the child is and the more power the parent might have over the court, the more opportunities that girl might have of being incarcerated.

The first girl was nine back in September of 1966 when her mother admitted that she had neglected the child. Now, the mother had not really neglected the child. In fact, she really took pretty good care of her, she not having a husband in the home. The husband was incarcerated on a murder charge about 3 months before the child was born, and the mother did a pretty good job of trying to raise the child in a very poor ghetto in Chicago, and the girl is very brilliant, has an IQ of 150. But she had begun to have emotional problems, was truant from school, and got very much beyond the control of her mother.

Her mother went to local private and charitable organizations and talked with social workers, and she talked to these people, and finally the people said: "Listen, you cannot handle the girl anymore. Go to the juvenile court and admit that you have neglected her, and the State will take over the raising of the child and they will put her in a nice boarding school." I have seen this happen in Illinois and, in fact, it still is happening in Illinois.

The mother did admit neglect to the Children's Division, Cook County, Department of Public Aid which now is the State Department of Children and Family Services, and it was appointed her guardian by the court, and the girl was placed in an orphanage.

Three months later, the orphanage stated that they did not have the personnel to adequately care for the child, and the girl was then placed in an institution known as the Audy Home. The Audy Home is a maximum security institution for pretrial detention of delinquent children, and she was placed there in 1967, and there were over 400 delinquent, neglected, mentally retarded and emotionally disturbed children in a three-story brick building surrounded by a 12-foot high, 1-foot thick concrete wall. The children were mixed together. There were internal and external security features in the building, and the children were never allowed to go outside.

The superintendent of that institution has, for many years, stated that neglected, mentally retarded and emotionally disturbed children should not be mixed in with the delinquent children in that building who are awaiting trial.

At that time, the children in the building the longest—and we had one child who was there for 3 years—were there because they were neglected or were runaways or were emotionally disturbed. The actual children who were there because they were charged with delinquent acts were only there for a couple of months before they were tried, and they were tried, and they were put either on probation or sent to State institutions.

While Vicki was at the Audy Home, she had several psychiatric and psychological tests performed on her by a psychiatrist at the juvenile court, and the reports indicated that she should be placed in a residential treatment center, so she could reach her potential, and they did think she had an awful lot of potential. She stated that she should not be placed into a foster home, because she would just go on acting out like she did at home and might be even worse.

Despite this advice, she was placed in a foster home, and within a year she began to go through all of these emotional problems again, at which time she was placed back at the Audy Home, and she remained there for 8 months.

Now, while she was at the Audy Home the second time the psychologist said that she should not be placed in a State mental hospital. Her guardian, the State department of children and family services, did place her into a State medical institution, the Elgin State Hospital. In Illinois, as in other States but not all other States, a person who is an adult must have a legal hearing before he is placed into a mental institution. However, if the person is under the age of 18, then the parent or guardian can place him into a mental institution without a legal hearing.

So, all the guardian had to do was ask Elgin to take the girl, and they automatically did, and she was placed into the hospital.

I might parenthetically point out that about 2 years ago we filed a suit against the Audy Home which asked that neglected and dependent children be taken out of that institution. As a result of that, the chief judge of the juvenile court signed an order that no more delinquent or neglected children would be allowed in the Audy Home. Close to some 200 children were taken out in the next 3 months. We never sought to look into what happened to these 200 children that were taken out, which was really a mistake. After we became involved in Vicki's case, I went out to Elgin, and I happened to be going through a ward out there, and I noticed some of the names looked familiar. It turned out that of 23 boys—23 of the boys—in that ward had been in the Audy Home for neglect matters, and at the time we filed our suit they were not emotionally disturbed while they were at the Audy Home. It becomes difficult to understand how in 2 or 3 months they became automatically emotionally disturbed.

So, we pretty much then must infer that the State Department of Family Services just dumped the kids from Audy into the Elgin State Hospital, though, in fact, they were not mentally retarded or emotionally disturbed.

Senator BAYH. In your statement you refer to certain types of restraints that were used on children in these institutions. Would you give us an example or two?

Mr. MURPHY. For instance, in Vicki's case, she was a girl who had emotional problems. She is very brilliant, and she probably needs some

professional help. When she gets very high strung, she will attack people, and when she was 13 years of age she slapped a matron.

Now, I am merely a lawyer, and I am not a psychiatrist or psychologist. However, I would expect that when a person is in a State mental institution for what might be very serious emotional illnesses, they might now and then slap or attack a person of authority in that institution. Vicki was placed in restraint on many occasions for her behavior.

Senator BAYH. What kind of restraint? Is this the institution where boys and girls are tied spread-eagled on their beds for lengthy periods of time?

Mr. MURPHY. Restraints are soft ropes which are tied at the wrists and the ankles and are tied to the headposts and footposts of the bed, and, depending upon the niceness of the person who is tying the restraints, they can be either very loose or very tight. We had two boys that were in restraints for 77½ hours, being punished for homosexual acts, and they could not scratch or anything. They were given a bedpan to use, and they were allowed to shower once a day. I talked to one psychiatrist at Elgin State who said that this was really good therapy, but I have talked to others not in that hospital who say it is very bad.

I point out the case of Vicki, and she was restrained on one occasion for 28 days and on another occasion for 30 consecutive days; so, out of 3 months she was spread-eagled on her bed for 58 days of the 90-day period of time. Actually, she came out of it pretty good which shows she has some pretty good inner strengths.

At the end of that time, they really did not know what to do with her, so they prosecuted her for assault. After she had slapped the matron, they tied her to the bed for 30 consecutive days, and then they took her to the King County Juvenile Court, which is a county west of Chicago, and prosecuted her for assault and put her into the local juvenile or the State juvenile jail for girls. This is the State Training School for Girls in Geneva, Ill.

So, Vicki, in 1966, whose mother went to the State to admit neglect in an effort to help the girl, went from Audy Home for approximately 8 or 9 months—which is a maximum security jail for pretrial detention of youths—to a mental hospital for a year and 13 months, at which time she was restrained on eight or nine occasions; one time for 58 days in 3 months, and to the State prison for girls, through a series of acts over which she had absolutely no control, and she is only 14 now and still in this local prison.

I might point out that she was, while in the prison, put in solitary confinement on 11 separate occasions, and solitary confinement in the training school for girls is similar to other prisons in the State. It is a 6 by 8 room, with a toilet, a bed with a mattress on it but no pillow or blanket except at night. They give them a pillow and a blanket at night. The toilet is only flushed four times a day because there is no water in the toilet, at 9, 12, about 4 and 9 o'clock again at night it is flushed, and that is it. You shower three times a week, but you are given no reading material; you have nobody to talk to but the guard, you have no comb, and you are given a hospital-type gown thing to wear in the girls' school.

The boys' school is a little worse, actually.

We recently did file a civil-rights' suit in Vicki's behalf in the Federal Court against the three various State agencies who were her guardian.

As I pointed out earlier, in Illinois you can be incarcerated for running away. One girl we represented was a 15 year old whose parents had come from Yugoslavia. When she was a child, the mother had been divorced three times and she presently was dating another man whom she eventually married, and there was a great deal of conflict between the daughter and the mother about many things.

The daughter was very Americanized and the mother was not, and she could not understand some of the things the daughter was doing.

And, on several occasions, after arguments with the mother, the daughter stayed out overnight at a girlfriend's house, and on one occasion did not come back for 2 or 3 days.

The mother filed charges against the daughter charging that she would be a runaway, and, in fact, in the juvenile girls' court, the girl was found guilty, pled guilty by the public defender, who never apprised her of her rights, nor did the court apprise her of her rights on the theory that it was not a criminal act. Of course, if a man commits a murder we apprise him of all kinds of rights, and, despite the fact that a girl can be incarcerated or a boy can be incarcerated, we do not tell them about their rights.

So, at any rate, she was placed on probation, and she remained so for about a year when she began, again, to have conflicts with her mother. And once the probation officer told the girl, who was beginning to be truant from school, "If you do not go to school, we are going to put you in Geneva, the State prison for girls."

The girl then refused to go to school, and she went back to the court, and the public defender again pled her guilty for violating her probation, and she went to Geneva. At that time, she was 15 years and 11 months of age, and only 1 month later she would have been 16 and not required to attend school at all. In fact, when she went to Geneva for violating her probation and being truant from school, she was not sent to school there but she worked in the laundry when obviously the reason she was sent there was for being truant and violating probation. She was not sent to school.

Senator BAYH. Do they have educational facilities at Geneva?

Mr. MURPHY. They had educational facilities on the grounds, but they said that she probably did not have the motivation and high enough intelligence. She was in the average-intelligence group. They said she did not have the motivation, and so they had her working in the laundry.

Senator BAYH. Who makes that kind of determination?

Mr. MURPHY. The people at Geneva.

Now, she is placed in Geneva, and she is there for 4 or 5 months, and she is sent there for, essentially, conflicts with her mother along with truancy, but there is no one to work between mother and daughter to try to iron out these conflicts.

So, she was paroled within 6 months, primarily we believe because we filed a writ of corpus in the court on her behalf. They released her.

She went back to her mother, and she dated a black fellow, and the mother, again, had problems with the daughter, and the daughter

ran away again, this time for 2 weeks, and she was sent back to the department of corrections for violating her parole this time.

She remained there until about a month ago, which is a period of over a year that she was at the department of corrections.

Again, no one was helping her and her mother resolve their problems, and she is released now, and as far as I know, still no one has attempted to work out the problems between the child and the mother.

The psychiatrist who is employed by the juvenile court once told me that over 50 percent of the children who do run away from home do so because they are compelled to by emotional and physical cruelty on the part of their parents. He said that running away is quite often a healthy act, because to remain in such a disturbed atmosphere would surely make the child disturbed, himself or herself.

Senator BAYH. Fifty percent?

Mr. MURPHY. This is what the psychiatrist told me; yet, I have never heard, nor have I spoken to anyone who has ever heard, a judge or a probation officer or a social worker question a parent as to what the parent might have done to make a child run away from home. The entire procedure is directed at the youngster, and even then he or she is not asked why he or she ran away, but only warned about what will happen to her.

One time we represented a 15-year-old girl who came into our office bearing scars on her legs and back from beatings administered to her allegedly by her mother and father. The court kept her in the Audy Home for a week awaiting the disposition, but did absolutely nothing to the parents or even inquire of either parent if or why they had beaten the girl.

It is not only the adolescent who runs from his or her natural home who is incarcerated, but quite frequently the adolescent who acts out while a ward of the Department of Children and family services, because they are orphans or neglected and begin to act out. They become very adolescent, as most do, and they commit minor acts, and the State guardian, which is really a bureaucratic agency consisting of so-called social workers, comes to the court and says: "The child is acting out. We can no longer handle he or she," and the child then ends up in a State mental hospital or a State penal institution.

This term "acting out," I might point out, really covers a very broad spectrum of problems. When I first became involved in juvenile work, I remember that quite frequently social workers would come to court and they would say: "Johnny or Mary is sexually acting out, and we have to do something about it," at which time the judge and the social worker would look at each other and everybody would nod very approvingly and knowingly and do something with the child one way or the other.

This term seems to cover everything from holding hands to necrophilia, and I went up to a social worker one time, and I asked the social worker what this term means, acting out, and she said: "Mr. Murphy, these are things that you and I would not do." So, I really do not know what sexually acting out means.

Senator BAYH. What is the term you are using?

Mr. MURPHY. Acting out. The social worker will come to the court and say that Johnny or Mary is acting out, and we will have to do

something about the child, and the judge will say "That is right," and the child will be incarcerated, but no one ever says what it is, and, as I say, it can be anything from holding hands to necrophilia, as far as I am concerned, and it is something, I found out, that I would not do, apparently.

Senator BAYH. Holding hands?

Mr. MURPHY. Well, I can go through with a couple more stories, but I do not want to bore anybody. If you want me to I can just go on to my conclusion, or otherwise I will go through a couple more case histories.

Senator BAYH. Why don't you just summarize a couple quickly? And, certainly, you are not boring. We have a number of witnesses who have time problems, and so we would like to move right along, but I am not at all bored.

Mr. MURPHY. Let me just point out two quick things.

Another problem is the problem of the 8- or 9-year-old child who comes to the court for allegedly committing delinquent acts, and it might be sniffing glue. We had one boy who was 8 years of age who broke into a neighbor's house and took \$60, which is a bad act. I am not saying it is good, but he went to the local candy store and he bought candy and ice cream and goodies, and he was found in the dog house about 3 in the morning with all of these goodies and a very sick stomach. He was incarcerated for that act and spent 2½ years in the State prison for children, and then we got him out on habeas corpus, which frequently happens, especially with children from very disoriented families and families who cannot cope with the problem of raising children for one reason or another. Something should be done in this case, but I question very much if incarceration is ever an answer.

When this boy came out of St. Charles 2 years later at the age of 10, he was a very, very knowledgeable little boy about the ways of the world.

Another problem is that you have cases of children who commit crimes such as car theft, truancy, or running away from school. They are placed into a State institution, say a medium security, and they do something there, they act out, or they run away, and quite frequently they are then transferred to the maximum security prison which, in Illinois, is every bit as strict as the Illinois State Penitentiary for men. Worse than that is that they might stay there for a period of 2, 3, 4, or 5 years for crimes which, if they were convicted as adults, they would get no more than 6 months or a year.

We have had four or five boys in the maximum security institutions in Illinois, and once they get there they do act out, and frequently they end up in solitary confinement for 60 to 90 days. We have had boys stay in for 60 days, another 75, and another 40.

When one speaks of resolving the inequities in juvenile problems the response is always that much more money is needed and, unfortunately, rehabilitation of the juvenile is not one of the Nation's priorities. There is much more that can be done within the present system that would take no additional funds, or at the most a reallocation of the present juvenile resources.

Again, I would like to point out that I am not a social service type worker, I am merely a lawyer.

Initially, we must eliminate some of the more negative and medieval problems in the institutionalization and incarceration of juveniles. Courts and legislators must draw up extensive and strict regulations and guidelines for State agencies and institutions in their care of children.

I might point out that the Government, I believe, through HEW, does now give away funds to local juvenile programs, and you could attach some type of requirement stating that if you accept these funds you cannot do the following: Therefore, its regulations would prevent putting a child in solitary confinement or restraint for more than a few hours or a day, and that notification had to be given to parents, guardians, the court, and attorneys if any kids are placed in solitary confinement or restraints as is not the case. Such regulations could force the institutions to at least make solitary confinement and isolation a more livable place with books and other amenities. This would not resolve the basic problems, but at least when the children are incarcerated they are not being treated like animals.

Furthermore, if a hearing were required before a guardian could place a child in a mental institution and if, before placing a child in a mental institution, at the hearing the court would have to find out if the child is either a threat to himself or the community and hence needed that type of institutionalization, then the dumping problem could be eradicated.

Further, if those who conducted mental institutions or penal institutions for children were required to report every 6 months or a year to the juvenile court concerning the type of rehabilitation, therapy, and care that they were giving to each individual child, then, again, there would be some guidelines, and, furthermore, they would think twice about keeping a child in a place like that for 3, 4, 5, or 6 years when the child is really receiving no treatment and does not belong there.

Second, there should be a reallocation of resources in the juvenile areas. There seems to be little reason for six or seven State, city, and county agencies to do what is overlapping and redundant. I do not see why we should not have just one statewide agency to deal with children, with the problems of minor delinquent nature or neglect or emotionally disturbed. Once the child gets involved in more delinquent type behavior, we can segregate him out. But if a child is only a minor delinquent, I do not see why we need six or eight State agencies running around trying to do something for the child and doing absolutely nothing but dumping the child from one agency to another.

Third, though every so-called expert decries the dearth of facilities for children, the lack of properly trained personnel is a much more impressive problem.

For instance, many children now taken from their parents and placed in institutions could work out within their natural homes this problem if a properly trained social worker could devote a great deal of time to working with the family.

Now, if the family and the child begin to have problems, we say "Take the child away; put him someplace." One irony is that the child who is living within the home oftentimes has parents who lack the financial resources of really being able to get the thing done, and they admit neglect.

Then, once the child gets to a foster home, there is a caseworker who works with the foster family almost on a telephone call basis,

and the foster parents gets \$120 a month to care for the child; they get free clothes, free medical care; free education. If all of these resources went into helping the natural family along with a properly trained caseworker, a lot of these children would not be taken away in the beginning.

Senator BAYH. Let me interrupt you here. I am interested in your suggestions.

Senator Percy and I and others in the Senate have introduced a bill, along with several of our colleagues in the House, to establish a Juvenile Justice Institute. The Institute would train personnel, coordinate studies relevant to problems of delinquency, and inform persons in the field of these studies and their conclusions. We find that there is a difference of opinion as to the point at which a trained "professional" could have the maximum impact on a youth.

We had an impressive witness yesterday, a minister from Indianapolis who has established several group homes in the innercity area of Indianapolis to which 10 or 12 youth have been committed. These youths have been adjudicated delinquent but are sent to the group home rather than a State institution. His feeling is that professionals have their place, but somebody from the "community," in the broader sense of the word, is better able to relate to these lads than most individuals holding Ph. D.'s in social behavior or psychology.

Have you thought about the appropriate role of professionals in this area, and, if so, what have you concluded?

Mr. MURPHY. I think both are required. There is no question that the person from the community can relate better. However, just say as if I were standing trial for murder in the Cook County court, I would want the best lawyer possible to represent me and not merely somebody from a middle class, Irish-Catholic background, because I might be able to relate to that person better.

I think also when there are very serious emotional problems in the family that it takes a professional to take care of them. I cannot. If someone comes to me and says "We are having this problem," I just cannot say what to do with them. I can say: "All right, you know, if your kid is going to jail I will go and help you or if this happens I can help you,"—so far as that is concerned. But when you really get down to very deep-seated problems that many of these children and parents have or some of them have, and some of them are cultural, obviously, and not emotional, but sometimes the cultural problems cause emotional problems, and I believe in that case you need a profession person, you need a person who has not just a B.A. from a college, as many of us in the room have and cannot help these people. You need a professional person to help resolve their problem. But you need the person from the community, too; there is no question about that.

Senator BAYH. The problem is that too often we have neither.

Mr. MURPHY. That is correct.

Fourth, additional facilities are needed; however, these need not be large structures as we have talked of in the past. We have talked of the institution which the minister runs in Indiana, and I believe I have read about it. That is probably the type of facility we need more of.

Last, I believe that it is very important that the juvenile court get out of the business of trying to help emotionally disturbed, mentally

retarded and "runway" and neglected children. These problems are best served within the community with the help of both the community and the social work type people who are professionals and are well trained.

Judges are trained as lawyers, and they have no way to help a person who has this type of problem.

Thank you very much.

Senator BAYH. Thank you, Mr. Murphy. We appreciate your testimony, and having the benefit of your experiences in the field.

I do have several questions regarding your experiences in the juvenile field.

You refer to the lack of treatment afforded youngsters placed in mental institutions. When an emotionally disturbed child is placed in an institution—such as Elgin State Hospital—do they receive any therapeutic treatment?

Mr. MURPHY. Well, again, I am merely a lawyer, but in my opinion, in the opinion of psychiatrists that I have spoken to, they do not. For instance, in Illinois to be a psychiatrist and practice in the State institution you have to be a medical doctor and work there for 1 year, and, then, suddenly, the cloud descends upon you and you become a psychiatrist, only for purpose of practicing within that institution. You cannot practice elsewhere in the State.

Therefore, the people they work on there are the people who are too poor to send to private institutions, and they have to send them to the State hospital.

Also, among the clients I represent—and maybe I just have a very narrow cross section of clients—none of them have seen a psychiatrist at all, except to say "hello" to them, even these nonprofessionals we are referring to. The only type they come in contact with is the custodial type of people who take care of them.

From talking to social workers, we have recently filed a civil rights cause in court against Elgin, and several social workers have testified for us, and, in fact, left their jobs or will within the next 30 days under not a little amount of pressure from the State.

But, according to them, the children were receiving absolutely no therapy and no treatment.

Senator BAYH. What treatment and counseling is available for boys committed to the industrial training schools at St. Charles, Geneva, and Sheridan? Do these schools attempt to treat on an individual basis?

Mr. MURPHY. This is a myth in the juvenile field, and we say the only reason we can commit boys for a greater period of time than adults for having committed the same offense, for instance, a stolen automobile, is because we are really helping them. It is a myth. You talk to the so-called counselors—and we call the guards at the juvenile jail—I forgot the exact name we use—but we call the big guard the counselor, but they are guards, big guards, and that is all. When you talk to them they admit that there is nothing we can do but to make sure the children do not get too much in our way and do not cause too many riots and problems among the kids. That is about all we can do. Obviously, he cannot rehabilitate.

Four or five of the fellows we represent, the minors we represent, are at Sheridan, which is a very, very maximum-security-type school.

One is there for running away from home, and two are there for stealing automobiles, and one for truancy from school.

Just the night before I left, I had a mother call me and she had twin boys who have been in the institution for 3 years. One went there for stealing a \$2.50 jacket from a local department store which, if he were an adult, he would get only 4 or 6 months, and the other is there for truancy from school.

There is an institution that is, in every way, shape, and form equally as bad as the State penitentiary for men, if not worse.

You have almost, out of a population of 350, half that were committed by the criminal courts for very serious felonies, usually murder and things of this sort, and into that group are thrown these boys that I just mentioned. All of them are there, because, once they get put in the medium security institution, they start acting out, they run away. They are individuals who cannot make it in prison life. I happen to have a great amount of sympathy for them, because I really do not think that I could make it too well in prison life, either. Once they are placed in the maximum security institution, they spend a great amount of time to themselves, and, again, they cannot take it. The actual kids who are sent there for murder and rape can make it much better. They know what they are there for, and they know if they get out of line they can end up in the hole. The kids who are there for these mopy-type crimes do not know why they are there, and they step out of line more often, and these kids then get put into the hole for, as an example, 36 days, 40 days, consecutively, without reading material, and there is absolutely nothing to do in these little rooms.

Also—I forgot to add this—that those in the State penitentiary and penal institutions, they are given tranquilizing drugs to keep them in a state of constant stupor, and, though they say it is a prescription of the doctor, we found out in Elgin that it was not, that these shots were given by nonprofessional persons, and then the doctor would OK them. I do not know if that happens in the State penal institutions. We are trying to find out.

Senator BAYH. That was my next question.

Mr. MURPHY. We are in the middle of trying to discover what they are doing.

Senator BAYH. Are you aware of any studies of the success or failure of this type of treatment? What is the recidivism record of these young men?

Mr. MURPHY. I do not have records. I can only speak from personal experience, and that is that the juvenile court itself, as everyone knows, is just a revolving door. Insofar as the institutions, themselves, are concerned, you find that the children go back, and not only that, from having spent a great deal of time in criminal courts, both prosecuting and defending, you find that most of the people in there end up there after having gone through the juvenile court and the institutional quagmire prior to coming up to the big league in the criminal court. But that is just a personal observation.

Senator BAYH. We are aware of the nationwide recidivism problem. I thought perhaps you had some specific information, but of course I understand that it is most difficult to secure.

Thank you. You have been very kind. I hope we can continue to work together.

Mr. MURPHY. Thank you very much.

(The prepared statement of Mr. Patrick T. Murphy follows:)

PREPARED STATEMENT OF PATRICK T. MURPHY

The Juvenile Office of the Legal Aid Bureau of Chicago was originally staffed to represent delinquents in trials before the Juvenile Court of Cook County. However, after my associate, Mr. Lewis A. Wenzell, and myself came to the office about a year ago, we began primarily to represent children who had been committed to correctional institutions, state mental hospitals or other institutions. Initially, we represented only a few to attempt to determine what happens to a child once he is committed by the court. Though the court is constitutionally and legally bound to inform the child of his right to appeal in delinquency cases, it does not do that. Furthermore, the public defender of Cook County does not—and apparently refuses to—represent children on appeal or in the post-conviction state. What we saw when we initially plunged into the post-conviction arena was similar to picking up a flat, damp rock. There were millions of worms, bugs, spiders and other crawling things. One's initial response is to put the rock down and walk away.

When we did get involved in a more quantitative and qualitative state, we discovered a bureaucratic quagmire within the various state agencies set up to aid children which deprived both children and the families of basic constitutional rights, not because of the viciousness of an individual employee but, primarily, through the smooth functioning of *Parkinson's Law*. Furthermore, these bureaucrats who most often refer to themselves as child care workers or social workers when they have absolutely no professional training, do everything in the name of the best interests of the child. Just as it is easier to kill in the name of God, apparently, also, it is easier to cabin, crib and confine a child because "it is in his best interest."

There are several categories of youngsters who come in contact with State institutions through the courts:

1. There are youngsters who commit acts which violate the criminal law of the state.
2. There are youngsters who are neglected by their parents because of environmental or personal parental neglect.
3. There are youngsters who are committed to the Department of Mental Health because of alleged mental retardation or emotional illness.
4. There are youngsters who come in contact with Juvenile Courts either because they have run away from home or truanted from school.
5. There are very young children (normally between the ages of 7 and 12) who come in contact with the Juvenile Courts because they have committed either very minimal or pre-delinquent acts.

The Juvenile Court operates most efficiently when it deals with a minor who has committed a serious offense such as armed robbery, assault, rape, arson, etc. Then if the proof is beyond a reasonable doubt, the child, if not placed on probation will be sent to a so-called industrial school which, as *Gault* 387 U.S. 1, *Urbasek* 38 Ill. 2d 535, and other decisions have pointed out, is a juvenile jail. There, the child will be incarcerated for a greater or lesser period of time. Normally, in states with large populations, such as Illinois, if the child has a family of moderate resources and with a fair amount of cohesion, the stay is not lengthy. In Illinois, for instance, minors who commit crimes but whose families are fairly cohesive may be paroled within 4 to 6 months after commitment. Theoretically a child may be incarcerated until his 21st birthday and is a ward of the court until that time. The theory is that the state as *parens patriae* is raising the children and preventing them from becoming criminals as adults. Unfortunately, children who stay in these State "industrial schools" the greatest length of time are those whose families do not want them, or whose families are not very cohesive. Again, unfortunately, this seems to be most often the case when a runaway or very young pre-delinquent child is involved. The irony is an older child who commits a serious offense is paroled early while a younger child or runaway who commits either no offense or one in which the intent has to be questionable at best is often kept in these juvenile prisons for many years.

The Juvenile Court, for the past seventy years, has operated under a theory that as *parens patriae* the state has the authority and power to separate pre-delinquent and delinquent youths from their families in order that they might be rehabilitated and returned to society as contributing citizens. That the state has the power to punish and/or attempt to rehabilitate its deviant citizens whether adults or minors there can be no doubt. However, the Juvenile Court which exists to rehabilitate and save errant minors has been, as crime statistics and the tremendous amount of recidivism amongst juveniles demonstrate, a complete and disastrous failure.

Before proceeding, I should like to point out that I am an attorney, have received my training in law and have absolutely no knowledge concerning children and how to raise them properly. Aside from representing them in legal actions, my contact with children is minimal and I am neither a Pied Piper nor Dr. Spock. My sole expertise—which along with my sanity has been questioned by many other attorneys and judges—is in the law. Our office attempts to determine if a child's constitutional rights are being violated and, if they are, to either appeal or litigate the issue in the federal or state courts. If a child is being tied to his bed for many days, we feel that it is a violation of his Eighth Amendment right to be free from cruel and unusual punishment. I cannot say that it is bad therapy to tie a child to his bed for 58 days. I do say it is a violation of his Eighth Amendment rights. I leave it for the psychologist and psychiatrist to state the pluses and minuses of the therapeutic question.

At times children are placed in solitary confinement without a hearing, notice to his parents and attorney are in a situation which is reminiscent of the Spanish Inquisition. Again, we believe that this action might violate the child's Eighth Amendment rights as well as the Fourteenth Amendment rights to a hearing. Again, we do not pretend to know whether solitary confinement for 30 or 40 days is in the child's best interest or if he is being rehabilitated by it.

Many children are placed into mental institutions when they are not emotionally disturbed or mentally retarded. Further, they receive no hearing to determine whether or not that child should be placed into such an institution. This, I believe, violates the child's right to a hearing in accordance with the due process clause of the Fourteenth Amendment. We do not know whether placing a normal child into a mental institution merely because no alternative facilities exist is good or bad therapy. When children who are emotionally disturbed are placed into a mental institution but receive no therapy, no rehabilitation, do not see a psychiatrist and are severely punished for deviant behavior then we believe that the child's Eighth and Fourteenth Amendment rights might have been violated. We have no opinion or expertise as to whether no treatment in an incarcerating atmosphere is better than no treatment in a free atmosphere.

When a child who has been adjudicated neglected because of a poor home environment is placed in a maximum security penal institution for one or two years because the county and state do not have proper facilities, again, we believe his Eighth and Fourteenth Amendment rights have been violated; but we have no knowledge as to whether the aforesaid incarceration is good or bad for the child.

In most states there are four agencies having direct dealings with children. The first, the Board of Education, deals with all children but, once they exhibit deviant behavior, one or more of the other three agencies becomes involved. In Illinois, the Department of Children and Family Services is supposed to look after children who have been adjudicated neglected by their parents or because of environmental reasons, beyond the control of the parents. The Department of Corrections is the legal custodian of the children adjudicated delinquent by the various Juvenile Courts and committed to the Department of Corrections for alleged rehabilitation. The Department of Mental Health, in part, cares for juveniles (and adults) who because of mental retardation or emotional illness, are a threat to themselves or others in the community.

The following are histories of a few juveniles whom our office represents. Some are Black, one is Appalachian, one is Puerto Rican, one is from a very poor and disoriented White family. The only thing they have in common is the fact that they are all from desperately poor backgrounds. In the seven years that I have been practicing law, primarily in the criminal field, I have seen middle-class and some wealthy adults sentenced to prison. However, in three years of juvenile practice, I have never seen or heard of a child from a middle-class or wealthy background being committed, except in the case of runaway girls—one of whom I shall refer to shortly.

#### *Nondelinquent incarcerations*

Vicki was nine years old on 13 September 1966 when her mother admitted that she had neglected the child upon the advice of social workers who had previously indicated to the mother that if she admitted neglect, the State of Illinois, through one of its agencies—then, Children's Division and presently, called Children and Family Services—would find a boarding school placement for her daughter, Vicki, at the time, was a brilliant girl who received excellent grades in school but was beginning to "act out" and truant from school. Her mother had been separated from Vicki's father since prior to her birth. She worked, and the babysitters alleged that they could no longer control the girl.

The mother admitted neglect and Children's Division was made guardian, who placed her in an orphanage. Three months later, the orphanage stated that they did not have the facilities to maintain the child properly. Vicki was then placed in the Audy Home by her guardian state agency with the permission of the Juvenile Court of Cook County. The Audy Home is a maximum security institution for the pre-trial detention of delinquent children. At the time she was placed there in 1967, there were over 400 delinquent, neglected, mentally retarded and emotionally disturbed children in a small three-story, brick building surrounded by a 12 foot high one foot thick, concrete wall. The children were mixed together, and there are external and internal security features to the building. The superintendent of that institution has, for years, stated that neglected, mentally retarded and emotionally disturbed children should not be mixed in with the delinquent children in that building. Vicki remained at the Audy Home for eight months, and several psychiatric and psychological reports were prepared at that time. These reports indicated that she should be placed in a residential treatment center and not in a foster home. They indicated that with help Vicki, because of her brilliance and tenacity, would be a most welcome and contributing member of society. However, her guardian ultimately decided that the girl was emotionally disturbed and placed her into the Elgin State Hospital, against the advice of a Juvenile Court psychologist, an institution conducted by the Department of Mental Health.

In Illinois, as in other states, an adult must be accorded a legal hearing before he is involuntarily placed into a mental institution. However, a juvenile under the age of 18, is not entitled to a hearing prior to being placed in mental institutions. Furthermore, there is much to indicate that the Department of Mental Health will accept any child placed into their facilities by the Department of Children and Family Services because they realize that the agency is merely dumping the children inasmuch as there is no other place to put them. Therefore, many children who are not emotionally disturbed are placed into state mental hospitals. Furthermore, for those children who are emotionally disturbed and who could use rehabilitative treatment, they receive none at the state mental hospitals at least in part due to the overcrowding caused by this "dumping" process.

In 1969, we filed two suits in the federal and state courts alleging that the Audy Home was an unfit place for neglected children and asking that the courts force the state to take the children out of these facilities. We were mooted out of that suit when, two days after the Illinois Supreme Court agreed to hear it, the Chief Judge of the Juvenile Court signed an order stating that no more neglected children should be placed into the Audy Home. Throughout the next several months, over 120 such children were removed from the Audy Home. We never thought to ask where these children were being placed. However, recently, we filed a civil rights suit on behalf of two 13-year-old boys who were caught in consenting homosexual behavior in the Elgin State Hospital. These two boys were placed in restraints for 77½ consecutive hours as punishment for their conduct. Restraints are soft ropes used to tie the children by their hands and feet in a spread-eagled position to the headposts and footposts of their beds. When we went to the ward to investigate, we noticed that many names of the boys on that ward were familiar. We obtained a list and cross-checked it with the Superintendent of the Audy Home. All but two names on our list were in the Audy Home at the time that the Chief Judge signed his order removing neglected children from the Audy Home. Certainly, it was coincidental that these children were mentally retarded and could be easily placed at Elgin State Hospital.

While checking some data, we met another girl who had been at Audy when the previous suit was filed. She was intelligent and knew about the Illinois law which allows for a legal hearing within five days upon the demand of any patient. She had asked her social worker and her psychiatrist on several occa-

sions for such a hearing and, in fact, wrote to the Attorney General's office requesting such a hearing. Her social worker merely laughed and said that she was a minor and not entitled to a hearing. The Assistant Attorney General who received her letter wrote the Superintendent at Elgin and suggested that he grant her leave to file a petition so that a judge might rule whether she was entitled to such a hearing. The Superintendent did not.

Getting back to Vicki's case: while at Elgin State Hospital, she spoke to a psychiatrist on three occasions. On the first occasion, it was after she had spent a long period of time in restraints after slapping a guard, and the third time, he told her that he was going to prosecute her for assault for attacking another guard. There were no professional people on the ward with the exception of a nurse and a social worker. In this case, as in most cases, the person whom the Department of Mental Health call a social worker was a young girl who had a sincere interest in children but only a bachelor's degree.

While at Elgin, Vicki, as other inmates, received daily shots and pills of a drug administered to keep her and others in a state of acquiescence, apparently used primarily for the benefit of the staff, who are understaffed and overworked. She was in restraints on several occasions for disobeying rules and on one occasion, she slapped a matron and was placed in restraints for 28 consecutive days. She was allowed up, attacked another matron, and was placed in restraints for 30 consecutive days. After the second period of binding, she was brought to the Kane County (a county west of Chicago in which the state mental hospital is located) Juvenile Court and prosecuted for assault. At her trial both officials from the Department of Mental Health, as well as the Department of Children and Family Services participated. She was then placed with the Department of Corrections at Geneva, a security penal institution for delinquent girls euphemistically called a "training school." After being incarcerated, the girl was placed in a maximum security cottage and, over the next year, was placed in solitary confinement on nine different occasions for periods between two and six days.

Solitary confinement at Geneva differs little from solitary confinement in other juvenile institutions in the State of Illinois. At Geneva, it is a room of approximately 6 feet wide and 10 feet long with a bed attached to the wall. This bed usually has a thin mattress but no sheet or pillow case, except at night. There is a toilet in the room, but there is no water in the bowl and it is flushed only four times a day. There is an outside window and a window in a steel door looking out to the hallway. Food is sparse and served, usually cold, three times a day. The girls wear a hospital gown with no underwear or shoes. They are allowed to bathe three times a week and have no soap or comb in the room with them. There is one light bulb of very small wattage, and they cannot read.

Vicki has now been with the Department of Corrections for almost a year. Other girls who have committed much more serious crimes have come and gone in the meantime. However, her behavior continues to be angry and threatening; her mother is not in a position to take her back home; and her guardian, the Department of Children and Family Services, apparently, does not wish to assume the burden of attempting to place her in an institution which could aid her. Therefore, she remains in prison. Vicki has been a ward of the State of Illinois now for five years. Her I.Q. is very high. However, she has been pushed from pillar to post, from a maximum security institution for pre-trial detention of delinquent youth, to a mental institution, to a prison for teen-age juvenile girls only because her mother could not control her as a nine year old. Recently, we filed a half a million dollar civil rights suit on her behalf in the federal court in Chicago.

Nor is Vicki's case an isolated example, another 15-year-old girl was adjudicated a neglected child and spent over 13 consecutive months in the Audy Home. One reason that she spent such a long period in this maximum security institution was that her file had been lost between the Intake and Placement Departments of the Department of Children and Family Services. Thus, for six months the girl sat in the Audy Home while no one really knew what was becoming of her.

During litigation involving her, we read some confidential records of the Department of Children and Family Services and discovered that an Assistant Director of that Agency had suggested that the girl should be released from custody in the hopes that she would commit a delinquent act while outside the Audy Home for which she could be prosecuted and, hence, sent to Geneva (the institution run by the Department of Corrections). However, this was not necessary, because she attacked a male guard while at the Audy Home and was prosecuted for assault. The case never came to trial, because the girl suffered a nervous breakdown in the Audy Home and had to be transferred to a mental hospital.

#### *Incarceration for truancy and running away*

In Illinois, if one runs away from home, he or she may be adjudicated a minor in need of supervision. The punishment for this "civil" offense is probation. However, if one runs away from home again, it is considered a violation of that civil probation and, hence, a criminal offense, for which incarceration may follow. Our office presently is testing that law in both the State Supreme Court and Seventh Circuit Court of Appeals.

One girl whom we represented was a 15-year-old girl whose parents had come from Yugoslavia when she was a child. Her mother had been divorced three times and was presently dating another man whom she eventually married. Apparently, there was a great deal of conflict between the mother's new boyfriend, the mother and the daughter. The daughter, Eleanor, was Americanized while the mother was very Europeanized. On several occasions after protracted arguments with the mother and/or boyfriend, the girl left home and stayed with a girlfriend. This occurred four or five times and, eventually, the mother filed charges against the daughter in the Juvenile Court of Cook County. The girl was placed on probation. The probation officer, on several occasions, told the judge that Eleanor's problems stemmed from the cultural differences as well as resentment between the boyfriend and the daughter. However, when conflicts with her mother resumed, Eleanor truanted from school on several occasions. On one occasion, her probation officer told her that if the truancy continued, she would be incarcerated. Upon hearing this, the girl refused to go back to school and within two weeks the probation officer, with the mother's approval, asked that the judge incarcerate the girl—which he did. She was incarcerated for running away from home and truanting from school when she was 15 years 11 months and one week old. In three weeks she would have been 16 and not legally bound to attend school.

She was placed in Geneva, at which time our office represented her. Within four months she was paroled to her mother. However, in the meantime, no consultation occurred between the mother, daughter and any professional person to attempt to work out their problems. Hence, all the state did was to jail the girl for four months with the hopes that this punishment would somehow reform the situation at home. Within two weeks of her return home, Eleanor and her mother had a very bitter argument over, among other things, Eleanor's dating a black youth. She, again, left home, was eventually arrested and returned to Geneva.

When she was released from Geneva, she had been incarcerated for 11 months—a period of 5 to 6 months longer than a girl convicted of a crime normally would have been at that institution.

A psychiatrist employed by the Juvenile Court of Cook County told us that over 50% of the children who run away from home do so because they are compelled by emotional and physical cruelty on the part of the parents. He said that running away often is a healthy act because to remain in such an atmosphere would surely make the child emotionally disturbed. Yet, I have never heard, nor have I spoken to anyone, who has heard, a judge question a parent as to what that parent might have done to make a child run away from home. The entire inquiry by the court is to the youngster. Even then, the youngster is not asked why he or she ran away but only warned that if such act reoccurred, incarceration would follow. Once, a 15-year-old girl came to our office with her back and legs covered with scars from beatings administered to her, allegedly, by her father and mother. The court kept her in the Audy Home for a week awaiting the disposition but did absolutely nothing to the parents or even inquired of either parent if or why they had beaten the girl.

It is not only the adolescent who runs from his or her natural home who is incarcerated but, quite frequently, the adolescent who acts out while a ward of the Department of Children and Family Services. Parenthetically, I might add that "acting out" is a very broad conclusionary term employed by Juvenile Court personnel to cover a broad spectrum of problems. When I first became involved in Juvenile Court, I remember that, quite frequently, social workers would use the term that Johnny or Mary was sexually acting out, at which time everyone would look knowingly at each other and now their heads in disapproval. This term seems to cover everything from holding hands to necrophilia. Once, I asked a social worker what it meant. She blushed and said, "Mr. Murphy, these are things that you and I wouldn't do."

One girl whom we now represent on appeal before the Illinois Supreme Court became a ward of the Juvenile Court when her mother admitted neglect. In Illinois, no one is supposed to have neglected their children for financial reasons alone. However, Mrs. Brumson was on ADC, had many children and was very poor. Furthermore, she had no husband. Her daughter, Joan, was getting in a lot of trouble and not obeying her mother. Therefore, someone indicated to the mother that she should admit to neglect and the state would aid her child. Furthermore, the girl had become involved in truanting from school and fighting with other girls as well as shoplifting. She was prosecuted for the shoplifting charge, convicted and sent to Geneva. At this point, we entered the case and filed post-trial motions. The Court vacated the finding of delinquency and released her. Her guardian, the Department of Children and Family Services, kept trying to have her sent to Geneva stating that she belonged there. Ultimately, she was placed in a foster home by the Department of Children and Family Services, though we objected. It was our belief that the State's Attorney and the Department of Children and Family Services were placing the girl in a foster home, knowing from previous psychological and psychiatric testing, that the girl would run within a very short period of time. What the tests had indicated was that the girl needed a residential school type of atmosphere. Within a month she had run from the foster home, was prosecuted by the state and incarcerated in Geneva where she resides today.

#### *Incarceration of Delinquent Children*

Another problem is that of the very young boy or girl who commits what is technically a criminal offense. We have represented 7, 8 and 9-year-old boys charged with burglary, strong arm robbery and narcotics. Of course, if two little boys who are 8 years old jump on a third boy who is the same age and take a dime out of his pocket, it is technically strong arm robbery. Equally true, if an 8-year-old boy breaks into someone's house, it is a burglary. Furthermore, if an 8-year-old boy sniffs glue, it is a violation of the narcotic's laws. Yet, somehow it seems ludicrous to prosecute an 8-year-old child who is not quite 4 feet tall. If I were charged every time I had stolen a piece of lumber from the local railroad yard or crept into the factory near my home as I was growing up, I am certain that I would have a record three to four sheets long. In all fairness to the police, most of these very young children that are brought before the Juvenile Court on the aforesaid felony charges are not prosecuted until such time as the police have exhausted their patience toward them. Normally, the police would have arrested them on 5 or 6 occasions and released them to their parents before finally bringing them before the Juvenile Court. Some of the children are emotionally disturbed, but usually they come from very chaotic home backgrounds. It seems that when a youngster this young commits some of the aforesaid acts, normally one or both of the parents are alcoholics or emotionally disturbed. Furthermore, the children normally come from poor and chaotic neighborhoods. We represented two brothers on appeal who had pled guilty to burglary when they were 8 and 10 respectively. Both were undersized and looked as if they were 6 and 8. They were from the Uptown community in Chicago which primarily consists of recent newcomers from Appalachia.

Their conviction points another problem within the Juvenile Court framework. When an adult pleads guilty, he is advised very thoroughly by the judge as to the consequences of such a plea and upon the accepting of the plea, the judge must advise him of his right to appeal and of his right to a free appeal if that person is indigent. In this case, there is nowhere in the transcript of proceedings any indication that the children ever said a word. The Public Defender pled them guilty, and the father admitted that they were, in fact, guilty. The Judge scolded them for their guilt and eventually placed them with the Department of Corrections.

However, in the case of the younger one, the father followed a probation officer's advice and admitted neglect in order to have the child placed in a boarding school. The child was placed in the Audy Home for 6 months and Children's Division (now the Department of Children and Family Services) was appointed guardian. They could not find a boarding school. Therefore, he was placed in a foster home, which all agreed was wrong. He would have been better off at home. His father was a hard working, extremely conscientious man whom his children adored. He worked two jobs and spent the remaining time with his family. However, his wife, their mother, had a drinking problem and was not quite well emotionally. At the foster home which was one of the few excellent ones the child and another boy walked into a neighbor's house in the middle of one afternoon and saw \$60 sitting on a table. They took the money and went to

7 or 8 local stores buying candy, ice cream, cakes, cookies, pop, chocolate milk and other items that one would expect to find on the big rock candy mountain. The children were found by the police at 3:00 a.m. in a neighbor's doghouse with the several bags of (half eaten) goodies and, needless to say, two very sick stomachs. Both boys readily admitted their guilt. They were brought back to the Juvenile Court. At this point, the Department of Children and Family Services did not notify the father or our office. Their opinion was that the father had no rights since he had admitted neglect and they were now the guardians. Their further theory was they did not want me to represent their wards and, hence, the Public Defender was obtained who pled the child guilty.

Two boys in their mid teens whom we represented on appeal had been sentenced to the Department of Corrections. First, Elbert, had been adjudicated a neglected child when he was ten but, after spending some months in the Audy Home without being placed, he was returned home. At that time, various psychiatrists stated that he would become increasingly delinquent if allowed to live in his emotionally chaotic home atmosphere. Their prognostication proved to be correct. Ultimately, he was arrested for criminal trespass to a vehicle and sent to the Department of Corrections in 1969. He was placed in their institution at St. Charles which is a medium security institution. However, Elbert could not get along with the other inmates and did not obey orders. He was neither aggressive nor hostile but kept to himself and quietly disobeyed the orders of the guards. He ran away from the institution on two occasions. He was then placed at the Department of Corrections institution at Sheridan, Illinois which is a maximum security institution as confining and penal as any adult institution in the state. At that institution he continued to be uncooperative and, hence, spent many months in isolation in his own cell and many weeks in solitary confinement. Furthermore, each act of disobedience is a mark against him and extends his time within the Department of Corrections that much longer. He now has served over two years in penal institutions for a crime for which if he were convicted as an adult, he could not serve more than a year. Because of his continued hostility and lack of cooperation with the guards, he could remain at Sheridan until his 21st birthday. He is now 16.

There are several penal institutions for boys in Illinois. The institution at Sheridan is a maximum security one. There is little or no difference between that institution and the state penitentiary. There are cells (though there are closed rooms too), an extremely regimented routine and extensive use of solitary confinement. Furthermore, though the Department of Corrections personnel state Sheridan is only for those boys who commit very serious crimes, we happen to represent four boys who are now in that institution two for minimal crimes, such as the boy we just spoke of, one for truancy and one for disobeying his parents. All four of these boys have been in the Department of Corrections for approximately two years and in Sheridan for over a year. If one disobeys at one of the medium security institutions or runs away he will be sent to Sheridan. One boy we represented ran away from St. Charles (the medium security institution) two days after he was placed there. He returned home on December 23, spent Christmas with his family and turned himself into the police at 9:00 a.m. on December 26. When they returned him to St. Charles he spent three weeks in solitary confinement at which time they transferred him to Sheridan. At Sheridan he spent over 49 consecutive days in solitary confinement. Furthermore, as with other residents on the solitary confinement block, he was given drugs every day to keep him in a state of acquiescence. Another youth we represented—this one for disobeying his parents—was given six shots a day for 30 days while in solitary.

Ironically, three of the four clients we represent have now spent more time with the Department of Corrections than they would have if convicted of the same crime as adults. In fact, two of the boys could not have been incarcerated for their acts if they were adults. However, the state may institutionalize children for longer periods of time than adults because of the theory that they are rehabilitating the children and the institutionalization is in their best interest. Allegedly, the state is training the child to be a different man. The truth is that most boys placed with the Department of Corrections are incarcerated much as any adult incarcerated with that same agency. In fact, they do not have many of the constitutional safeguards. Not only do they have solitary confinement cells, but they have three cells known as "the holes." These are cells in which there is total darkness and only a mattress on the floor. Boys have been known to spend up to six months in this place.

## PROBLEMS

Therefore, in the State of Illinois, we have many agencies both public and private serving the juvenile and his family. There is the Juvenile Court, the Probation Department of the aforesaid court, the Department of Corrections, the penal institution, the parole officers serving the Department of Corrections, the Department of Mental Health, the Department of Children and Family Services, the Department of Human Resources and various private charities. However, the aforesaid agencies lack proper professional personnel. They have many people working with bachelors degrees, but these people are not prepared to deal with the complex emotional problems of children and their families. Furthermore, these agencies too often employ an inflexible approach. They tend to treat all runaways the same—as young people who runaway from home. They neglect to realize that some run from something very bad and some are merely spoiled children. They tend to treat all delinquents simply as children who have committed crimes regardless of age, facts of the crime, etc. Furthermore, they tend to treat all neglected children the same without realizing that some children are really neglected by their parents but most of these children are not neglected but have parents who cannot cope with an environmental and emotional situation temporary and must give up the children to the State. For instance, the Department of Children and Family Services is set up to help foster families deal with children. They give foster families approximately \$125.00 per month and free medical, clothing and educational allowances. Furthermore, a caseworker works with the foster family with any problems they might have with the child. If these same resources were directed toward the natural family, many of these natural families could take their children back without any state aid whatsoever.

## CONCLUSION

When one speaks of resolving the inequities in juvenile problems the response is always that much more money is required and, unfortunately, rehabilitation of the juveniles is not one of the nation's priorities. However, there is much that can be done within the present system that would take no additional funds or, at the most, a reallocation of the present juvenile resources.

Initially, we must eliminate some of the more negative and medieval problems in the institutionalization and incarceration of juveniles. Courts or legislators must draw up extensive and strict regulations and guidelines for state agencies and institutions in their care of children. Bureaucrats do have one saving grace. They tend to follow regulations and guidelines religiously. Therefore, if regulations would prevent putting a child in solitary confinement or restraints for more than a few hours or a day and/or if notification had to be given to parents, guardians, the Court and attorneys, if the regulations could force these institutions to make solitary confinement and isolation livable places with books, lighting and other amenities then some problems would be solved. Furthermore, if a hearing were required before a guardian could place a child into a mental institution and at that hearing a court would have to find that a child was either a threat to himself or the community and hence needed that type of institutionalization then the "dumping" problem could be eradicated. Further, if those who conducted mental institutions and/or penal institutions for children were required to report every six months or year to a Juvenile Court concerning the type of rehabilitation, therapy and care that they were giving to each individual child then, again, there would be some guidelines to assure that at least some type of care, however minimal would be given. Furthermore, we must eliminate incarceration of children under 12, runaways and truants.

Second, there should be a reallocation of resources in the juvenile area. There seems to be little reason for six or seven state, city and county agencies to do what is overlapping and redundant. Furthermore, most of these agencies do not become involved until after the child has exhibited overtly angry and/or emotionally disturbed behavior. Then the child becomes involved in the court and referred out to one of the various agencies. It seems much more logical that a very flexible approach to the problems of juvenile delinquency, deviancy and neglect could be accomplished within the Board of Education. If the educational bureaucracy could become more flexible and if teachers in the pre-school and lower primary grades were to combine the expertise of teaching and detecting emotional and family problems, then there would be no need for some of the

agencies that now exist. In other words, if we eradicated or drastically cut the Department of Children and Family Services and the Department of Human Resources in Illinois and Cook County and poured all those resources into the pre-school and lower primary grades we could increase the number of teachers. These teachers would be as much social workers as teachers. They would work with children and families. As they detected problems they might refer the children and/or the families to more professional counseling. However, this calls for tremendous flexibility and imagination of which the Chicago Board of Education seems totally incapable. The state agencies now employ a vertical approach to problems of youth. Mental Health attempts to more or less resolve emotional ones, corrections is to rehabilitate delinquents, Department of Children and Family Services is to play a general guardian role. However, the child's problems are horizontal with the neglect spawning emotional problems which in turn spawns poor grades and delinquency. It does seem logical for several agencies to be working each with one of the child's problems and all when it usually is too late—after the child comes in contact with court.

Third, though every so-called expert decries the dearth of facilities for children, the lack of properly trained personnel is much more of a pressing problem. For instance, many children now taken from their parents and placed into institutions could work out within their natural homes if a properly trained social worker could devote a great deal of time to working with the family. If properly trained personnel were continuing to work with the child and the family during the child's absence then the child could in all probability be integrated back into the family with the result that the expense upon the state, though great for a year, would be much less in the long run than it is now.

At the present time there are many workers in the child care and delinquency area. Most of these are called caseworkers or social workers, but, in fact, very few have professional degrees in social work. Unfortunately, many equate social workers with nice little old ladies in tennis shoes doing "good things" for the less fortunate. This is not the truth. Social workers are professionals trained to understand a person's problems and aid that person in overcoming them. Furthermore, if properly trained, they know where and how to obtain more professional (psychiatric or psychological) counseling. Two or three trained professionals working with 15 or 20 children in a rundown and dilapidated residential setting would seem to be much superior to 10 or 15 ill-trained workers working with 50 or 60 children in a brand new building.

Fourth, additional facilities are needed. However, these facilities should not be the large structures too often built in the past. Furthermore, they need not be small, elite, well carpeted, well run, well furnished buildings that many speak of now.

Fifth, it is very important that the Juvenile Court get out of the business of trying to help emotionally disturbed, mentally retarded, runaway pre-delinquent and neglected children. These problems are best served in the community either by the Board of Education, as indicated above, or by some type of community agency. Judges are trained in the law and really cannot help these children.

Thank you.

Senator BAYH. Our next witness is associated with the Duke University Center on Law and Poverty. He is accompanied by three university law students, Mr. Trip Sizemore, Phil Larson, and David Hough, and also Mr. George Manning, an attorney from High Point, N.C.

**STATEMENT OF GEORGE C. COCHRAN, DIRECTOR, CENTER ON LAW AND POVERTY, DUKE UNIVERSITY SCHOOL OF LAW, DURHAM, N.C.; ACCOMPANIED BY TRIP SIZEMORE, LAW STUDENT; PHIL LARSON, LAW STUDENT; DAVID HOUGH, ATTORNEY, DURHAM LEGAL AID CLINIC; AND GEORGE R. MANNING, ATTORNEY, HIGH POINT, N.C.**

Mr. COCHRAN. My name is George Cochran. I am Director of the Center on Law and Poverty which is an OEO-funded organization with the Duke University Law School. With me this morning are Mr.

David Hough, an attorney with the Durham Legal Aid Clinic; Mr. George Manning, an attorney from High Point, N.C.; Mr. Trip Sizemore, a third-year law student at Duke; and Mr. Phil Larson, also a third-year law student at Duke. The latter two gentlemen are also on the editorial staff of the *Duke Law Journal*.

In an experimental program two summers ago these four undertook a massive study of the juvenile corrections system for the State of North Carolina. With the cooperation of Commissioner Blaine M. Madison and working under the supervision of Prof. Francis N. Millett, Jr. they coupled extensive classroom discussion with visits to courts and institutions throughout the State. From an intellectual viewpoint, the most critical portion of their work revolved around periods of actual confinement in four separate training schools. A copy of their full report has been submitted to your committee counsel, Mr. Larry Speiser.

Momentum established by this group has been maintained. This past summer three other law students were placed in the graduate school for our juvenile offenders; the maximum-security institution for the State. Two were on death row while another mingled with the general population.

It is vitally important that committees such as yours be apprised of what is actually going on within juvenile systems throughout the country. It is just as important that law schools have this same knowledge if they are to develop a curriculum responsive to the realities and needs of modern society. As such, I look forward to this committee developing legislative proposals which will increase the potential for increased university involvement in this critical area.

(The prepared statement of George C. Cochran follows:)

PREPARED STATEMENT OF GEORGE C. COCHRAN

Mr. Chairman, members of the Committee. My name is George C. Cochran. I am Director of the Center on Law & Poverty at the Duke University School of Law. With me this morning are Mr. David Hough, an attorney with the Durham Legal Aid Clinic; Mr. George Manning, an attorney in private practice in High Point, N.C.; Mr. Trip Sizemore, a third year law student at Duke; and Mr. Phil Larson, also a third year law student at Duke. The latter two gentlemen are also on the editorial staff of the *Duke Law Journal*.

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The first witness will be Mr. Trip Sizemore.

Mr. SIZEMORE. Mr. Chairman, members of the committee. I would like to begin with this statement: For the adult penal system to be ef-

fective, there must be a true, humane and serious attempt to reach the young people we call juvenile delinquents. Although no statistics have been compiled, we have every reason to believe that the adult system is the primary beneficiary of children passing through our juvenile homes.

A recent book by Howard James entitled "Children in Trouble" documents the low development of corrections in the juvenile area. Compared to many States, North Carolina's system is quite advanced. Even against this background, however, we find it woefully inadequate and sometimes dangerous.

Senator BAYH. The juvenile penal system?

Mr. SIZEMORE. Yes.

We were told again and again that the aim of the system is rehabilitation and therefore society relaxes the guarantees of due process for juveniles. Kent and Gault belie this conclusion. We, too, conclude that the training schools are not fulfilling their rehabilitation role. Thus, this message must be delivered: The kind of people generally in contact with the boys and girls, the lack of imagination in many programs and the disciplinary atmosphere of the schools do not help the young offenders. In my testimony, I want to review the forms of punishment we saw at several of the schools, assess their effectiveness and introduce you through personal vignettes, subjectively rendered, to some of the personnel of the training school I visited. Since the investigation occurred over a year and a half ago, the interim period may have been time for change, although we seriously doubt that such change has been accomplished.

The facilities in the training school concern themselves primarily with custody and control. The harshest form of punishment involves being placed in solitary confinement in the quiet room or, as the boys and staff call it, the jug. The debilitating effect of isolation upon an adult has been documented. I leave you to conclude the effect on a child. If a child attempts to run away, is caught smoking, is acting out in a class, or is involved in related offenses, he is placed in the jug. The jug itself consists of a small room in which a slab of rock serves as a bed. An offender must strip down to his underwear. He may only read the Bible; he has only two meals a day. At 5 o'clock in the evening he is given a mattress on which to sleep; at 6 o'clock the next morning the mattress is removed and the bare rock is all the boy has to rest on.

The central office has issued rules for the implementation of quiet room procedure. Each boy must be checked by a doctor within a few hours of confinement. This rule is seldom followed. Another rule limits a stay in the quiet room to 7 consecutive days. To circumvent this regulation a boy is briefly removed from the jug on the seventh day and returned immediately for another 7 consecutive days. Many of the boys we have talked to spent an average of 10 days for a single offense. One particular boy claimed that he had spent 21 days in the jug.

Senator BAYH. Are these practices continuing today?

Mr. SIZEMORE. As far as we know, it is still going on, but we did have a conference with the juvenile board of corrections a couple of months ago, and one of the people who was there, informally pulled me aside. I had expressed my chagrin that our communication did

not appear to be getting through, but he said that at least as far as solitary confinement there does appear to be a move toward clearing out some of these instances that I am reporting. What the extent of that is, I have no idea. I do not believe that in the training school that I visited and on which I will report later, the facilities have been improved, or modernized, or any of that sort of thing. I think they are still in the same condition. Whether the commitment procedures have been changed, I am not really aware.

The very existence of the jug reflects the lack of imagination, the lack of true compassion, and the absence of sophisticated understanding of youths. The official theory that claims that the quiet room provides a period of meditation for a boy who has done wrong is a cruel and senseless rationalization. Solitary confinement behind a locked door is barbarian in itself, but to add other elements such as only two meals, only the Bible, only a slab of rock to sit on during the day makes confinement a bloodless torture.

I remember in particular, of course, the facility I visited for a week. Housed in the bowels of cottage 17 there is the maximum security section referred to by the boys as the jail and by the administration as the quiet area. These cells are dungeons. Locked behind a big steel door, five cells lead off a short hallway. The doors on the cells are metal with little observation windows in them. Inside, the walls and floor are stark concrete. A hopelessly foul mattress is crumpled on the floor and only feather pillows without cases rest indifferently upon them. Cover, when present, is an old army blanket, mildewed and threadbare. It is difficult to say which season would be the most comfortable in these places for in the summer they are both hot and damp and in winter they must be frigid. Outside each door is a white paper with the prisoner's name and reason for committal. When visited, there were six inmates all committed for running away. One had been there for 5 days, the others for from 2 to 4 days. The process is a much smaller but infinitely more inhuman replica of the removal surgery in which society indulges to place the boy in Jackson Training School initially. Reportedly there are funds already allocated for renovation of all cottage 17 including the cells. It must begin immediately, if cells must be there.

A less severe form of punishment is "restriction." During this time, a student may not leave the campus, receive visitors, buy candies at the canteen, or be a member of the Boy Scouts. Usually, when a boy "runs" he receives time in the "jug" and is given 4 months of "restriction."

Senator BAYH. How old are these lads?

Mr. SIZEMORE. Well, they varied in age among the training schools which we visited, but at the Jackson school, the one I am discussing right now, they were from 10 to 15.

Senator BAYH. Ten to fifteen?

Mr. SIZEMORE. I should also add that one of training schools is from 8 to 10 or 8 to 12.

Senator BAYH. Is someone going to discuss treatment of 8- to 12-year-olds?

Mr. SIZEMORE. Not specifically.

Most of the things I am saying apply to all of the ones that I visited.

Senator BAYH. Your prepared statement will appear in the record. Permit me, if I may, to interrupt you with questions.

Under what circumstances is a youth, age 10, committed to an institution? Are these children treated differently than a 16-year-old? Are they permitted to associate with older youths?

Mr. SIZEMORE. Well, in North Carolina, they used to be commingled in all of the training schools. Now, they do have a separate facility from 8 to 10 and from 10 to 15.

Senator BAYH. They have separate facilities for the 8- to 10-year-olds?

Mr. SIZEMORE. Yes, sir.

Senator BAYH. Are 8-year-olds required to sleep on "hard-rock" beds?

Mr. SIZEMORE. Yes, sir. Without a doubt, they are also put in solitary confinement under the same conditions.

Senator BAYH. Are educational facilities available for these youths? Are these children assigned to laundry duty as Mr. Murphy reports is the case in some Illinois institutions?

Mr. SIZEMORE. In our experience, there are educational facilities at every one of the schools, and the day is usually divided between something on the order of, say, working on a bricklaying job, working on a farm, and the other half day is in going to school, regular school. Mr. Hough will discuss that.

Corporal punishment in any form has been strictly prohibited at all of the training schools in North Carolina. Officially, therefore, no such punishment exists; unofficially, I believe that the boys are spanked, cuffed, paddled, and strapped. Because of the informal and illegal nature of this corporal punishment, we found it difficult to document the occurrence of these offenses. But we did interview some counselors who readily admitted using a paddle on some of their boys. We also saw a paddle made from half-inch pine. The students themselves cited examples, usually in dramatic terms, of their being beaten or thrown around.

Corporal punishment in itself need not be brutal. If the punishment takes place under the conditions similar to a father-son relationship and if the punishment is physical but mild, then such punitive measures may not be cruel. But as was pointed out by Warren Ellis, former State director of cottage life, the line between fatherly punishment and pure brutality is so difficult to place that it is best to eliminate corporal punishment completely. It must be clearly stated, however, despite official regulations, that corporal punishment has not been eliminated.

Another form of punishment is the extension of an offender's indeterminate sentence. A student can have months added to his confinement at the school. Runaways, for example, receive 3 extra months which, with good behavior, can be reduced to a minimum of 1 extra month. The students deeply dislike staying at a school for any longer than they must.

Summarizing, I believe the discipline system of many schools reflects a philosophy that views the boys and their families uncharitably and regards the school itself as beyond reproach. Personnel readily point out that the boys are at a training school because of bad home lives and sorry families. They are there, it is said, for being incorrigible.

ble, runaways from home, petty thieves, truants, acting-out students, fighters, and so forth, as a direct result of the horrible conditions at home and within the family. The ironic aspect of this view is that if a boy misbehaves at home, the family is to blame, but if he misbehaves at a training school, the boy is to blame. The same staff people, who say "I wish we could get at the parents because they are the real problem," fail to see how they themselves are no different from the parents they want to correct. The board of juvenile corrections has assured us that much of the quiet-room procedure has been revamped and physical abuse is at a minimum but an independent investigation by a State newspaper a few months ago substantiates all the conditions we have just reported. This is more responsive to the question you asked.

Senator BAYH. Which newspaper conducted the investigation?

Mr. SIZEMORE. The Raleigh News and Observer, the paper in the State capital, and there was also one in Fayetteville, N.C.

Senator BAYH. You raise an interesting point. I agree that there is an apparent inconsistency between blaming the boys on the one hand and blaming the parents on the other. I wonder, however, if this type of institutionalization is not also a culprit?

If a counselor or a guard is responsible for 100 or 150 boys, is it physically possible to meaningfully treat the unique problems of each child?

Mr. SIZEMORE. No, sir; I would say not. I think that is a good point. That the very setup, the very cramped nature and lack of personnel contributes to creating merely a control situation.

Senator BAYH. Have you weighed the merits of treating an emotionally disturbed child in his community rather than incarcerating him in a mass-custody institution? This difference in philosophical approach seems to be one of our significant problems.

Mr. SIZEMORE. Yes; we have. At the end of the report, when Mr. Larson speaks, he will recommend that we avoid the institutional process altogether, which I think is exactly your point.

Senator BAYH. Fine.

Mr. SIZEMORE. Turning from disciplinary measures, a negative form of control, to counseling, a potentially positive form of control, we find a similarly disturbing situation. Naturally, the child's frequent isolation from his family prohibits whatever supporting influence the family might have provided. In such a system, the importance and influence of the counseling staff is greatly magnified. Regrettably, except in two limited instances, no psychiatric help is available in any of the training schools.

Senator BAYH. None at all?

Mr. SIZEMORE. That is right. This is in-resident psychiatric help. There were two training schools that had an in-resident psychiatric counselor, and one I visited had one that came in for a week just to look the situation over, and some of the children do go through a diagnostic center in the western part of the State.

Senator BAYH. Is the diagnostic center test administered before a boy is committed?

Mr. SIZEMORE. Well, it can be. Although, if there is a severe problem that they detect at that time, the boy can be sent to Swannanoa, which is the western diagnostic center and a very fine facility.

Senator BAYH. Please continue.

Mr. SIZEMORE. Attributable to the lack of funds, this absence of psychiatric counseling forces the social workers to assume even heavier burdens and frequently results in the arbitrary mingling of severely disturbed children with children displaying only minor behavioral problems. The undesirable effect of this mingling upon both groups of students should be clear: The children with only minor problems are subjected to a highly disruptive influence; the severely disturbed children—generally, the source of great disruption within the group—are often ostracized or subjected to physical or emotional abuse by their peers and repressed by supervisory authorities.

The role of the social workers, the primary existing device for behavioral counseling, is best demonstrated by a discussion of the two individual social workers whom one of us met during our stay at the training schools. Both were extremely capable and interested in their work. However, their talent and enthusiasm were nearly inundated by the unending flood of paperwork which they had to complete and the onerous caseload which they were forced to shoulder. While the caseworker usually had a caseload of about 120 students, one of them indicated that she could effectively counsel only about one-fourth that number. With the exception of the limited contact which the social worker has with each student in connection with the preparation of periodic reports, the worker can see the students only on a catch-as-catch-can basis; her attention is necessarily confined only to those students who cause trouble or who are bold enough to venture into the social worker's office on their own.

Since the social worker's efforts are so restricted, the students have little opportunity for discussion with a trained counselor. Thus, the counseling burden is ultimately delegated one rung lower to the cottage parents, the relatively untrained, day-to-day supervisors of the students.

A biennial report from Jackson Training School states:

In our setting the cottage staff is relied upon to do most of the formal counseling with our students. Subsequently, there is set aside time in the cottage life programs for individual and group counseling efforts. Through this service the students are provided adult guidance in working through daily problems and crisis situations as well as support in bringing about desired personality change to aid the student in living a successful life in the future.

This language hardly reflects the true situation. The typical cottage parent is ill prepared educationally to offer counseling if he were willing to do so. The tragedy is that only about four out of the 47 cottage parents at that school felt the desire to listen to a boy's problem and discuss it with him in a nondefensive way. Most were unapproachable for any type of intimate conversation. They were abrupt, overly authoritative, and sometimes cruel. Debatement and reprimand were the stock responses when a problem was voiced.

Special mention should be made of what I term the "established cottage parent." Generally, they were the ones who have been at Jackson several years, even more than a decade. Many are retired mill-workers or policemen, they have come with their wives to conveniently and gainfully support themselves in retirement. Afraid of increasing their workload, they fight the slightest variation from tradition. A newcomer on the staff can quickly join this group if he accepts their philosophy. If not, he is talked about, jeered at, and ostracized. Some

few are hearty enough to withstand the castigation and attempt experiments but those most creative either leave or accept the inevitable.

An example of their technique is reflected in dealing with four runaways. The whole cottage was assembled in the basement where the lockers and showers are; everyone sitting in rows on wooden benches facing the counselor. He was sitting on a table against the wall, head low and eyes looking out from just beneath his lids. He was a short, bull-like man age 50 to 55. Formerly a preacher, he said he had come to Jackson to take a more active part in helping young people. To begin the session he placed the four runaways against the lockers, spacing them about 2 feet apart, and began a relentless assault all very quietly:

Do you know me? Do you know how I run this cottage? You've caused trouble here. And you always do it when I am not here. When I am here we have a good machine. When you do right, I treat you right, son. How did you get mixed up in this? See what your friend Jerry did for you. Got you three more months. He's a good friend, isn't he? He'll look after you won't he? We don't have this kind of trouble in this cottage. We've got the best machine on campus—the Director just complimented us the other day on our good behavior and then look at what happens. Why don't you run when I'm here? Look at me, son, I want an answer.

One by one he had the boys sit down until the leader was left. Then he asked the whole cottage who usually caused trouble and gave the cottage a bad name. The whole cottage dutifully replied "Jerry."

Son, you are a troublemaker. You don't like anything, you don't cooperate and now you've gotten these others to run with you. You are a thief and a liar. You are criminal, and we can't have you in this cottage. You are going to jail some day because you are a criminal and won't change. Look up here, boy. All I got is my voice to use on you but you know what I am saying when I'm talking to you. Now, you other boys, tell Jerry you are through with him. No more friendship and tell him why.

The other boys told Jerry they no longer wanted to talk to him because he always got them into trouble. Then, Jerry had to tell them that because he was such a rascal and always led them into trouble that he would no longer be their friend. He was then turned to the corner to stand for a half hour.

Another one of the boys, a newcomer, whose clothes had been stolen to start the whole incident, apparently said something about the counselor to one of the staff. He was also placed against the lockers and told that he was a psychopathic liar and weak and that the counselor didn't want him in the cottage in the first place. I later read the case history on this boy and he was classified as schizophrenic with definite psychopathic lying tendencies. I also learned that the counselor had been informed about him by a vocational rehabilitation counselor who was working for his transfer to Swannanoa. Within earshot of the boy, the counselor was telling me that he was sick and disrupted the cottage. "I have told them not to send me boys like this. They ruin my cottage." This counselor is absolutely correct on this point. He is ill-equipped to handle a child as disturbed as this one was, and his frustration leads him not to understanding and restraint but to impatience and abuse.

Earlier, I referred to a report from the director of Jackson Training School to Blaine Madison with which I took issue. I think it appropriate to conclude my testimony with another paragraph from

report to Mr. Madison, since we feel that—to put it politely—a good deal of gloss covers our juvenile system at every level:

The practical experiences gained in the various phases of this department can be very beneficial to the student in his future employment or can be useful in home mechanics. Several projects have been completed \* \* \* including maintenance and repair facilities for the purpose of physical attractiveness and operational efficiency. Our motto: "Come rain, shine, or snow, we are always on the go" seems to still dominate our department.

#### Concluding:

To Mr. Blaine M. Madison, Commissioner of Juvenile Corrections, we wish to express our profound gratitude for your wisdom, dedication, and guidance directing the program of mending and molding the young lives of children submitted to our care.

Thank you.

Senator BAYH. Thank you very much. Obviously a great deal of research and preparation has gone into this paper. The entire statement will appear in the record.

Perhaps the other participants could present a summary of their statement. It is not disinterest, but it is a matter of trying to accommodate your contribution with the contribution of others who are here. I wish we had all afternoon but we do not.

Mr. COCHRAN. Each one should take about 5 minutes.

Senator BAYH. I am aware, having gone through this type of thing myself not too long ago, of the amount of study that is involved. I do not want in any way to minimize our appreciation for the contribution you are making.

(The prepared statement of Mr. Trip Sizemore follows:)

#### PREPARED STATEMENT OF TRIP SIZEMORE

Mr. Chairman, members of the Committee, my name is Trip Sizemore. I am a third-year law student at Duke University. I would like to begin with this statement: For the adult penal system to be effective, there must be a true, humane and serious attempt to reach the young people we call juvenile delinquents. Although no statistics have been compiled; we have every reason to believe that the adult system is the primary beneficiary of children passing through our juvenile homes.

A recent book by Howard James entitled *Children in Trouble* documents the low development of corrections in the juvenile area. Compared to many states, North Carolina's system is quite advanced. Even against this background, however, we find it woefully inadequate and sometimes dangerous.

We were told again and again that the aim of the system is rehabilitation and therefore society relaxes the guarantee of due process for juveniles. Kent and Gault belie this conclusion. We, too, conclude that the training schools are not fulfilling their rehabilitation role. Thus, this message must be delivered: The kind of people generally in contact with the boys and girls, the lack of imagination in many programs and the disciplinary atmosphere of the schools do not help the young offenders. In my testimony, I want to review the forms of punishment we saw at several of the schools, assess their effectiveness and introduce you through personal vignettes; subjectively rendered to some of the personnel of the training school I visited. Since the investigation occurred over a year and a half ago, the interim period may have been time for change.

The facilities in the training school concern themselves primarily with custody and control. The harshest form of punishment involves being placed in solitary confinement in the "Quiet Room"—or as the boys and the staff call it, "the jug." Elsewhere the debilitating effect of isolation upon an adult has been documented. I leave you to conclude the effect on a child. If a child attempts to run away, is caught smoking, is acting out in class, or is uninvolved in related offenses, he is placed in the jug. The jug itself consists of a small room in which a slab or rock serves as a bed. An offender must strip down to his underwear. He may only read

the Bible; he has only two meals a day. At 5 o'clock in the evening he is given a mattress on which to sleep; at 6 o'clock the next morning the mattress is removed and the bare rock is all the boy has to rest on.

The Central office has issued rules for the implementation of Quiet Room procedure. Each boy must be checked by a doctor within a few hours of confinement. This rule is seldom followed. Another rule limits a stay in the Quiet Room to seven consecutive days. To circumvent this regulation a boy is briefly removed from the jug on the seventh day and returned immediately for another seven consecutive days. Many of the boys we talked to spent an average of ten days for a single offense. One particular boy claimed that he had spent twenty-one days in the jug.

The very existence of the jug reflects the lack of imagination, the lack of true compassion, and the absence of sophisticated understanding of youths. The official theory that claims that the Quiet Room provides a period of meditation for a boy who has done wrong is a cruel and senseless rationalization. Solitary confinement behind a locked door is barbarian in itself, but to add other elements such as only two meals, only the Bible, only a slab of rock to sit on during the day makes confinement a bloodless torture.

I remember in particular, of course, the facility I visited for a week. Housed in the bowels of Cottage 17 there is the maximum security section referred to by the boys as the jail, and by the administration as the quiet area; these cells are dungeons. Locked behind a big, steel door, five cells lead off a short hallway. The doors on the cells are metal with little observation windows in them. Inside, the walls and floor are stark concrete. A hopelessly foul mattress is crumpled on the floor and only feather pillows without cases rest indifferently upon them. Covers, when present, is an old army blanket, mildewed and threadbare. It is difficult to say which season would be the most comfortable in these places, for in summer they are both hot and damp and in winter they must be frigid. Outside each door is a white paper with the prisoner's name and reason for committal. When visited, there were six inmates all committed for running away. One had been there for five days, the others for from two to four days. The process is a much smaller but infinitely more inhuman replica of the removal surgery in which society indulges to place the boy in Jackson training school initially. Reportedly there are funds already allocated for renovation of all Cottage 17 including the cells. It must begin immediately, if cells there must be.

A less severe form of punishment is *Restriction*. During this time, a student may not leave the campus, receive visitors, buy candies at the Canteen, or be a member of the Boy Scouts. Usually, when a boy "runs" he receives time in the "jug" and is given four months of Restriction.

Another form could be called "taking a walk." This type of penalty is used predominantly by the cottage parents. An offender is required to walk between two points for a specified period of time while carrying a brick or cinder block.

At one training school a common method is to make the boys march or stand in the sun on the play field while their peers played. Another method was to make the boys rest in a squatting position with their heads between their knees as long as possible.

Verbal reprimands or man-to-man talks comprise, potentially, the most effective form of discipline. If the person doing the talking has established a relationship of respect and affection between himself and the offender, then the verbal reprimand will serve its purpose well. Otherwise, it involves self-righteous platitudes falling on silent ears.

Corporal punishment in any form has been strictly prohibited at all of the training schools in North Carolina. Officially, therefore, no such punishment exists; unofficially, I believe that the boys are spanked, cuffed, paddled, and strapped. Because of the informal and illegal nature of this corporal punishment we found it difficult to document the occurrence of these offenses. But we did interview some counselors who readily admitted using a paddle on some of their boys. (We also saw a paddle which was made from half inch thick piece of pine.) The students themselves cited examples, usually in dramatic terms of their being beaten or thrown around.

Corporal punishment in itself need not be brutal. If the punishment takes place under the conditions similar to a father-son relationship and if the punishment is physical but mild, then such punitive measures may not be cruel. But as was pointed out by Warren Ellis, former State Director of Cottage Life, the line between fatherly punishment and pure brutality is so difficult to place that it is best to eliminate corporal punishment completely. It must be clearly stated

however, despite official regulations that corporal punishment has not been eliminated.

Another form of punishment is the extension of an offender's indeterminate sentence. A student can have months added to his confinement at the school. Runaways, for example, receive three extra months which with good behavior can be reduced to a minimum of one extra month. (No sentence extension can be reduced to any period less than a month.) The students deeply dislike staying at a school for any longer than they must. The stigma associated with remaining at a training school is so great that even one who personally enjoys it would not choose to remain.

Summarizing, I believe the discipline system of many schools reflects a philosophy that views the boys and their families uncharitably and regards the school itself as beyond reproach. Personnel readily point out that the boys are at a training school because of "bad home lives and sorry families." They are there, it is said, for being incorrigible, runaways from home, petty thieves, truants, acting out students, fighters and so forth as a direct result of the horrible conditions at home and within the family. The ironic aspect of this view is that if a boy misbehaves at home, the family is to blame, but if he misbehaves at a training school, the boy is to blame. The same staff people who say, "I wish we could get at the parents, because they are the real problem," fail to see how they themselves are no different from the parents they want to correct. The Board of Juvenile Corrections has assured us much of the quiet room procedure has been revamped and physical abuse is at a minimum but an independent investigation by a state newspaper a few months ago substantiates all the conditions we have just reported.

Turning from disciplinary measures, a negative form of control, to counseling, a potentially positive form of control, we find a similarly disturbing situation. Naturally, the child's frequent isolation from his family prohibits whatever supporting influence the family might have provided. In such a system, the importance and influence of the counseling staff is greatly magnified. Regrettably, except in two limited instances, no psychiatric help is available in any of the training schools. Attributable to the lack of funds, this absence of psychiatric counseling forces the social workers to assume even heavier burdens and frequently results in the arbitrary mingling of severely disturbed children with children displaying only minor behavioral problems. The undesirable effect of this mingling upon both groups of students should be clear: the children with only minor problems are subjected to a highly disruptive influence; the severely disturbed children—generally the source of great disruption within the group—are often ostracized or subjected to physical or emotional abuse by their peers and repressed by supervisory authorities.

The role of the social workers, the primary existing device for behavioral counseling, is best demonstrated by a discussion of the two individual social workers whom one of us met during our stay at the training schools. Both were extremely capable and interested in their work. However, their talent and enthusiasm were nearly inundated by the unending flood of paperwork which they had to complete and the onerous caseload which they were forced to shoulder. While the caseworker usually had a caseload of about 120 students, one of them indicated that she could effectively counsel only about one-fourth that number. With the exception of the limited contact which the social worker has with each student in connection with the preparation of periodic reports, the worker can see the students only on a "catch as catch can" basis: her attention is necessarily confined only to those students who cause trouble or who are bold enough to venture into the social worker's office on their own.

Since the social worker's efforts are so restricted, the students have little opportunity for discussion with a trained counselor. Thus, the counseling burden is ultimately "delegated one rung lower to the cottage parents, the relatively untrained day-to-day supervisors of the students.

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This language hardly reflects the true situation. The typical cottage parent is ill-prepared educationally to offer counseling if he were willing to do so. The

tragedy is that only about four out of the forty-seven cottage parents at that school felt the desire to listen to a boy's problem and discuss it with him in a non-defensive way. Most were unapproachable for any type of intimate conversation. They were abrupt, overly authoritative, and sometimes cruel. Debasement and reprimand were the stock responses when a problem was voiced.

Special mention should be made of what I term the "established cottage parent." Generally they were the ones who have been at Jackson several years, even more than a decade. Many are retired millworkers or policemen, they have come with their wives to conveniently and gainfully support themselves in retirement. Afraid of increasing their work load, they fight the slightest variation from tradition. A newcomer on the staff can quickly join this group if he accepts their philosophy. If not, he is talked about, jeered at, and ostracized. Some few are hearty enough to withstand the castigation and attempt experiments but those most creative either leave or accept the inevitable. This group forms the most oppressive and onerous power element on campus.

An example of their technique is reflected in dealing with four runaways. The whole cottage was assembled in the basement where the lockers and showers are; everyone sitting in rows on wooden benches facing the counselor. He was sitting on a table against the wall, head low and eyes looking out from just beneath his lids. He was a short, bull-like man age fifty to fifty-five. Formerly a preacher, he said he had come to Jackson to take a more active part in helping young people. To begin the session he placed the four runaways against the lockers, spacing them about two feet apart and began a relentless verbal assault, all very quietly. "Do you know me? Do you know how I run this cottage? You've caused us trouble here. And you always do it when I'm not here. When I'm here we have a good machine. When you do right I treat you right, son. How did you get mixed up in this? See what your friend Jerry did for you. Got you three more months. He's a good friend isn't he? He'll look after you, won't he? We don't have this kind of trouble in this cottage. We've got the best machine on campus—the Director just complimented us the other day on our good behavior and then look what happens. Why don't you run when I'm here? Look at me, son, I want an answer."

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maintenance and repair facilities for the purpose of physical attractiveness and operational efficiency. Our motto: "Come Rain, Shine, or Snow, We are always on the Go" seems to still dominate our department.

Concluding:

To Mr. Blaine M. Madison, Commissioner of Juvenile Corrections, we wish to express our profound gratitude for your wisdom, dedication, and guidance directing the program of *mending and molding* the young lives of children submitted to our care.

Mr. COCHRAN. The next witness is Mr. David Hough who is an attorney with the Durham Legal Aid Clinic and a graduate of Duke University School of Law.

Mr. HOUGH. Mr. Chairman, I will briefly try to outline what my statement says.

The first section of my statement analyses reformatory academics. Here I point out that the stated goal of the Juvenile Corrections Department in North Carolina is to emulate the public school system. We found, after visiting classes for a week or longer, that in many cases the quality of the education in reformatories could be summarized in one word: "utter boredom." The kids were understandably falling asleep and were then reprimanded for falling asleep. I, myself, almost fell asleep in one of these classes.

Senator BAYH. Were you reprimanded?

Mr. HOUGH. I was not reprimanded. I was a dignitary, and so they treated me with kid gloves.

The classrooms, themselves, were very uncomfortable and, consequently, learning is incredibly difficult in that it is a physical hardship.

Senator BAYH. How many students are in each class?

Mr. HOUGH. There is an ideal number of between 15 and 20; they therefore have an excellent situation in terms of student-teacher ratio, but this ideal ratio is often rendered meaningless by the dull and meaningless curriculum offered at the reformatories.

Let me give you two or three brief, very brief, examples: Each child goes to 4 hours of school each day. On each day he may take an arithmetic lesson and a spelling lesson. The arithmetic lesson often consists entirely of just reading a list of large digit numbers; for example, numbers in the trillions or billions, and each child would read one such number to the class, and then another child would go on to the next number, and this recitation lasted for approximately 45 minutes. The spelling lesson was very similar. The children read the words and spelled them out, and they would do this for an endless time.

It was in one of these spelling classes that I almost fell asleep. Senator BAYH. I appreciate your analysis.

The student-teacher ratio is adequate, but the curriculum engenders little incentive to study?

Mr. HOUGH. Yes, it is really dull. It is hard to believe that it could be so dull. This was not just my own observation, it was the experience of all four of us. Although most of the teachers we met were obviously very fine human beings who seemed concerned about the children they were teaching, their teaching methods were archaic and cumbersome, because memorization, exhaustive repetition, and unstimulating recitation constituted the basic tools of their instruction.

Furthermore, the curriculum they were asked to use emulates all that is dull and drab in the public school program. Quite frankly, we

found that while the classroom itself has an excellent ratio of student to teacher, the teaching was blisteringly bad.

The biggest problem with trying to emulate the public school system is that a large number of reformatory inmates have backgrounds filled with severe scholastic problems. They have come from public schools that offered for the most part uninspiring teaching and irrelevant curriculum. In their public school past they have responded with "truancy," either in the form of skipping school completely, or by sitting restlessly in the back of their classrooms.

Unfortunately, at the training school, these youths have the same academic wilderness that they so desperately tried to escape in the public school.

These children certainly do not need more of the same.

In fact, we feel that to try to emulate the public schools is not the answer, even emulation of the best of the public schools. A totally different approach is required to interest and excite these children. Their different environmental and social experience demand that the training schools offer schooling that departs drastically from the traditional lecture-recitation pedagogy. This is a very important point that should be stressed over and over again, because, although these children may have IQ's around the 80 mark, they are bright kids, who do not do well on tests. They are alert and quick, but they are being dulled by their training school experience.

The second section of my testimony is concerned with another important point, because any improvements that may be made by eliminating onerous discipline procedures will be for naught unless attitudes that I am going to discuss are confronted and transformed. Something has to be done to change those attitudes or the system will remain just as bad, even, for example, if we were to immediately eliminate solitary confinement.

Senator BAYH. Is anything done to try to stimulate these bright, quick youngsters to excel?

Mr. HOUGH. They are pretty much thrown into the same bag. We found one or two classes throughout the whole system that were anywhere approaching a stimulating education. But for the most part these youngsters are marked from the time they get to the training schools as failures or as people with low IQ's. Yet, just by talking to them, one can tell that they are bright, and in the areas they are interested in, they are exciting livewires. My contention is that they are in the reformatories there, in the first place, because they were not livewires when responding to a bad public school system. They became truants and began engaging in other extracurricular activities which are looked down upon because of the poor quality of the public schools.

Three or four months ago we gave testimony in North Carolina and we described the reformatory schooling as a "third rate" education, and the newspapers picked that phrase up and one of the training school teachers responded to this criticism with the following statement in a letter to the editor of the local newspaper:

\* \* \* the assertion that the academic program is "third-rate" is an unwitting compliment in view of the fact that the students are, for the most part, fourth or fifth rate. This is not an indictment of the kids themselves but of the conditions that produce them.

This statement is rather typical of the attitudes of the reformatory personnel, in that they regard the children as subnormal and as destined to failure even though the responsibility for these shortcomings may lie elsewhere. Each child is exposed throughout his training school experience to an incredible atmosphere of failure. The child is all too often confronted with the belief that he has failed and is likely to continue to fail. This atmosphere of failure, of course, becomes a self-fulfilling prophecy. It can have devastating effects on these children and may condemn them to futures where self-contentment, self-pride, and self-satisfaction are impossible to develop.

There is another institutional attitude which has an insidious effect on the reformatory children. Reformatory authorities demand an incredible amount of subservience from their youthful inmates. All the children at the training schools must march in groups wherever they go, they must halt at doorways and await permission to pass through; they must say "Excuse me," whenever they pass an adult in the hallway; they must address all adults as "Sir" or "Ma'am," and they must strictly obey every order or command. And, as has already been mentioned, rather severe punishments result from any disobedience.

Blind obedience ensues and insurmountable barriers are built between children and adults. A subculture of youth thrives on secret repudiation of the authorities' values and standards. The children, therefore, live two very separate and incompatible lives: one of blind adherence to adult orders and one of tacit rebellion against adults. But worst of all, it is a terrible sight to see energetic and vivacious young children reduced to animated robots so that orderliness and control can prevail.

There are several other attitudes that I would like to mention, but they are in the record, so I will just go through one more. I think this is very important.

The system has a strong inclination toward encouraging the children to become completely group oriented. The children undergo a socialization toward becoming a nonindividualized member of a group or crowd and not toward developing a personal identity. There is very little opportunity for prolonged personal attention from adults, for privacy and quiet introspection, for creating individual achievement, and for operating alone and at odds with the group activities. The reformatories, therefore, train their young wards to live obediently within institutions and not as individual members of the free society.

When we confronted the juvenile corrections department with our criticism, we encountered another departmental perspective that is worthy of mention here. In its own self-analysis, the department felt that all of its problems and shortcomings were due to a lack of sufficient funds from the North Carolina Legislature. This is a subtle form of passing the buck by claiming a lack of funds. We would readily concede that increased funds, if wisely used, would be helpful to the proper functioning of the training schools. Yet, we attribute the department's major problems not to a lack of funds but to a lack of compassion, understanding, imagination, and creativity. For example, how do departmental woes about low budgets relate to its policies of placing little children, all under 16 years of age, in isolation cells for days as punishment for their minor infractions of rules? How would increased money erase the systemwide fostering of youthful subservi-

ence and obsequiousness in the name of revered custody and control! How would rampant institutionalized racism be eliminated by the influx of more dollars? In a system with an enviable 15-to-1 student-teacher ratio, how would more money do something about the excruciating boredom present in the curriculum in use in the system today?

We asked countless critical questions for which increased money was not an adequate or full answer.

We, therefore, found the department's self-analysis to be sadly wanting.

In the end, the major losers of this whole system, with its harmful attitudes, and its archaic educational system, are the little boys and girls who are committed to these reformatories.

Senator BAYH: Thank you, Mr. Hough, I cannot help but concur after looking at your thoughtful presentation, that we may be spending a great deal of money in juvenile detention and spending little of it properly.

Your testimony brings to mind the old cliché that you can send a youngster to Harvard less expensively than you can to the penal farm. Perhaps we should consider that, when examining expenditures of available funds.

(The prepared statement of Mr. David Hough follows:)

#### PREPARED STATEMENT OF DAVID HOUGH

##### ACADEMICS AND ATTITUDES IN THE NORTH CAROLINA REFORMATORIES

Mr. Chairman and members of the committee, my name is David Hough and I am an attorney with the Durham Legal Aid Clinic in Durham, North Carolina. I would like to briefly outline our findings in regards to the academic education provided to the children in North Carolina reformatories. Then I shall briefly discuss some of the counterproductive and demeaning attitudes prevalent throughout the North Carolina system.

##### Academics

The stated goal of the Juvenile Corrections Department in the area of education is to provide the opportunities for educational achievement equivalent to what its wards would receive elsewhere in the public school system. We concluded in our report that the goal of "equivalent educational achievement" is undesirable in that it drastically fails to meet the needs of the children in the reformatories. Furthermore, this goal seems likely to foster greater social disorientation and unhappiness on the part of these children.

Normally each child spends four hours a day either in the morning or afternoon in the classroom receiving academic training. In addition, each child receives each day four hours of vocational training, which in many instances is no more than doing manual labor in the laundries, kitchens, on the farms, and maintenance crews.

The academic curriculum generally offers language arts, social studies, mathematics, science, fine arts and physical education. These courses are taught in special educational classes (called Ungraded Classes) and in regular classes at grade levels from first through the eighth grades. Class membership at the schools ranges between 15 to 20 children.

This all sounds very good, but quite frankly, I can report that those of us involved in the study came away from our experiences in the reformatory classrooms feeling profoundly sorry for the children who have to attend those classes five days a week, forty-eight weeks a year. These children are receiving a third-rate education.

I will illustrate what I mean by a third-rate education with some short excerpts from our report. "The classroom itself was already warm and humid at 8:00 o'clock in the morning, and soon the heat and humidity became unbearable. A large fan tended to alleviate the heat problem somewhat, but definitely not enough to allow the occupants to remain comfortable. This fan and similar fans

in all the rooms we visited, added a disconcerting noise factor which made hearing the teacher and other students a difficult matter. Some teachers lower the noise by turning off the fans during lectures and recitation. Without the fan, the temperatures rise unmercifully, enthusiasm wanes, alertness fades, and desperate hope for comfort becomes feverish. Learning under such conditions becomes a physical hardship.

"First on the academic agenda was a spelling lesson. Twenty-eight words were read, and reread, and reread by the class. The lesson was to end with a written quiz, so fifteen minutes were allotted for silent study and preparation. The quiz itself took thirty minutes and the class was then over. The spelling lesson had proved incredibly dull." I might add at this point, that the law student present for this spelling lesson almost fell asleep because of the heat and boredom; but there is more.

"Later on the boys were given an arithmetic lesson. Each student was presented with several eight and nine digit numbers to read aloud to his colleagues. Number-reading lasted for a tedious forty-five minutes."

This spelling lesson and arithmetic lesson are excellent examples of the lengthy and arduous schooling that the reformatory children are required to endure. We found that education—at least during the summer—represents physical suffering because of the intense heat and mental skirmishes to ward off sleep because of institutional ennui. Not much is learned.

Although most of the teachers we met were obviously fine human beings who seemed concerned about the children, their teaching methods, for the most part, were archaic and cumbersome and had no chance of reaching these children in a meaningful fashion. Rote memorization, exhausting repetition, and unstimulating recitation constituted the tools of most of the system's teachers. Furthermore, the curriculum that they were asked to use seemed to emulate all that is dull and drab in the public school program. Quite frankly, we found that while classroom excitement was rare, arduous boredom was common fare.

A large number of the reformatory inmates have backgrounds filled with severe scholastic problems. They have come from public schools that offered for the most part uninspiring teaching and irrelevant curricula. In the past they have responded with "truancy" either in the form of skipping public school completely or by sitting restlessly and sullenly at the back of their classrooms. Unfortunately at the training school these youths face the same academic wilderness they so desperately tried to escape in public schools. These children certainly do not need more of the same.

In fact, we believe, after much thought, that the Juvenile Correction Department goal of "equivalent educational achievement" is definitely not the answer. Emulating the public schools . . . even the best of the public schools . . . is not the answer. A totally different approach is required to interest and excite these children. Their different environmental and social experience demand that the training schools offer schooling that departs drastically from the traditional lecture-recitation pedagogy.

##### Attitudes

This committee's primary concern is, of course, potential legislation that would deal with the problems of the state reformatories. But there are certain problems of attitudes and perspective, which we encountered, which may not lend themselves to solutions through legislation, but which must certainly be considered in any reformation of our training school system. There are many system-wide attitudes and perspectives that merit analysis and discussion. But here I will quickly skim through but a few of these.

I have mentioned that we feel that these children are receiving a third-rate education. One training school teacher responded to this criticism with the following statement in a letter to the editor of a local newspaper: ". . . the assertion that the academic program is 'third rate' is an unwitting compliment in view of the fact that the students are, for the most part, fourth or fifth rate. This is not an indictment of the kids themselves, but of the conditions that produced them . . ." This statement is rather typical of the reformatory personnel in that they regard the children as subnormal and as destined to fail even though the blame for these shortcomings may lie elsewhere. Each child is exposed throughout his training school experience to this regrettable atmosphere of failure. The child is all too often confronted by the staff with the belief that he has failed and is likely to continue failing.

This atmosphere of failure, of course, becomes a self-fulfilling prophesy. It can have devastating effects on these children, and may condemn them to futures where self-contentment, self-pride and self-satisfaction are impossible to develop.

There is another institutional attitude which has an insidious effect on the reformatory children: Reformatory authorities demand an incredible amount of subservience from their youthful inmates. All the children at the training schools must march in groups wherever they go, they must halt at doorways and await permission to pass through, they must say "excuse me" whenever they pass an adult in a hallway, they must address all adults as "Sir" or "Madame" and they must strictly obey every order or command. All decisions are made for these youth. As has already been mentioned, rather severe punishments result from any disobedience.

Blind obedience ensues and insurmountable barriers are built between children and adults. A subculture of youth thrives on secret repudiation of the authorities' values and standards. The children, therefore, live two very separate and incompatible lives: one of blind adherence to adult orders and one of tacit rebellion against adults. But worst of all, it is a terrible sight to see energetic and vivacious young children reduced to animated robots so that orderliness and control can prevail.

The reformatory child's lot or situation is further aggravated by yet another institutional value or attitude. The system has a strong inclination towards encouraging the children to become completely group-oriented. The children undergo a socialization towards becoming a non-individualized member of a group or crowd and *not* towards developing a personal identity. There is very little opportunity for prolonged personal attention from adults, for privacy and quiet introspection, for creating individual achievement, and for operating alone and at odds with the group activities. The reformatories, therefore, train their young wards to live obediently within institutions and not as individual members of the free society.

When we confronted the Juvenile Corrections Department with our criticism, we encountered another Departmental perspective that is worthy of mention here. In its own self-analysis, the Department felt that all of its problems and shortcomings were due to a lack of sufficient funds from the North Carolina Legislature. This is a subtle form of passing the buck by claiming a lack of bucks. We would readily concede that increased funds, if wisely used, would be helpful to the proper functioning of the training schools. Yet, we attribute the Department's major problems not to a lack of funds, but to a lack of compassion, understanding, imagination, and creativity. For example, how do Departmental woes about low budgets relate to its policies of placing little children (all under sixteen years of age) in isolation cells for days as punishment for their minor infractions of rules? How would increased money erase the system-wide fostering of youthful subservience and obsequiousness in the name of revered custody and control? How would rampant institutionalized racism be eliminated by the influx of more dollars? In a system with an enviable 15 to 1 student-teacher ratio, how would more money do something about the excruciating boredom present in the curriculum in use in the system today? We asked countless critical questions for which increased money was not an adequate or full answer. We, therefore, found the Departmental self-analysis to be sadly wanting.

#### Conclusion

In summary, we found the academic program at the reformatories to be highly inadequate. The atmosphere of failure, the required subservience, the imposed group-orientation, that all seem to be integral parts of reformatory life, are doing little to make these training schools havens of rehabilitation and treatment. Furthermore, the Department's self-analysis does not lend itself to an enlightened program of institutional improvement. Unfortunately, the little girls and boys are the major losers.

Mr. COCHRAN. The next witness is Mr. George Manning.

Mr. MANNING. In light of the adverse conditions which the child encounters in training school, you may be inclined to think that his release is the end of his troubles. In fact, it is just the beginning. This phase of the juvenile corrections process, sometimes known as aftercare, is virtually nonexistent in the State of North Carolina. Upon release from the State's training schools, children have few real prospects of receiving proper counseling, assistance, and care. The child returns to the same conditions and environment that more likely than

not caused him to be sent away in the first place. Local school authorities automatically expect him to misbehave; his family problems remain unresolved, because the beleaguered court staff has neither had nor taken the opportunity to counsel with his family since his departure; and his employment prospects are slim either because of his age or his juvenile record.

Senator BAYH. I suppose it is fair to say, Mr. Manning, is it not, that in addition he has now a new experience that he did not have before, of associating with other youngsters, some of whom may be more experienced in the ways of misconduct than he was?

Mr. MANNING. I think this is quite true.

His only source of counseling upon return from training school is the same staff which was originally involved in the committal process. Thus, the child is justifiably suspicious of these probation officials. Although there are several informal aftercare programs in the State, none of them are of any substance. One example is the Salvation Army in the city of Durham which has attempted to provide a boy's club and a church program for boys of all ages.

Another program with outstanding potential is the Vocational Rehabilitation Administration, commonly called "VR." Within the last years VR has moved into the juvenile correction system, having established a unit at almost every training school. Their avowed aim is to "provide to youth in State correctional schools indicated rehabilitation services that may reasonably be expected to render an offender fit to engage in a gainful occupation upon return to his community. Any needed service that is not available to the handicapped while in the correctional school will be made available upon his return to the community." The VR has pursued this goal aggressively and has achieved some success. The VR counselors have in the past few years set up vocational training classes at the schools, ferreted out potential employers for training school graduates, and have tried to ease the transition from training school to full-time employment by holding counseling sessions for interested students. Unfortunately, the VR counselors can only assist those students who are 15½ years of age or older. Consequently, only a handful of the training school graduates fall within the VR scope of activities. The vast majority of the reformatory graduates, therefore, are exposed to no aftercare whatsoever.

This is a sad state of affairs. These children return to communities and usually have no adult individuals or groups to look to for guidance, assistance, and counseling. They may soon begin to realize that the society that sent them off to training schools was more concerned with detention than rehabilitation. They are justified in believing that nobody really cares about them as individuals unless they begin to break the rules.

The board of corrections and the legislature are aware of the needs for better services upon the child's return from the training school. However, the failures to take the appropriate actions bear out the fact that a greater emphasis needs to be channeled into the area of aftercare services. It is important that, within the services designed for the child's release, the parents and the family are counseled to encourage better relationships within the family structure and the community. It has been stated: "A correction of delinquent behavior must be recognized as a community responsibility. The court can supply au-

thority, but authority is in a vacuum unless it is actively involved and not only focused on the adolescent and parents but on the public schools, neighborhood activities, law enforcement, the church, housing, recreation and community centers."

Thank you.

Senator BAYH. Thank you, sir.

(The prepared statement of George Manning follows:)

PREPARED STATEMENT OF GEORGE MANNING

AFTERCARE

Mr. Chairman, members of the Committee. My name is George Manning, and I am a graduate of the North Carolina Central University Law School. In light of the adverse conditions which the child encounters in training school, you may be inclined to think that his release is the end of his troubles. In fact, it is just the beginning. This phase of the juvenile corrections process, sometimes known as aftercare, is virtually non-existent in North Carolina. Upon release from the State's training schools, children have a few real prospects of receiving proper counseling, assistance, and care. The child returns to the same conditions and environment that more likely than not caused him to be sent away in the first place. Local school authorities automatically expect him to misbehave; his family problems remain unresolved, because the beleaguered court staff has neither had nor taken the opportunity to counsel with his family since his departure; and his employment prospects are slim either because of his age or his juvenile record.

His only source of counseling upon return from training school is the same staff which was originally involved in the committal process. Thus the child is justifiably suspicious of these probation officials. Although there are several informal aftercare programs in the State, none of them are of any substance. One example is the Salvation Army in the City of Durham which has attempted to provide a boy's club and a church program for boys of all ages.

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This is a sad state of affairs. These children return to communities and usually have no adult individuals or groups to look to for guidance, assistance, and counseling. They may soon begin to realize that the society that sent them off to training schools was more concerned with detention than rehabilitation. They are justified in believing that nobody really cares about them as individuals unless they begin to break the rules.

Mr. COCHRAN. The next witness is Phil Larson. Phil will be with Hogan & Hartson next year, and Trip Sizemore will be coming to the District of Columbia with Covington & Burling. I hope this will be the in the record so you can call upon them again as your work progresses.

Senator BAYH. Do the witnesses care to be protected from that kind of all-encompassing offer by Mr. Cochran?

Mr. LARSON. I don't think so, but we will worry about that when the time comes.

Senator BAYH. The committee will take advantage of it.

Mr. LARSON. Mr. Chairman, my remarks today will focus on local alternatives to commitment to a training school; a topic which we feel is of central importance in improving the performance of both the juvenile training schools and the entire juvenile corrections system itself.

Despite the apparent shortcomings of the training schools which have been discussed earlier, many judges responsible for committing children to those institutions remain oblivious to their limitations and continue to believe that the schools will provide these children with constructive counseling and guidance. Much of this judicial lack of awareness stems from the fact that few judges, if any, visit the training schools, and those who do visit a school often have traveled only to one particular institution whose facade presents an almost country-club atmosphere and merely strengthens the judge's misconceptions about the opportunities which the schools purport to offer. Unfortunately, moreover, not only judges fall victim to these misconceptions. Arguing before the U.S. Supreme Court last December, the attorney general of the State of North Carolina defended the performance of the schools with these words:

There are no fences around these institutions \* \* \*

There are gymnasiums at every institution and athletics is a required part of the program at every one . . . Tickets are regularly reserved at the big four football games in North Carolina . . . for them . . . I will say to this Court that all the schools in them are not all that they should be, but I say to this Court I went to school in a little frame schoolhouse with a pot-bellied stove and I do not think it hurt me any.

The inevitable result of these popular misconceptions, we believe, is that countless children are committed to the training school each year when their needs could be better served in their own home community. Commitment merely severs the child from the community environment with which he was unable to cope. Thus, while his behavior at the training school may be exemplary, his experience there merely teaches him to "play the game" by conforming to the norms of that institution without necessarily preparing him to return to the challenges of his former environment.

Lest I create the impression that the present ills of the training schools are the result only of judicial ignorance of the conditions existing there and of the schools' failure to undertake a more vigorous program of public education concerning their shortcomings, it is important to note that many children in the schools today are there simply because their local communities have failed to offer any viable alternative to commitment. The training schools, which inevitably carry some stigma of criminal conduct or failure, have become the repositories for a variety of children who are in no way in need of confinement but who, for some reason, cannot in the judge's opinion remain in the community.

The most striking example I have personally encountered was the story of a small boy whom I shall call Billie. Abandoned when he was a baby, Billie was rotated through a series of foster homes until he was three and a half years old. At that point, he was adopted by a couple who ultimately proved unable to cope with their own per-

sonal difficulties, much less Billie's, and were forced to release their parental rights. His adopted mother left home several times, and the parents provided virtually no supervision. Having developed a severe emotional disturbance, Billie was unable to adjust to the public schools which refused to allow him to return to the classroom.

Senator BAYH. At what age were the adoption rights of the child forfeited?

Mr. LARSON. I do not know exactly, but it was somewhere between the age of three and a half and about 6. I think it was just at the age he was beginning school, which would be 5 or 6 in North Carolina.

When counseling efforts failed for lack of parental cooperation, Billie was dispatched to the court's last remaining alternative—the juvenile training school. The school's precommitment promise to send Billie to a psychological testing center fell by the wayside, and he entered the normal training school environment as its youngest student at the age of 8. While his behavioral problems continued at the training school, his purported educational progress was virtually remarkable: Enjoying a B average, he supposedly completed the second, third, and fourth grades during his 13-month sojourn at the institution. Yet upon his return to the public schools, he was again unable to adjust and could perform only at a first-grade level. I might add parenthetically, that, to the best of my knowledge, this child had committed no act which was even a juvenile crime or a crime for a child. It was merely a lack of facilities in the community which was responsible for his commitment.

This lack of community services is strikingly reflected in the comments of one juvenile judge. When challenged concerning the inadequacies of the training schools to which he was committing children, he candidly remarked that "at least if I send him there, he'll know where is next meal is coming from."

The unavailability of an effective community response to the problems of the neglected child, the habitual truant who needs some incentive but whose conduct does not merit "confinement" in a training school, and even the delinquent child who merely needs temporary removal from his home to a more structured environment potentially affects all children in the community. Yet its greatest impact is upon the poor. For the more affluent, the needed services are generally available somewhere within the community. For example, one court counselor ruefully recounted the story of a young emotionally disturbed girl whose conduct would normally have led to commitment to a training school. Yet because her parents were able to assure the judge that she would receive private psychiatric counseling, she was allowed to remain in her home while her less affluent peers were shuttled off to a training school where they may be forced to compete with 100 or more other children for the attention of one social worker.

All this leads to our final and firm conclusion that the efforts of the Federal Government to upgrade the juvenile corrections process should not become totally preoccupied with a perhaps impossible attempt to upgrade the training schools into institutions which will meet the needs of all the children presently committed to their jurisdiction. Rather, Federal efforts should seek to insure the availability of a range of educational, counseling, and housing services within the local community—services available to all children regardless of their economic

status. Foster homes for delinquent children are virtually unavailable in our own community and the Federal Government could appropriately seek to fill that need, perhaps through community "group care homes," where juveniles could stay temporarily while continuing to attend school and go about their normal activities within the community.

Senator BAYH. One of the witnesses yesterday suggested that children with unsuitable family environments be referred to small group homes, where a child could develop a healthy relationship with others. The witness preferred this approach rather than sending children to foster homes. What is your opinion of this suggestion?

Mr. LARSON. I agree that that is the type of institution to which I referred, one which will permit the child to remain in the community and retain his community ties. These institutions should combine community ties and professional assistance since, as our study of the training schools indicates, professional assistance in counseling is not the only answer.

Senator BAYH. Thank you.

Mr. LARSON. Even more important is the upgrading of efforts to help the public schools effectively serve the needs of their pupils. As has been noted earlier, many—if not most—of the children appearing in the juvenile court are truants who have undergone disheartening experiences in the public schools and have been "written off" by school officials. When a local volunteer group in our community offered to tutor children whose behavior had brought them under the supervision of the juvenile court, they were told by school officials in several instances that "that child has missed so much school he'll never catch up, so why don't you just take one of my slow learners?"

The community has established an extremely effective response to the needs of one group of juveniles—pregnant, unwed teenagers. Excluded from normal public school classes during their pregnancy, these girls faced a possible loss of 2 years in academic progress. To alleviate this problem, concerned citizens marshaled the efforts of local social agencies, schools, and civic groups to establish a day school which provides educational, counseling, and health care services to about 100 to 125 girls per year. However, the vitality of this program is in jeopardy, because the temporary 3-year Federal grant from which it derives its main support expires in June, and the school has received no indication that the grant will be renewed.

Finally, I will merely avert to the need for aftercare which Mr. Manning discussed earlier.

Admittedly, many of these problems could be alleviated to a great degree if local officials in the schools, the courts, and various other social agencies would perform their own responsibilities, focus community attention on officials who fail in their duties, and vocally inform the community of the needs which do exist. However, many officials have displayed a singular unwillingness to do so. Thus, Federal efforts are essential to spur the local communities into action and to lend additional support to the innovative and successful programs which have already been begun.

Thank you.

Senator BAYH. Thank you, sir.

You have made a sophisticated and detailed analysis of juvenile justice in North Carolina. I salute you and thank you for this. I am chairman of a subcommittee of a parent committee of the U.S. Senate, a legislative branch of the Federal Government. Your group has been examining these problems of delinquency on a local case-by-case basis. Do you have any specific recommendations regarding the type of Federal legislative action that would improve the juvenile justice system in North Carolina?

North Carolina, let me say, is not unique, but you have given us the opportunity to study North Carolina in detail.

Mr. SIZEMORE. Well, I think the point that Phil just made is that we all prefer an alternative to commitment; given the State training schools as we see them, we would prefer the alternative to commitment to be community-based facilities that are federally funded rather than State administered. They could at least run with the present juvenile administration we have. I do not know if that is responsive.

Mr. LARSON. I think, with regard to the courts, that we need to attempt to steer the counseling services from under the auspices of the court. In our community the juvenile court counselors are all hired by and subject to the will and the whim of the district judge. This creates the impression of an inbred type situation which I think needs to be severed so that when a child comes before the court, he would feel that the counselor with whom he speaks is something more than a probation officer.

Senator BAYH. Of course, the probation officer, in the finest sense of the word, should be able to deal with the problem.

Mr. LARSON. Yes, except that the officer's duties as an officer of the court and as a purportedly sympathetic counselor may appear incompatible to the child.

Mr. SIZEMORE. I think you also asked a question of Mr. Murphy about how we could prevent the situation where the judge commits these kids to the school without a hearing, and that sort of thing.

I guess it was a reference to how can we change people who do not want to be changed.

I would just say that with that situation in mind, I think I would have an attorney funded to be at every stage of the proceedings, from the time the child is picked up and questioned by the probation officer until the time he comes before the judge in a hearing, an appeal if there is no hearing immediately, so that the child never approaches the training school.

Mr. HOUGH. I would like to add just one thing as a suggestion, though. A lot of times I think the solution cannot simply be the introduction of attorneys who are funded—and I am speaking from personal experience. I believe other safeguards have to be put into any such funding program. One important and essential safeguard relates to the caseloads that funded attorneys have. I do not think an attorney can handle 125 juvenile cases at one time. To realistically lighten the caseload of a funded attorney, there should either be more funded attorneys or there should be referral systems with private attorneys to keep the funded attorneys from taking any more than 40 cases, for example.

Another safeguard would be to provide the funded attorneys with staffs sizable enough to properly handle juvenile cases. These staffs

could be used for investigations, research, and actual counseling. Without a sufficient staff to provide backup services, a funded attorney is useless.

A third safeguard relates to the quality of funded attorneys. Not every attorney is adequately trained to operate in the Nation's juvenile courts. Not every attorney is suited temperamentally or otherwise to deal with juveniles and to represent them in court. Therefore, any program of funded attorneys must contain an extensive period of training of prospective juvenile law attorneys and a reasonable procedure for weeding out those attorneys who would likely be ill suited to work with juveniles.

Unless these and other safeguards are instituted into a program of funded juvenile law attorneys, we may have a system that is good for appearance only. The juveniles would be poorly represented, and many of the problems this committee wants to deal with would remain unresolved.

Mr. MANNING. I would like to add one other thing, that along with the judicial level, the judges before whom these children come, they should be trained in sociological and psychological patterns of everyday life, and you find that the juvenile court comes under the district system in North Carolina, and very few of the judges are trained to deal with these problems. Many of them may have been insurance adjusters or elected officials, and they have no professional training whatsoever. So, I think this needs to be upgraded. This may be not only in North Carolina but other places also.

Senator BAYH. The juvenile court judges in North Carolina do not have to be lawyers?

Mr. MANNING. No.

Mr. SIZEMORE. Not at present.

Mr. COCHRAN. I would like to add one comment here.

At this point, we are essentially punching a pillow. The four students with whom I have worked have come up with concrete solutions. The job is enormous. It is next to impossible to get your hands on court corrections and rehabilitation systems at the same time. One thing that upsets me even more is the nonutilization of talent and expertise found in the universities: schools of sociology, psychology, law schools, and the like. There have to be methods devised to get both students and professors into active, constructive involvement. The experiment we had was a small one, but I think it demonstrates that a university does have an outreach capability which can be coupled with its educational function. Means must be devised to bring this talent to bear.

Senator BAYH. To the extent that this type of expertise and funding is made public. I think we will begin to deal with the final common denominator for all social changes; namely, citizen awareness. I am not aware of your assessment of your program's success in this regard, but anything we can do to inform our citizens is going to make our proposed changes and our goals more easy attainable.

Gentlemen, you have been very helpful.

Thank you so much. I wish we had more time for discussion. I hope we can continue the dialog.

(The prepared statement of Mr. Philip Larson follows:)

## PREPARED STATEMENT OF PHILIP LARSON

Mr. Chairman, members of the committee, my name is Philip Larson, and I am a third year law student at Duke University.

My remarks today will focus on local alternatives to commitment to a training school, a topic which we feel is of central importance in improving the performance of both the juvenile training schools and the entire juvenile corrections system itself.

Despite the apparent shortcomings of the training schools which have been discussed earlier, many judges responsible for committing children to those institutions remain oblivious of their limitations and continue to believe that the schools will provide these children with constructive counseling and guidance. Much of this judicial unawareness stems from the fact that few judges, if any, visit the training schools with any frequency; those who do visit a school often have traveled only to one particular institution. Those facades present an almost "country club" atmosphere and merely strengthens the judges' misconceptions about the opportunities which the schools purport to offer. Unfortunately, moreover, not only judges fall victim to these misconceptions. Arguing before the United States Supreme Court last December, the Attorney General of the State of North Carolina defended the performance of the schools with these words:

There are no fences around these institutions . . . There are gymnasiums at every institution and athletics is a required part of the program at every one . . . Tickets are regularly reserved at the big four football games in North Carolina . . . for them . . . I will say to this Court that all the schools in them are not all that they should be, but I say to this Court I went to school in a little frame schoolhouse with a pot-bellied stove and I do not think it hurt me any.

The training school personnel themselves could potentially serve an important educational function in enhancing judicial and public awareness of the conditions existing in their institutions. By their failure to do so, they have contributed to the oversized student populations in the schools, further burdening their limited budgets.

The inevitable result of these popular misconceptions, we believe, is that countless children are committed to the training schools each year when their needs could be better served in their home community. Commitment merely severs the child from the community environment with which he was unable to cope. Thus, while his behavior at the training school may be exemplary, his experience there merely teaches him to "play the game" by conforming to the norms of that institution without necessarily preparing him to return to the challenges of his former environment.

Lest I create the impression that the present ills of the training schools are the result only of judicial ignorance of the conditions existing there and of the schools' failure to undertake a more vigorous program of public education it is important to note that many children in the schools today are there simply because their local communities have failed to offer any viable alternative to commitment. The training schools, which inevitably carry some stigma of criminal conduct or failure, have become the repositories for a variety of children who are in no way in need of confinement but who, for some reason, cannot in the judge's opinion remain in the community.

The most striking example I have personally encountered was the story of a small boy whom I shall call Billie. Abandoned when he was a baby, Billie was rotated through a series of foster homes until he was 3½ years old. At that point, he was adopted by a couple who ultimately proved unable to cope with their own personal difficulties, much less Billie's, and were forced to release their parental rights. His adopted mother left home several times, and the parents provided virtually no supervision. Having developed a severe emotional disturbance, Billie was unable to adjust to the public schools which refused to allow him to return to the classroom. Foster parents refused to shelter him for even two weeks.

When counseling efforts failed for lack of parental cooperation, Billie was dispatched to the court's last remaining alternative—juvenile training school. The school's pre-commitment promise to send Billie to a psychological testing center fell by the wayside, and he entered the normal training school environment as its youngest student at the age of eight. While his behavioral problems continued at the training school, his purported educational progress was virtually

remarkable: enjoying a B average, he supposedly completed the second, third, and fourth grades during his thirteen month sojourn at the institution. Yet upon his return to the public schools, he was again unable to adjust and could perform only at a first grade level. Fortunately, his lot has improved somewhat; he has now been accepted at a private boys' home and is making slow but steady emotional and educational progress.

This lack of community services is strikingly reflected in the comments of one juvenile judge. When challenged concerning the inadequacies of the training schools to which he was committing children, he candidly remarked that "at least if I send him there, he'll know where his next meal is coming from."

The unavailability of an effective community response to the problems of the neglected child, the habitual truant who needs some incentive but whose conduct does not merit "confinement" in a training school, and even the delinquent child who merely needs a temporary removal from his home to a more structured environment potentially affects all children in the community. Yet its greatest impact is upon the poor. For the more affluent, the needed services are generally available somewhere in the community. For example, one court counselor ruefully recounted the story of a young emotionally disturbed girl whose conduct would normally have led to commitment to a training school. Yet because her parents were able to assure the judge that she would receive private psychiatric counseling, she was allowed to remain in her home while her less affluent peers were shuttled off to a training school where they may be forced to compete with one hundred or more other children for the attention of one social worker.

All this leads to the firm conclusion that the efforts of the federal government to upgrade the juvenile corrections process should not become totally preoccupied with a perhaps impossible attempt to upgrade the training schools into institutions which will meet the needs of all the children presently committed to their jurisdiction. Rather, federal efforts should seek to insure the availability of a range of educational, counseling, and housing services within the local community—services available to all children regardless of their economic status. Foster homes for delinquent children are virtually unavailable in our own community, and the federal government could appropriately seek to fill that need, perhaps through community "group care homes" where juveniles could stay temporarily while continuing to attend school and go about their normal activities within the community.

Even more important is the upgrading of efforts to help the public schools effectively serve the needs of their pupils. As has been noted earlier, many—if not most—of the children appearing in the juvenile court are truants who have undergone disheartening experiences in the public schools and have been "written off" by school officials. When a local volunteer group in our community offered to tutor children whose behavior had brought them under the supervision of the juvenile court, they were told by school officials in several instances that "[t]hat child has missed so much school he'll never catch up, so why don't you just take one of my slow learners?" Disheartened and frustrated, the tutors often give up, and the child in trouble continues in this vicious circle which ends in training school.

The community has established an extremely effective response to the needs of one group of juveniles—pregnant, unwed teenagers. Excluded from normal public school classes during their pregnancy, these girls faced a possible loss of two years in academic progress. To alleviate this problem, concerned citizens marshalled the efforts of local social agencies, schools, and civic groups to establish a day school which provides educational, counseling, and health care services to about 100-125 girls per year. However, the vitality of this program is in jeopardy, because the temporary three year federal grant from which it derives its main support expires in June, and the school has received no indication that the grant will be renewed.

Finally, I would merely reaffirm the previous remarks concerning the need for aftercare services within the community. Without such opportunities, the juvenile faces an overwhelming challenge which may result in his recommitment to training school or his "graduation" to an adult penal institution.

Admittedly, many of these problems could be alleviated to a great degree if local officials in the schools, the courts and various other social agencies would perform their own responsibilities, focus community attention on officials who fail in their duties, and vocally inform the community of the needs which do exist. However, many officials have displayed a singular unwillingness to do so.

Thus, federal efforts are essential to spur the local communities into action and to lend additional support to the innovative and successful programs which have already been begun.

Senator BAYH. Our next witness is Dr. E. Preston Sharp, general secretary of the American Correctional Association.

Dr. Sharp, it is a pleasure to have you with us today.

**STATEMENT OF E. PRESTON SHARP, GENERAL SECRETARY OF THE AMERICAN CORRECTIONAL ASSOCIATION**

Dr. SHARP. Senator Bayh, it is a real honor to be here, and I will be very conscious of time. I will not read my statement; this will provide a maximum amount of opportunity for exchange of questions.

As an introductory statement, we must all realize that this committee will not be able to solve all of the problems of juvenile delinquency that have been compounded over the centuries. They reflect the neglect of everybody from the citizen to Congress. I have sat in congressional hearing rooms many times in the last 15 years. A comparison of hearings and testimony in relationship to the legislation passed would be a very interesting piece of research. I do know, Senator Bayh, that under your able leadership some specifics representing improvements in this field can be accomplished.

I think that one of the problems in the past is that we have been hunting with shotguns and not with rifles, and I hope I may be able to make a few suggestions in relationship to the use of rifles.

I am the general secretary of the American Correctional Association, which is a 101-year-old organization. It is probably the oldest professional organization in the correctional field in the world.

In light of previous testimony, I trust my experience will not prejudice my testimony. I have been the superintendent of a training school, and also director of a large clinic and detention facility in Philadelphia. I have had charge of all of the training schools in Maryland and in Pennsylvania, and have worked with approximately 300,000 juveniles at the Eastern State Penitentiary in Philadelphia. I had charge of treatment programs and I have worked with about 15,000 convicts.

Out of that experience, I hope to share some ideas with you.

Initially, I would like to make a general elementary statement, and then specific recommendations.

First, Corrections has been overlooked for a long time as a major element in the control and reduction of crime and delinquency, and institutions such as have been described here and other places have been tolerated but not considered in their proper roles.

We have bastilles all over the country serving both juveniles and adults, although the proliferation is greater in the adult field. No institution of juveniles should be more than 150 capacity, and no institution for adults should be over 600.

Next the administrators of the correctional services in this country—and I travel from one end of it to the other—are interested in change. They are anxious for change, but a major criteria must be applied: Change cannot be made for change's sake. Change can only be made for improvement. In the rifle attack, I would like to have your committee consider the point of first entry of the offender into the criminal justice system.

Senator BAYH. One specific suggestion is that we tie the 150 capacity criterion to LEAA funds. Do you have a comment on this proposal?

Dr. SHARP. I think this may have been accomplished. To the best of my knowledge, it is one of the figures they are considering in the preparation of the guidelines.

However, the rifle shot that I hope to bring to your attention is the first entry of either juveniles or adults into the criminal-justice system, which is primarily at the time of arrest or detention.

The juvenile court judge at the present time, when he hears a case, is similar to your TV repairman who comes to your home with only a screwdriver and a hammer for tools.

One of the first essential steps to improve the correctional system is to make an inventory of all alternatives to institutionalization.

You have heard a lot of testimony this morning about what happens to children who get into institutions. Many children do not belong in these institutions, but there is no other place. Alternatives to institutionalization must be created.

Examples of alternatives are half-way houses, intensive community treatment centers, group foster homes, community residential centers, vocational training centers, family and individual counseling, volunteer services, et cetera.

Major problems are presented by the disturbed types such as alcoholics, addicts, and mentally retarded. They are medical, not correctional problems; the correctional agencies and services do not have the capabilities to deal with them.

With the interest and participation of the Federal Government in the last 3 or 4 years, we have had an acceleration in potentials to improve correctional services and we thank God for that. It took a long time for the Federal Government to realize that this was a major social problem. An important principle I hope you will consider is that no longer are the cities, counties, and States able to finance necessary preventive and treatment programs in corrections. This principle was proved years ago in the field of education, and it also has been applied to the field of mental health.

As a prerequisite for developing and operating an efficient program, it is essential that we recognize the differential needs of the offenders. For example, some States require a presentence investigation. In many cases, the law requiring a presentence investigation was passed but there were no funds for additional probation officers. Consequently, the amount of supervision of existing probationers, was reduced. As a result you may win one and lose two in recommendations of this type of legislation.

The specific recommendations that I would like to zero in on are:  
No. 1. That Federal legislation be passed to support diagnostic clinics on the city or county level which would be available to both delinquents and adults. The purpose of these clinics, which would be manned by psychiatrists, physicians, sociologists, and social workers, would be to identify the needs of the offenders in order to recommend to the court proper treatment channels.

Senator BAYH. Doctor, Isn't this possible under current LEAA guidelines?

Dr. SHARP. It is possible to a degree but is not specifically spelled out in any literature prepared by LEAA that I have reviewed. An important principle is the method of Federal funding.

In other words, what is essential in order to improve correctional services. Today Federal funding is based on demonstrations and projects and ultimately they frequently do more harm than they do good.

There should be an undergirding for support of programs comparable to what exists in education where there is Federal support of teacher's salaries.

The legislatures, Governors, and fiscal officers are saying they have to be cautious on what projects or demonstrations are started because they will have to be supported with Staff funds after the Federal funds are exhausted. Improvement in preventive practices and care of delinquent children must be based on a sound Federal funding policy.

And why we do not learn from the successes of other programs—we always are seeking something new—this type of rationalization is hard to conceive.

Senator BAYH. Dr. Sharp, if you become aware of specific legislative efforts or specific legislation that will make this possible under LEAA, I hope that you will inform this committee.

Dr. SHARP. As I understand, the LEAA is based on a State-grant program. They have discretionary grants under LEAA, but where do you find long-range support?

Senator BAYH. What about section E funding in this area?

Dr. SHARP. Section E is construction. I am talking about personnel. I am not talking about building.

Senator BAYH. Perhaps under the discretionary grants?

Dr. SHARP. The discretionary grants are for projects and require matching funds.

Senator BAYH. Yes. Well, I do not frown on matching funds. I mean, what we are trying to do is to persuade both State and local governments to act in this area.

Dr. SHARP. If you are matching funds and there is a potential of a constituency, as in the field of education, all right, I will buy it; but I will not buy it when you say you have matching funds and the project lasts 2 years. You cannot plan beyond 2 years.

Senator BAYH. I see.

Dr. SHARP. Now, let me give you a little example of a simple thing; I do not know whether I will be able to compete with the school board but I will try. Just one quick example.

In Philadelphia, we had a diagnostic clinic as part of the detention facility. A 12-year-old boy was received at the center. A basic part of the diagnostic work is a thorough physical, and it was discovered that the youngster had infantile development and his penis was about as big as my little finger. He was afraid to engage in sports with the other boys which required him to strip. He had to prove his manhood, and so he went out and he stole. This boy was not from an underprivileged area. Moreover, his doctor had not discovered his problem. Had it been disclosed earlier, he would probably not have stolen and thus enter the court process. If he had not had a physical examination and his problem discovered, he would probably have been sent to a training school. The treatment consisted of referring him to the clinic and arranging a followthrough.

There are hundreds of other cases that can be discovered in a clinic that would prevent them from entering the criminal-justice process. I am very anxious that this consideration be given.

I do not care how it is to be done, but I hope your committee will give favorable consideration to make it part of our corrections potential.

One last item are alternatives to incarceration; everybody in our field believes these must be increased. You must have an assessment of the needs of offenders in order to engage in criminal justice planning. An assessment of needs resulting from diagnostic studies would be basic in short- and long-term planning.

(The prepared statement of Dr. E. Preston Sharp follows:)

#### PREPARED STATEMENT OF DR. E. PRESTON SHARP

##### INTRODUCTION

This testimony is presented in two parts, first, some of the elements which must be considered in attacking the problems of crime and corrections; and second, specific recommendations for programs designed to overcome some of these problems. I wish to congratulate this Committee on its interest in attempting to reduce crime which is one of our major social problems.

##### BASIC ELEMENTS AFFECTING CRIME AND CORRECTIONAL PROBLEMS

1. America can no longer tolerate the high rate of crime that it is now experiencing.
2. One of the major components of our nation's criminal justice system that can be effective in controlling and reducing crime is corrections. This fact has long been overlooked.
3. There are many bastilles and warehouses built to house from one to five thousand prisoners that must be abandoned. However, these cannot be abandoned until better programs and smaller, more manageable facilities are put in their place.
4. The correctional administrators are probably the most dissatisfied group with the present methods and facilities and are anxious to initiate change. However, they believe that change should not be made for change sake; it must be made for improvement.
5. One of the most important phases of the correctional process is from the time of arrest to final adjudication. In the correctional system, the detention facilities for juveniles and the county and city jails for adults serve the greatest number of offenders each year. Many disadvantaged citizens go through this process, often because of lack of funds to secure adequate legal counsel, or to gain release on bail.
6. The judge in a juvenile or criminal court is frequently in the same position as a TV repairman who comes to fix your set and the only tools he has is a hammer and a screwdriver.  
Often the judge has only a choice between probation or commitment to an institution as his tools in dealing with offenders.
7. Every city, county and state must inventory the number of alternatives to institutionalization and where there are voids, programs should be inaugurated. Such programs should include halfway houses; intensive community treatment; group foster homes; community residential centers; vocational training facilities; family and individual counseling; volunteer service programs; and specialized programs for alcoholics, addicts, and mentally disturbed offenders. Services for the last three groups should be under proper medical or mental hygiene supervision. They do not constitute a correctional problem. The correctional services and agencies do not have the capability to deal effectively with these medical problems.
8. In the last three years, the initial steps have been taken by the Federal Government to finance the development of programs which serve as alternatives to incarceration. The excellent programs of the Law Enforcement Assistance Administration in the Department of Justice, the projects of the U.S. Department of Health, Education and Welfare and the manpower programs of the U.S. Department of Labor have provided much needed additional funds and knowledge for the improvement of correctional services. The time has come when we must realize that the problems of preventing and controlling crime and rehabilitating the offender are so large and complex that a state or local subdivision

can no longer bear the total burden of the cost of needed services to deal effectively with these problems. It has become increasingly clear that developing and maintaining high quality correctional services requires continuing interest and support by the Federal Government. This was recognized a long time ago in the field of education.

9. A prerequisite to the development and operation of an efficient and effective program for the reduction of crime is the recognition of the differential treatment needs of offenders. An assessment of the evidence presented at the trial is often the only information a judge possesses in making a final decision relative to the correctional disposition of the offender. In some states, and especially in the federal judicial system, there is a required presentence investigation. This is an excellent program in theory. However, in many courts the requirement for presentence investigation has been made without providing additional staff to perform the service effectively. As a result, the amount of supervision of probationers has been reduced. The decision to take months or years from a person's life is a serious responsibility and the courts should have adequate information-gathering and diagnostic resources to assist them in making such decisions.

#### RECOMMENDATIONS

1. Provisions should be made for the establishment of diagnostic clinics on a city or county level which would be part of or located adjacent to the detention facility for juveniles or the city or county jail for adults. These diagnostic clinics would be staffed by interdisciplinary teams of psychiatrists, physicians, psychologists, and social workers. The clinic would work closely with probation officers and would be either under the direction of the probation administrator or the administrator of correctional facilities.

The clinics could perform both intramural and extramural service. As part of the intramural service, there would be a supporting medical staff for the institution which would avoid duplication of personnel. On an extramural basis, such a program could serve those released on bail or personal recognizance, and also where indicated, evaluate probationers or parolees when revocation is considered.

The major responsibility of the clinic would be to evaluate the needs of the individual offenders to determine which type of correctional program would be most effective. The recommendations would be sent to the judge for his use in making decisions relative to disposition. A major consideration would be the need for protection of society.

Frequently there is a need for a clinical study prior to trial or hearing. This is especially true in cases of alcoholics, narcotics addicts, and those with symptoms of mental disorder. When recognized early, it would be possible to divert such cases from the correctional process and into the medical or mental hygiene system.

The recommendations of these clinics would be invaluable to correctional planners in identifying the types of alternatives to incarceration which should be developed in the community or at the state or regional level. It would also provide some indication of the effectiveness of other community agencies such as schools, social and health agencies, in dealing with the problems of the offender.

It costs approximately \$11,000 per year to keep a married man in prison. This accrues through the loss of earnings, the cost of his care in prison, the cost of family assistance, and the loss of the taxes he would pay. Often the court finds itself stymied by the lack of alternatives between regular probation supervision and incarceration. There is an urgent need to provide a range of intermediate, community-based programs that will provide more guidance than probation services commonly offer without the various disruptive effects of total confinement. Such programs would also greatly enrich the alternatives available in parole supervision. Undoubtedly, thousands of offenders throughout the country would not have to be incarcerated and many dollars could be saved if there were adequately staffed and funded diagnostic facilities and correctional program alternatives available in every State and local community.

I strongly recommend that legislation be enacted by Congress which would aid cities and counties in establishing and maintaining diagnostic clinics as an essential component of their correctional programs. I believe that the method of federal financing which utilizes the demonstration or pilot type of funding is undesirable for this purpose. While short-term demonstration programs are useful in experimental testing of new concepts and methods, correctional administrators cannot plan long-range programs predicated on short periods of temporary federal funding.

The experience in the education and health service fields has demonstrated that the only method of realizing the maximum service from the federal tax dollar is through a program of ongoing support of proven programs which are operated according to accepted performance standards.

The potential of community-based diagnostic facilities for improving correctional treatment decisions has been demonstrated. Evaluation of a number of experimental community programs developed as alternatives to institutionalization indicates that they are usually at least as effective as traditional programs in reducing recidivism and in some cases more so. They are less costly, often far less costly, than incarceration in an institution and represent an important means of coping with the growing number of offenders that will enter the correctional system in this decade.

Rapid expansion of diagnostic and specialized alternative treatment programs for offenders is an urgent need but will require increased and ongoing financial assistance from the Federal Government.

Your serious consideration of the recommendations included in this testimony are solicited. They represent basic elements in a program of reducing crime.

Senator BAYH. Thank you very much, Dr. Sharp.

I appreciate your testifying today. I hope we can have a continuing dialog. We would welcome your comments on various proposals relating to juvenile delinquency.

Dr. SHARP. I have been in touch with your staff, and I would be very glad to be helpful. I am impressed with the fact that your staff works on weekends; we have been in touch on both Saturdays and Sundays.

Senator BAYH. I think all of us work over the weekends. Thank you very much.

Dr. SHARP. Thank you very much.

Senator BAYH. Our next witness will be Mr. Milton Rector, the executive director of the National Council on Crime and Delinquency, who is accompanied by Mr. Frederick Ward, Mr. Hunter Hurst, and Mr. Justice Freimund.

We are going to have a 3-minute recess, while I make a phone call, and I will be right back.

(Short recess.)

Senator BAYH. Gentlemen. I am sorry for the delay. I am deeply grateful for your appearing here today. Please proceed.

STATEMENT OF MILTON G. RECTOR, EXECUTIVE DIRECTOR, NATIONAL COUNCIL ON CRIME AND DELINQUENCY, NCCD CENTER, PARAMUS, N.J.; ACCOMPANIED BY FREDERICK WARD, JR., DIRECTOR, DIVISION OF RESEARCH AND SPECIAL SERVICES, NATIONAL COUNCIL ON CRIME AND DELINQUENCY, NCCD CENTER, PARAMUS, N.J.; HUNTER HURST III, DIRECTOR, SURVEY SERVICES, NATIONAL COUNCIL ON CRIME AND DELINQUENCY; AND JUSTIS FREIMUND, DIRECTOR, NATIONAL CAPITAL OFFICE, NATIONAL COUNCIL ON CRIME AND DELINQUENCY

Mr. Rector. We are pleased that you would invite us back. I am Milton Rector, executive director of the National Council on Crime and Delinquency, and I am accompanied today by Frederick Ward, Jr., on my left, who is our director of research and special services from our national operation, and on my right, Mr. Hunter Hurst. Mr. Hurst is the director of our national surveys services. He and his

staff have units all over the United States doing studies of juvenile correctional systems.

Senator BAYH. I failed to introduce your fourth colleague.

Mr. RECTOR. Yes, sir, Mr. Justis Freimund is the director of the National Capital office. We would like to give a summary or an overview of the juvenile justice system nationally, based on our study for the President's Commission and other studies, and then Mr. Hurst will follow Mr. Ward with just a very brief updating of what the situation is today in selected jurisdictions.

Following that, I would like to present proposed alternatives for the legislation.

I think the testimony your committee has been hearing and that you will hear from us represents in 1 day a need for change. Traditionally, the courts have kept their hands off the correction system; the judges have not seen responsibility for monitoring whether or not the intent of their order for rehabilitation and reeducation was followed out. I think there is a change among the younger lawyers and the younger judges in terms of responsibility for beginning to monitor what happens to these youngsters.

Also I think that Chief Burger's leadership in promoting the needs for a national center for State courts to bring on the national scene a leadership body for the courts, not only in the criminal area, but the juvenile and family courts is a movement for change.

I think we forget many times in the field of juvenile corrections that the youngsters coming into our juvenile and family courts are really not characteristic of the most serious offenders in our society. They are more characteristic of the educationally, culturally, and economically deprived youngsters and families in our society, and, therefore, I think with that perspective, you will see that our recommendations will suggest legislation which does not deal with the delinquency of this small group of youngsters as a separate entity from society.

Senator BAYH. I think if we can convey that kind of sense of purpose, we can minimize the number of youths who ultimately become delinquent. What we are really talking about is youth development and supportive services. We are addressing ourselves to the unique problems of young people in this country.

Mr. RECTOR. That is right.

Senator BAYH. Many of these youths are the byproducts of problems of older people in our society, who are responsible for these youths.

Mr. RECTOR. That is exactly right, and I think the fact that we have tried to categorize the delinquent youngsters as though they are really a special group is one of the reasons that the Department of Health, Education, and Welfare just has not been able to get ahold of this problem. I think it is one of the reasons that the State plans submitted to LEAA have really not addressed this, although in their testimony they tell you that this is one of the most serious problems facing the Nation.

The State of Texas, from which you obtained very good testimony, only requests a little over 6 percent in their State plan to LEAA for juvenile delinquency areas, and, so, you can see, both at the national

level and at the State level, there is a need for some kind of special emphasis and a special leadership agency on children and youth.

Now, Mr. Ward will give us some documentation of this, and, then, Mr. Hurst, and then I then I would like to make a very brief presentation.

Senator BAYH. Fine.

Mr. WARD. Mr. Chairman and members of the committee, the only comprehensive national overview of the correctional agencies of the juvenile justice system was undertaken by NCCD as a part of a national survey of correction in the United States for the President's Commission on Law Enforcement and the Administration of Justice. While in some instances constructive changes have been introduced since the report was published in 1967, in others, conditions have become even worse. The general findings of the study and the implications, for change, updated where possible, are still valid and will be illustrated in other testimony by Mr. Hurst, drawn from NCCD's recent surveys of individual agencies in various parts of the United States.

The problem of the various elements of the juvenile justice system, which includes detention, probation, local and State institutions, and aftercare or juvenile parole, are many and varied, but when taken altogether they extend well beyond the system itself, for when justice is unfair, uneven, and unavailable, and agencies created to deal with the problem become part of the problem itself, confidence in government is weakened and forces of reaction and counteraction are set in motion. This in turn gives rise to punitive and repressive policies unlike those of the American ideal based on freedom and trust. It has been said of the juvenile justice system that the total is less than the sum of its parts.

On any one day over 350,000 children, or about 30 percent of all offenders, are under the custody and supervision of juvenile correctional agencies and institutions. In addition, many more youngsters are regularly held in a variety of jails and police lockups pending transfer or other disposition.

About 18 percent of the daily total of these 350,000 children are in institutions and 82 percent are on probation or aftercare status in the community. But when costs are compared, 70 percent of the juvenile correctional dollar is being spent on institutions and only 30 percent on all community-based services. The total annual cost is in excess of \$315 million.

Senator BAYH. Do you have any documentation or statistic comparing the success of children institutionalized with those placed in the community?

Mr. WARD. Yes; there is. Generally, the success of individuals in community-based service, probation, and aftercare, is better than for children who come out of institutions without services of that kind, and it is better for children who have not been to institutions than for children who have been to institutions.

Senator BAYH. Would you send us these studies?

Mr. WARD. Yes.

Senator BAYH. We would appreciate that.

Mr. WARD. There are a number of studies made on this particular point, and we would be very glad to supply them.  
 Senator BAYH. I wish that you would, because my own judgment supports such conclusion, but I would like to have pertinent studies supporting these conclusions.

(The studies referred to were submitted for the record, marked "Exhibit No. 8," and are as follows:)

Exhibit No. 8

NOVEMBER 19, 1971.

Miss NANCY SMITH,  
 Senate Subcommittee on Juvenile Delinquency,  
 Old Senate Office Building,  
 Washington, D.C.

DEAR MISS SMITH: During my recent testimony before the Senate Subcommittee on Juvenile Delinquency, I was requested to follow-up by sending, for your file, information related to the results of probation compared with institutional commitment.

Attached is the latest available facts on the subject. Please note the review of literature entitled, "Intensive Intervention: An Alternative to Institutionalization", and the abstracts of research reports related to the issue of probation versus institutional commitment.

Please do not hesitate to call or write if additional information is desired.

Sincerely yours,

FREDERICK WARD, Jr.,  
 Director,  
 Division of Research and Special Services.

Enclosures.

NATIONAL COUNCIL ON CRIME AND DELINQUENCY  
 Information Center  
 44 East 23 Street  
 New York, New York 10010

IHA No. 11218

California. Department of the Youth Authority. Annual statistical report 1968.

36 p.

This annual statistical report provides a cross section of the trends and changes in population characteristics involving the California Department of the Youth Authority and the young people committed to its care during 1968. It was a year of reduced commitments and parole returns, of a higher average age of wards, of lengthier stays in institutions, and of increasing involvement with drugs and narcotics among young people. These trends reflect the development in California juvenile corrections of community treatment and improved probation services. (It has been well established that a substantial number of delinquent young people can be treated more effectively and economically in the community rather than in institutions; at the same time the probation subsidy program, enacted by the State Legislature in 1965, encourages the counties to provide improved probation services through subsidies for reducing expected commitments to state institutions. The result has been the commitment of fewer, generally older, and more confirmed delinquents to the Youth Authority. Involvement with drugs and narcotics has been a growing factor in the over-all delinquency picture. These elements have contributed to an increasing average length of stay in institutions. Contents of this report include a profile of the young people committed to the Youth Authority during 1968, a narrative description of the changing characteristics of the ward's population and statistical data for: first commitments, parole returns, first commitment rates, sex and court of first commitments, first commitment age, ethnic group and offenses, institutional movements, youths under commitment, mean length of stay in reception centers, institutions and on parole, parole performance and long-term trends.



NATIONAL COUNCIL ON CRIME AND DELINQUENCY  
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IHA No. 11407

Adams, Stuart. Is corrections ready for cost-benefit analysis? (Revised version of paper presented at the 98th Congress of Corrections, August 1968), 24 p. mimeo.

Cost-benefit techniques can be applied to the field of correction in order to more systematically ascertain the correctional procedures which actually succeed in terms of return on funds invested. These probation-expansion projects indicate that enriched probation service reduces the number of commitments to prison, thereby eliminating substantial prison costs over and above the increased probation costs of the projects studied. In addition, the data from six controlled experimental projects, carried out between 1955-1967, permit greater precision in cost-benefit analysis. It was found that they permit the use of "new correctional costs" rather than recidivism rates (from which prison costs are estimated) as the primary index of adjustment in the community. Given data on the size of the caseload involved in one full year of treatment by one staff member, the quantitative measure of treatment input can also be computed. Comparisons yield the following results: the situation producing the highest gain per capita in the community treatment project, while the situation producing the highest gain per caseload is the group guidance project. Further application of cost-benefit analysis to corrections will serve to stimulate organization change and optimize the performance of the system as a whole.

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S 8540 Robison, James. *The California prison, parole and probation system.* Sacramento, 1970. 129 p. (California Assembly Office of Research Technical Supplement No. 2.)

The 1968 California Department of Corrections' Master Plan includes, as one of its approaches to the future, a one-quarter billion dollar outlay for construction over the next twelve years and another quarter billion for increased staffing. After considering the effectiveness of current correctional policies, this report offers an alternative to the Master Plan.

Chapter 1 contains examples from the history of the California Department of Mental Hygiene to question the foresight provided by projections, and it illustrates what correction has learned, and often ignored, from its own history.

Chapter 2 poses questions typically asked for evaluating correctional effectiveness and discusses problems and pitfalls encountered in the development of criteria adequate for such evaluation.

Chapter 3 expresses in greater detail, and as program alternatives, the questions of Chapter 2 and then applies these guidelines to answer those questions.

Chapter 4 considers whether the entire field of correction can promise any significant alleviation of the "crime problem."

Chapter 5 applies the themes of the first chapter and the evidence of the second and third in examining the Master Plan, and presents justifications for the alternate plan proposed. The ideal plan is defined in this report as one in which the field of correction reduces all of its current operations to a minimum. Current correctional activity is seen as costly and as contributing to the problem it seeks to reduce.

The findings support the following conclusions:

1. There is no evidence to support claims that one correctional program has more rehabilitative effectiveness than another, but better results occur with the offender in the community than with him in confinement.
2. Statistics on recidivism exaggerate the extent to which convicted offenders return to serious crime.
3. The likelihood of a citizen's being subjected to personal injury or property loss can be only infinitesimally lessened by the field of correction.
4. The increase in public protection gained by the imprisonment of large numbers of offenders, of whom few are dangerous, is outweighed by the public costs involved.

The above conclusions form the basis of the single recommendation: that no more funds be provided for the construction of state prison facilities.

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S 7854 California. Youth Authority Department. The Los Angeles Community Delinquency Control Project: an experiment in the rehabilitation of delinquents in an urban community. Los Angeles, 1970. 51 p. App.

The Los Angeles Community Delinquency Control Project, involving two parole units, was a three-year experiment in which selected California Youth Authority wards were paroled to an intensive rehabilitation program in the community, in lieu of institutionalization and release to the regular program.

Placement in the CDCP was contingent upon residence within specific geographical boundaries which encompassed economically deprived, high delinquency, urban areas; approval of immediate release to the community by local law enforcement officials; and the requirement that the most recent offense do not include acts of violence against persons.

Rehabilitative techniques of the CDCP program included individual and family counseling, group counseling, foster and group home placement, organized center recreational activities and community outings, temporary detention for limit setting and/or protection, a school tutorial program with a certified teacher in the project, and an agent-employer and

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agent-school liaison services. A random research design was implemented to determine if project-eligible wards assigned to the experimental (CDCP) program would perform as well as comparable wards assigned to the regular Youth Authority institutions parole program.

There were no significant differences between the experimental and regular parole programs in either project area on any of the parole performance criteria measures. About one-fourth of the total study population had no police arrests during the first fifteen months on parole. Of those arrested, a significantly higher proportion of the experimentals of both groups had multiple police arrests. There were no significant differences between the experimental and comparison groups on severity of the first arrest offense.

Not only was the experimental program a shorter treatment program than the traditional Youth Authority institution's regular parole program, but CDCP was also more economical and equally effective in the rehabilitation of youthful offenders in lower income, urban areas.

# The Effectiveness of Correctional Programs\*

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*Justifications for the development of special correctional programs and for the choice of sentencing disposition for an individual offender are frequently based on claims of greater rehabilitative efficacy. While considerable evidence exists that some types of offenders have relatively more or less likelihood of recidivism than others, there is, as yet, almost no evidence that available correctional alternatives have any impact on those likelihoods. The article reviews findings from studies of correction in California for five critical choices in offender processing: (1) imprisonment or probation, (2) length of stay in prison, (3) treatment program in prison, (4) intensity of parole or probation supervision, and (5) outright discharge from prison or release on parole. The authors conclude that variations in recidivism rates among these alternatives are, for the most part, attributable to initial differences among the types of offenders processed and that the remaining differences in violation rate between programs may be accounted for by differences in interpreting an event as a violation or in officially designating it as such. No evidence was found to support claims of superior rehabilitative efficacy of one correctional alternative over another.*

THE INTRODUCTION of reform measures in correctional programs in the latter part of the nineteenth cen-

\* Based on a special report by James Robison to the California Legislature Ways and Means Committee, Select Committee on Criminal Justice, 1969.

tury was largely the result of a desire for humane treatment of offenders. The offender was no longer regarded as an evil person who "freely chose" to engage in criminal activities; rather, he was viewed as having been "socially determined" to take deviant

roles and now in need of "treatment" to "reform" or "rehabilitate" him into a socially adequate individual. His change in status from an "evil" person to one who is "sick" was paralleled by the growth of a "correctional" system to handle the "patients." The retributive slogan, "Let the punishment fit the crime," was displaced by a new principle, "Let the treatment fit the needs of the offender," which called for educational training, psychotherapy (primarily group counseling), and community treatment (usually some variation of probation or parole).

These new correctional programs focused primarily on the offender; however, recent efforts have also been directed toward the community.<sup>1</sup> How effective any of these various reform measures has been in rehabilitating offenders (i.e., in reducing the probability of recidivism) was not studied very rigorously until recently because of numerous problems of evaluation.

Assessment of the relative effectiveness of various correctional programs is difficult because adequate measures of performance have not been authoritatively established. Very often the attempt to measure the behavior of the system's clients is confounded by the reporting procedures of the system. The results of such research yield insights about the personnel of the system but tell us little about its clients.<sup>2</sup>

<sup>1</sup> President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* (Washington, D.C.: U.S. Government Printing Office, 1967).

<sup>2</sup> J. Robison and P. Takagi, "Case Decisions in a State Parole System," California Department of Corrections, Research Division, Administrative Abstract, Research Report No. 31, 1968.

Research into the correctional system has been concerned with answering these five basic questions about the behavior of convicted persons subjected to alternative procedures:

1. Will they act differently if we lock them up rather than place them on probation?
2. Will they recidivate less if we keep them locked up longer?
3. Do educating and "treating" in prison reduce recidivism?
4. Does supervising them more closely in smaller parole caseloads reduce recidivism?
5. What difference does it make whether we discharge prisoners outright or supervise them on parole?

The answers to these questions are not easy to obtain because of all the influences that act on the measuring instruments. Nevertheless, a review of current research will illustrate the problems of evaluation of correctional effectiveness and will yield insights into the probable effects of various penal measures.

## 1. Lock Them Up?

Deciding whether to place an offender on probation or to imprison him is not determined by the relative rehabilitative efficacy of the two approaches. The courts place only their "best risks" on probation; the persons who are imprisoned differ in many ways from those given probation. Hence a simple analysis of the difference in recidivism rates between prison and probation cases will not answer questions about their relative effectiveness. Exploring this difference requires control for case differences.

One possible way to control for case differences is to make random assignment of cases to either probation or prison, as in, for example, the Califor-

nia Youth Authority's Community Treatment Project (CTP), which has been in operation since 1961 and has been widely acclaimed for its promise. After commitment to the Reception Center, wards were randomly assigned either to (1) a "control" group, confined in an institution and then given regular parole, or to (2) an "experimental" group, released immediately to small special caseloads in the community (9.5 parolees per agent, compared with 55 per agent under regular supervision).<sup>3</sup> A cohort follow-up has demonstrated statistically significant differences favoring community treatment. At the fifteen-months period, 30 per cent of male experimentals had "violated parole or had been unfavorably discharged," compared with 51 per cent of male controls (and 45 per cent of regular statewide Youth Authority releasees). At the 24-months period, these outcomes were 43 per cent and 63 per cent, respectively, again favoring the experimental group. If we take these findings at face value, we are forced to conclude that probation has been proven to be a more effective correctional program than imprisonment for reducing recidivism. But has it?

Within certain boundaries, the recidivism rate can be influenced by the decision-making authorities.<sup>4</sup> The technical violation rate has been shown to vary between parole agents

<sup>3</sup> California Legislature, "Analysis of the Budget Bill of the State of California for the Fiscal Year July 1, 1968, to June 30, 1969," 1969.

<sup>4</sup> Robison and Takagi, *supra* note 2, and J. Robison, M. Gagerstrom, G. Smith, and R. Kingsnorth, "2943 PC Follow-up: Review of the First Year of Adjustment Subsequent to Consideration of Parole Termination," California Department of Corrections, Bay Area Research Unit, 1967.

handling similar cases and has markedly influenced the recidivism rates of their wards.<sup>5</sup> In the CTP study, the recidivism rates were managed in such a way as to make the experimentals appear favorable. "The bulk of control failures (68%) was accounted for by the category of Parole Agent Casework Decision (i.e., agent's recommendation to the Youth Authority Board that a given ward's parole be revoked), although this same category accounted for no more than 29% of the Experimental failures."<sup>6</sup> In re-examination of the data, Lerman found that "the chance that an Experimental boy's offense will be handled in a 'revoking' manner is lower if the offense is low or moderate in severity. Experimentals are judged similarly to the Controls only when the offenses are of high severity."<sup>7</sup> The experimentals were no less delinquent in their behavior than the controls; in fact, they committed more "known" delinquent offenses than the controls (2.81 per experimental boy, 1.61 per control boy).<sup>8</sup> This is probably an effect of increased supervision—i.e., if the controls had been watched as carefully, there would have been no differences between the two. The important point, however, is that an ideological belief in the effectiveness of community treatment apparently altered the experimental results.

<sup>5</sup> J. Robison and P. Takagi, "The Parole Violator as an Organization Reject," University of California, School of Criminology, 1968.

<sup>6</sup> R. Warren, T. Palmer, et al., "An Evaluation of Community Treatment for Delinquents," California Youth Authority, Community Treatment Project Research Report No. 7, 1966.

<sup>7</sup> P. Lerman, "Evaluating the Outcome of Institutions for Delinquents," *Social Work*, July 1968.

<sup>8</sup> *Ibid.*

In the light of these facts CTP gives little support to the thesis that probation is superior to institutionalization for reducing the recidivism rate. There appears to be no difference between the two approaches. One might, however, still argue in favor of "community treatment" on humanitarian and economic grounds. Another relevant project that attempted to test the relative effectiveness of community treatment was conducted by the Northern California Service League; it involved adult offenders given professional casework service in lieu of a jail or prison term.

It provided for the treatment of any adult offender referred by the Superior or Municipal Courts of San Francisco who had been found guilty of an offense other than one relating to drunkenness and whose sentence would ordinarily be a county jail or prison term, were the offender not referred to the project for treatment. . . . The second condition, namely that the offender would ordinarily receive a jail or prison term were it not for referral to the project, was to insure that the group treated by the project would be the group that would ordinarily be going to jail or prison and would not include those who would ordinarily be given probation.<sup>9</sup>

Assignment was, thus, not random. Checks upon whether referrals were representative of those being confined revealed that project cases tended to be somewhat younger and included fewer minority ethnic group members, a disproportionately low number of narcotic offenders, and a disproportionately high number of property offenders (e.g., crimes against property, 67 per cent vs. 48 per cent for those jailed and imprisoned in the same

<sup>9</sup> E. Conbrose, "Final Report of the San Francisco Rehabilitation Project for Offenders," Northern California Service League, 1966.

year; assaultive crimes, 15 per cent vs. 16 per cent; sexual abuse, 4 per cent vs. 5 per cent; narcotics indulgence or abuse, 12 per cent vs. 25 per cent). The attempt to evaluate outcome matched project cases with jail releasees on age, sex, race, type of offense, and time of release. By the criterion chosen (no arrests or only one or two arrests but no convictions), project cases (N=95) appeared to do better than jail releasees: 80 per cent favorable, compared with 70 per cent; however, the project sponsors consider the findings tentative and comment that the evaluative techniques are faulty.<sup>10</sup> Nevertheless, it would be safe to conclude that project cases did just as well as those confined. The study does not support any claim that institutional confinement is more effective than community supervision.

## 2. Keep Them Locked Up Longer?

The phrase "optimum time for release" suggests that the releasing authority knows when that point in time has been reached and is ready to act on that knowledge. Implicit in it is the notion that there is a relationship between the amount of time served and the probability of recidivism. But is there?

The findings of the California Department of Corrections study of Advanced Release to Parole for the 1954-57 release years are shown in Table 1. The performance difference of 4 per cent in favor of early releases after six months is attributable to their being low risk cases. When base-expectancy controls are introduced for quality of case, early release makes no difference. "All differences appear to be accounted for by base expectan-

<sup>10</sup> *Ibid.*

TABLE 1  
PERCENTAGE OF COMPLETELY CLEAN PAROLE RECORDS WITHIN SIX MONTHS AFTER  
RELEASE TO PAROLE IN 1954-57 BY SIPU ASSIGNMENT AND TYPES OF PAROLE RELEASE

Type of Parole Release	All Assignments (1954-1957)		Type of Assignment (1954-1957)		
	No. Released	Per cent "Clean"	Small or Medium Caseloads	SIPU Large Caseloads	Non-SIPU Large Caseloads
Regular	7,884	68%	70%	68%	69%
Advanced	3,116	73%	74%	72%	72%
Difference	—	—	4%	4%	3%

cies or length of parole term variability."<sup>11</sup> This was found true when follow-up comparisons were extended to analysis of one-, two-, and three-year exposure periods, and regardless of the size of the parole caseload to which men were released.<sup>12</sup>

On the other hand, there is some evidence that the practice of keeping men in prison longer in itself increases the probability of recidivism. Jaman<sup>13</sup> recently compared parole performances, since 1957, of California first prison releases of persons originally committed for Robbery 1st or 2nd. (On June 30, 1968, 41.6 per cent of the adult felon prison population consisted of men in these offense categories.<sup>14</sup>) They were compared according to whether they had served less or more than the median time in prison for the offense in the particular release year. Cohort follow-up for six-, twelve-, and 24-month periods consistently shows, by almost every

<sup>11</sup> P. Mueller, "Advanced Releases to Parole," California Department of Corrections, Research Division, Research Report No. 20, 1965.

<sup>12</sup> *Ibid.*

<sup>13</sup> D. Jaman, "Parole Outcome and Time Served by First Releases Committed for Robbery and Burglary, 1965 Releases," California Department of Corrections, Measurement Unit, 1968.

<sup>14</sup> California Department of Corrections, "California Prisoners, 1964-66," Research Division, Administrative Statistics Section, 1963.

criterion (percentage "favorable," percentage returned with new commitment, percentage returned to finish term), a performance advantage favoring those released earlier. To counter the argument that such findings proved merely that the poorer risks were retained longer, Jaman extended the analysis to include control matching on age, ethnic group, base-expectancy level, parole region of release, and type of parole supervision received ("work unit" or "conventional" caseload) and applied it to prisoners released in 1965.

For all offense categories and in all follow-up periods, the percent of favorable outcome among the men who served less than the median time was greater than among those who served more than the median months. Almost half of the testable comparisons showed statistically significant differences. In fact, in the matched samples of men who had been committed for Robbery 1st, those who served less than the median months had a much higher percent of favorable outcome in all three follow-up periods.<sup>15</sup>

It is difficult to escape the conclusion that the act of incarcerating a person at all will impair whatever potential he has for crime-free future.

<sup>15</sup> D. Jaman, "Parole Outcome for First Releases for Selected Commitment Offenses by Time Served before First Release," California Department of Corrections, Research Division, Measurement Unit, 1968.

adjustment and that, regardless of which "treatments" are administered while he is in prison, the longer he is kept there the more will he deteriorate and the more likely is it that he will recidivate. In any event, it seems almost certain that releasing men from prison earlier than is now customary in California would not increase recidivism.

The likelihood of recidivism, however, may play relatively little part in the decision to retain many prisoners beyond their legal minimum term.

Sheldon Messinger points to another "hardly surprising" consideration—order within the prisons:

The felt need to maintain control over inmates moves prison officials to seek discretion over sentencing. . . . Prison officials are charged with the management of prisons; whatever the ultimate ends of imprisonment, from the officials' point of view a first requisite is effective influence over inmate conduct. So long as inmates desire freedom, restrictions of freedom—threatened and actual—will provide a possible strategy for control, for effective influence; and the correctional establishment as a whole is premised on the desire of inmates for freedom.<sup>16</sup>

Thus, just as prison overcrowding creates a pressure for either shorter average terms or increased capital outlay, the need for inmate control creates a pressure for lengthened confinement to maintain, by example, incentives for cooperative conduct.

### 3. Do Something with Them Inside?

Group counseling has been one of the most widely applied and recommended prison treatment techniques. Elements of this treatment (e.g., ventilation of feelings and help toward

<sup>16</sup> S. Messinger, "Strategies of Control," University of California, Center for the Study of Law and Society, 1968.

self-understanding) were presumed to advance "rehabilitation" and, secondarily, to support institutional order by helping prisoners "adjust to the frustrations" and "improve the emotional climate of the institution."<sup>17</sup> To assess its effect on the primary goal of rehabilitation (operationally defined as the reduction of recidivism or the probability of recidivism), it is necessary to design an experimental situation utilizing rigorous controls. Only infrequently are treatment programs subject to the types of experimental testing necessary for valid evaluation.<sup>18</sup> Much of the published research on group counseling in a prison setting deals with simple descriptions of the program,<sup>19</sup> theoretical justifications,<sup>20</sup> or shoddy "evaluations" without an adequate control group and random assignment of cases.

A recent study conducted to test the effect of group counseling in prison on postrelease behavior used a randomized assignment procedure and an adequate control group.<sup>21</sup> It is a true cohort follow-up (N = 968), with 36-months outcome obtained for each subject regardless of whether he was in custody, still on parole, or discharged from parole. All the subjects were from one prison, "a medium-security institution with its popula-

<sup>17</sup> A. Fenton, "Group Counseling—A Preface to Its Use in Correctional and Welfare Agencies," Sacramento, Calif., Institute for the Study of Crime and Delinquency, 1961.

<sup>18</sup> L. T. Wilkins, *Evaluation of Penal Measures* (New York: Random House, 1969).

<sup>19</sup> C. Sykes, *The Society of Captives* (New York: Atheneum, 1966).

<sup>20</sup> R. R. Korn and L. W. McCorkle, *Criminology and Penology* (New York: Holt, Rinehart, and Winston, 1966), ch. 20.

<sup>21</sup> G. Kassebaum, D. Ward, and D. Wilner, *Prison Treatment and Its Outcome* (to be published by John Wiley).

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TABLE 2  
POSTRELEASE STATUS AT 36 MONTHS BY TREATMENT STATUS (IN PERCENTAGE)

	Treatment Category				
	"C" Quad	Voluntary Non-participation	Community Living	Research Counseling	Regular Counseling
Returned to Prison					
With New Term To Finish Term	16%	18%	27%	20%	15%
After Discharge from Parole	31	37	29	31	34
Major Problems					
During Parole	1	1	3	—	—
After Discharge from Parole	5	2	10	5	6
Minor Problems					
During Parole	4	7	1	1	4
After Discharge from Parole	7	3	7	8	9
No Problems					
During Parole	11	8	7	13	10
After Discharge from Parole					
Still on Parole	4	5	3	4	4
Discharged from Parole	21	13	12	13	18
Total* N = 955 <sup>b</sup>	100% (269)	100% (173)	100% (68)	100% (171)	100% (274)

\* Percentage totals are rounded.

<sup>b</sup> Not including: Dead = 8, Incomplete Information = 5.

tion an almost perfect representation of modal departmental prisoner characteristics<sup>22</sup>; hence, there was no control group of nonimprisoned felons. While in prison the men were randomly assigned to (1) small counseling groups (Research Group Counseling, N = 171), (2) large groups (Community Living, N = 68), and (3) a control group (C-Quad, N = 269) where no counseling was given; the remainder of the men in the sample chose either to join group counseling (Regular Group Counseling, N = 274) or to not participate at

<sup>22</sup> The parole performance of the sample after thirty-six months was nearly identical with that in an earlier study of all men (N = 1,810) released to California parole in 1956.

all (Voluntary Nonparticipation, N = 173). The study sample was limited to those who had at least six months' exposure to programing; the average number of group counseling sessions was forty. The results of the study are shown in Table 2.

There were no differences in parole outcome by treatment status measured at 6, 12, 24, and 36 months after release, . . . no treatment or control group differences on the number of misdemeanor or felony arrests recorded in the parole records, no differences in total number of weeks spent in jail, and no differences in most serious disposition received within three years after release.<sup>23</sup>

The researchers concluded:

<sup>23</sup> Kassebaum *et al.*, *op. cit.* *supra* note 21.

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Thousands of inmates and hundreds of staff members were participating in this program at a substantial cost to the Department of Corrections in time, effort, and money. . . . Contrary to the expectations of the treatment theory, there were no significant differences in outcome for those in the various treatment programs or between the treatment groups and the control group.

Furthermore, contrary to sociological expectations, participation in group counseling and community living did not lessen even the limited endorsement of the inmate code, nor did it result in a demonstrable decrease in frequency of prison discipline problems. . . .

It would seem that in order for the Department of Corrections to continue to justify the widespread use of group counseling some new arguments must be advanced, such as "participation in group counseling gives custodial officers a real part in the treatment program and seems to improve their morale" or "group sessions add a little variety to inmate life and take up time."<sup>24</sup>

Nevertheless, the advocates of "treatment" programs can still argue that if group counseling improved in overall quality, it would indeed have an impact on recidivism.

The correctional treatment program just discussed is not atypical; it is unusual only in that it was subjected to a rigorous evaluation. Walter Bailey evaluated one hundred reports on correctional programs and outcome and found no solid indications of treatment efficacy<sup>25</sup>; Robert Martinson completed a similar study for

<sup>24</sup> D. Ward, "Evaluation of Correctional Treatment: Some Implications of Negative Findings," *Proceedings of the First National Symposium on Law Enforcement Science and Technology* (Washington, D.C.: Thompson Book Co., 1967).

<sup>25</sup> W. Bailey, "Correctional Outcome: An Evaluation of 100 Reports," University of California, Los Angeles, School of Social Welfare.

the New York Governor's Special Committee on Criminal Offenders.<sup>26</sup> Despite the continuing popularization of various treatment programs and the increased attention devoted to more rigorous designs for their evaluation, *there are still no treatment techniques which have unequivocally demonstrated themselves capable of reducing recidivism.*

One of the major proposed efforts of the California Department of Corrections in institutional treatment is "medical-psychiatric" programing despite the absence of any evidence that its current model for such operations, the California Medical Facility, is superior in rehabilitative efficacy to routine prison programing.<sup>27</sup> Professionalization and upgrading of treatment services are defensible on the grounds of important secondary objectives—special client needs and benefits—but it is doubtful that these services are useful for reducing recidivism.

Processing an offender as ill (and he may, in fact, be ill) is hardly an advance over processing him as evil (and he may also, in fact, be evil). Neither formulation has much relevance in prison, since the inmate's primary status is that of a warehoused object. The California Department of Corrections plans to confer openly the patient status of "medical-psychiatric" bed upon many who are now looked upon as only inmates ("general purpose" beds). The change in nomenclature may enhance the Department's image and will certainly spiral its costs, but any measurable

<sup>26</sup> R. Martinson, Department of Sociology and Anthropology, City College of New York (personal communication).

<sup>27</sup> Similarly, there has been no evidence that the Department's Outpatient Psychiatric Clinics have any effect on recidivism.

improvement in performance is unlikely.

Just as, historically, the number of witches rose as a consequence of an increase in the number of witch hunters and then declined, not in response to the hunters' rehabilitative efforts but rather as a consequence of corrective excesses that thinned the ranks of the witch hunters,<sup>28</sup> correction may be approaching a turning point. Yet even today, we find passages such as the following, freshly in print:

Society's perception of criminals is changing. Criminals now can be seen as bad or sick. If they are bad, they require custody; if they are sick, they require treatment. The treatment-versus-custody controversy has raged in the Corrections field for several decades, but today the treatment advocates appear to be winning.<sup>29</sup>

Since nothing much is won if either side wins, maybe it's time to call off the game.

The narcotic addict has recently been transferred from the ranks of the bad to those of the sick, through little more than a change in the procedural labels: civil rather than criminal commitment; outpatient rather than parole supervision. Opposition to commitment for a treatment not proven effective has been voiced on the grounds that it is cruel and unusual punishment, that it denies to a person "accused" of illness the

<sup>28</sup> "With the rise of rationalism, and the disbelief in a personal God, came a corresponding disbelief in his opposite, the Devil. . . . A decline in the acceptance of miracles meant a decline in the acceptance of spells," P. Hughes, *Witchcraft* (Baltimore: Penguin Books, 1965), p. 42.

<sup>29</sup> M. Mathews, "Correctional Rehabilitation: Boom or Bust?" Federal Offenders Rehabilitation Program, Fourth Annual Conference, San Antonio, 1968.

stringent legal protections afforded a person accused of crime, and that it is hardly different from imprisonment.<sup>30</sup>

In this movement to civil commitment, California was, as usual, in the forefront, having established in 1961 a model that was recently copied in New York. The program, the California Rehabilitation Center (CRC), has recently been evaluated. Findings from a three-year cohort follow-up on CRC program performance of 1,209 first releasees to outpatient status indicated:

1. Seventeen per cent received a discharge from the program after completing three continuous years on outpatient status.

2. Sixty-seven per cent were returned to the CRC.

3. Thirty-three per cent received a new criminal conviction during their first release (22 per cent misdemeanors and 11 per cent felonies).

4. Seventy-one per cent were detected as having used drugs illegally (63 per cent opiates and 8 per cent other dangerous drugs or marijuana).

5. Characteristics most strongly related to completing the three-year period successfully were: being white; staying at CRC a short time; living with one's spouse; living outside of Los Angeles, Orange, San Francisco, or Sacramento counties; and working 75-100 per cent of the time.<sup>31</sup>

The findings, applicable only to first releasees, speak for themselves. Those returned to the center perform even more poorly, of course, upon subsequent release. For example, of all men released in 1966, 50 per cent

<sup>30</sup> J. Kramer, J. Bercoches, and G. Sing, "Civil Commitment for Addicts," *American Journal of Psychiatry*, December 1968.

<sup>31</sup> J. Bercoches, California Department of Corrections, Research Division, 1968 (personal communication).

were returned before a single year in the community had elapsed; the rates were 48 per cent for first releasees, 54 per cent for second releasees, and 61 per cent for third releasees.<sup>32</sup> Note also (see item 3 above) that one out of three shuttled from the ranks of the sick to the ranks of the bad—"new criminal conviction"—though relatively few to the extent of a felony.

When such results are interpreted as "a modest degree of success,"<sup>33</sup> the emphasis certainly belongs on "modest," and one must also ask, "results more successful than what?" That a treatment of this caliber continues to expand and obtain funding makes it obvious that demonstration of effectiveness is a token promise rather than a consequential issue in determining where public investment will be placed. There are now two "habits" to support—the ailment and the costly treatment.

While group counseling has been the most popular special treatment in prison programming, reduced caseload size represents the major approach in parole and probation to the problem of curbing recidivism. Findings on the efficacy of this approach will be reviewed next.

#### 4. Watch Them More Closely Afterward?

The question of caseload size has been more exhaustively studied than any of the others, and hopes attached to caseload reduction have served to justify numerous demonstration projects. These projects typically ask

<sup>32</sup> J. Bercoches, R. Bass, and G. Sing, "Analysis of First-Year Experience of All Released from California Rehabilitation Center to Outpatient Status in 1966," California Rehabilitation Center, Narcotic Addict Outpatient Program Report No. 8, 1968.

<sup>33</sup> Kramer et al., *supra* note 30.

Complicated questions about the nature as well as the "intensity" of the supervision technique and explore offender-variable questions as well.

California has led the field in experimentation with caseload size in parole; for the past fifteen years, the Department of Corrections has been involved in manipulation of caseload size. The Special Intensive Parole Unit (SIPU), conducted from 1953 to 1964 in four phases, provides interesting information about the effects of variation in caseload size on recidivism. Following is a summary of the results of each phase of this project:

Phase One (SIFU I)—Provided for random assessment of cases released from the Department of Corrections to special fifteen-man caseloads (experimental) or the regular ninety-man caseloads. Cases remained in an experimental caseload for three months (believed to be the most vulnerable months for failure) and were then transferred to a regular caseload. An evaluation of Phase One revealed that the reduced caseloads had no measurable effect on parole outcome.

Phase Two (SIPU II)—The experimental caseloads were increased to thirty men, and the length of stay was increased to six months before transfer to a regular caseload. Again, no evidence of the superiority of the reduced caseload was demonstrated.

Phase Three (SIPU III)—The experimental caseloads were increased to thirty-five men, and the length of stay was increased to one year before transfer to a regular caseload. A two-year follow-up revealed that reduced caseload parolees did slightly better than those on regular caseloads and that the improvement was attributable to medium-risk parolees.

Phase Four (SIPU IV)—Attempts were made to explore the effects of parolee and officer types on case outcome. Caseload size was reduced to thirty and fifteen, and

TABLE 3  
ACTUAL PAROLE PERFORMANCE BY CASELOAD SIZE

Type of Parole Supervision	No. Released	Outcome	
		Favorable	Technical Return
Work Unit Supervision	2,948	65.8%	15.7%
Conventional Supervision	4,353	62.6%	14.4%
Total	7,301	63.9%	15.0%

officers and parolees were matched on characteristics thought to be favorable to parole outcome. The results of the study indicated that these characteristics did not measurably affect parole outcome and that the only variable which mattered was the amount of time an officer had to devote to supervision. The fifteen-man caseload did no better than the thirty-man caseload.<sup>34</sup>

Phase Four of the study has been criticized for lack of precision.<sup>35</sup> There is also evidence that SIPU agents were responding to violations by their parolees in the same fashion as the Youth Authority's Community Treatment Project agents.<sup>36</sup> Thus, it is not known whether significant findings occurred because parolees were behaving differently or because parole agents were reacting differently to violations.

Despite the absence of good evidence supporting reduced caseloads, the California legislature in 1964 gave approval to the Work Unit program in parole. The result was that half the adult male parolees in the state were placed under reduced-caseload supervision, which required the hiring of many parole agents. The assignment

<sup>34</sup> See S. Adams, "Some Findings from Correctional Caseload Research," *Federal Probation*, December 1967.

<sup>35</sup> *Ibid.*

<sup>36</sup> See text *supra* at notes 4-8; also, J. Robison, Progress Notes toward the Proposed Study of Parole Operations, California Department of Corrections, Bay Area Research Unit, 1965.

of cases to the Work Unit program (average caseloads of about thirty-five based on an elaborate grading system whereby each case is assigned points according to the seriousness of the offense and other factors) was left to the regional classification representative. Thus, Work Unit cases are different from Conventional Unit cases (i.e., regular supervision caseloads averaging about seventy cases), and a comparison of performance for the two has to take this difference into account. In 1965, its first year of operation, there were 2,948 prison releases to Work Unit parole supervision, and 4,353 to Conventional supervision. The performance figures for the two types of supervision, based on a one-year cohort exposure period, are presented in Table 3.<sup>37</sup>

The difference in performance between the two types of supervision appears slight; nevertheless, the 3.2 per cent advantage in favorable outcome of Work Unit over Conventional is statistically significant. In interpreting these data, however, we must remember that the two populations are not directly comparable. For example, all persons classified as having a high potential for violence were assigned to the Work Unit program, which was found to be composed of better-risk parolees as measured by an actuarial prediction device (California Base Expectancy 61A). When

<sup>37</sup> Robison and Takagi, *supra* note 2.

controls for parolee risk level were introduced, the difference in favorable outcome between the Work Unit and the Conventional Unit was erased, and conventional supervision was found to have a significantly lower rate of technical prison return.<sup>38</sup>

In 1964 the federal probation system inaugurated the San Francisco Project, experimenting with caseloads of four sizes and random assignment. Like the Work Unit program, the project experienced an increase in the technical violation rates accompanying reduction in caseload size:

The minimum supervision caseload has a violation rate of 24.3%; and the "intensive" caseload, a violation rate of 37.5%. . . . In the "ideal" caseloads some five or six times as much attention, as measured by direct contact with the offender and with others about him, did not produce a reduction in violations; and in the "intensive" caseloads, despite fourteen times as much attention as provided the minimum supervision cases, the violation rate not only failed to decline significantly, but increased with respect to technical violations. . . .<sup>39</sup>

The researchers concluded that the technical violation rate was a function of the amount of supervision—i.e., the intensified supervision enabled agents to discover a greater number of minor technical violations. Caseload groupings did not differ in regard to nontechnical violations.<sup>40</sup> Thus the small caseload was not demonstrated to be more effective in reducing recidivism.

<sup>38</sup> *Ibid.*

<sup>39</sup> J. Lohman, A. Wahl, R. Carter, and S. Lewis, "The Intensive Supervision Caseload: A Preliminary Evaluation," University of California, School of Criminology, San Francisco Project No. 11, 1967.

<sup>40</sup> *Ibid.*

### 5. Cut Them Loose Officially?

California prides itself on its extensive use of aftercare; about 90 per cent of male felons released from prison in recent years were released to parole supervision. Relatively little attention has been given to comparing men officially discharged from prison with men released on parole.

From 1960 through 1966, 4,854 male felons were discharged from prison at expiration of sentence.<sup>41</sup> Of these, 47 per cent were first releases, and it seems reasonable to assume that many of these men were kept the full time because of problems in their prison adjustment or concerns about releasing them. More than half the prison discharges had been previously returned from parole as violators—10 per cent with a new commitment and 43 per cent to finish their original term. One out of every five men who are returned to prison as technical violators is subsequently discharged from prison and the remainder are reparaoled, compared to one out of ten who are returned with new commitment and one out of twelve leaving on first prison release.<sup>42</sup>

In general, then, one would expect men discharged from prison to be poorer risks than those placed on parole. While cohort follow-up is routinely available only for parolees, some return-to-prison data are available from the California Department of Corrections. Examination of these data indicate that discharged men have fewer return-to-prison dispositions than men released to parole supervision. This does not mean that men discharged from prison are bet-

<sup>41</sup> California Department of Corrections, *supra* note 14.

<sup>42</sup> These proportions vary slightly from year to year.

ter risks. The difference can most likely be accounted for by the circumstance that men in discharged status are not subject to administrative returns as are technical violators of parole.

In a more detailed study of men discharged or paroled from prison in California (781 discharged vs. 2,858 paroled), Mueller found that, during the first two years, discharged cases had a more favorable postinstitutional outcome (i.e., no trouble or no disposition with a sentence over 89 days) than cases released to parole.<sup>43</sup> However, after three years there was no difference between the two groups in postinstitutional dispositions. The parolees' less favorable dispositions during the first two years were probably attributable to their "return to finish term," a disposition not possible for discharged men.<sup>44</sup>

The threshold of criminal or antisocial behavior that may result in return to prison is obviously higher for the ex-prisoner who is no longer officially under commitment to a correctional system. Does the convenience offered by administrative return to confinement offer sufficient protection to warrant its expense? Are we paying more for protection than it is worth?

#### Conclusion

In the opening section of this essay we noted that reform movements have been generated primarily by humanitarian rather than pragmatic considerations. "Treatment," the presumed antithesis of "punishment," becomes the banner under which such a movement takes shape, and the slogan "Let the treatment fit the offender"

<sup>43</sup> Mueller, *supra* note 11.

<sup>44</sup> *Ibid.*

replaces "Let the punishment fit the crime." Punishment and treatment, however, are not opposites; the opposite of punishment is reward, and the "law of effect" posits the utility of both in shaping future behavior. Since punishment may be a rehabilitative tool, to talk of punishment *versus* rehabilitation is foolish. But to speak of reward vis-à-vis offenders becomes awkward, since it plays havoc with the concept of deterrence: openly rewarding persons to stop being criminals would seemingly impel others to commit criminal acts in order to secure the benefits offered for retirement from crime. Consequently, it becomes politically more convenient or less embarrassing to introduce the concept of treatment to counterbalance punishment. Punishment is manifestly unpleasant and may or may not "work," whereas treatment, while not intrinsically pleasant, escapes the definitely unpleasant connotations of punishment; furthermore, it is impliedly effective: treatment, almost by definition, is that which results in improvement of a condition. Thus, treatment gains an aura of being both nicer (more humane) and better (more effective).

In correctional practice, treatment and punishment generally coexist and cannot appropriately be viewed as mutually exclusive. Correctional activities (treatments) are undertaken in settings established as places of punishment. Restriction of freedom is a punishment, no matter whether it is imposed by physical confinement (jail or prison) or by surveillance of movement in the community (probation or parole). The punitive conditions are viewed as necessary for the administration of treatment, and the treatments are believed to account for whatever favorable results occur.

The real choice in correction, then, is not between treatment on one hand and punishment on the other but between one treatment-punishment alternative and another.

Analysis of findings in a review of the major California correctional programs that permit relatively rigorous evaluation strongly suggests the following conclusion: *There is no evidence to support any program's claim of superior rehabilitative efficacy.*

The single answer, then, to each of the five questions originally posed—"Will the clients act differently if we lock them up, or keep them locked up longer, or do something with them inside, or watch them more closely afterward, or cut them loose officially?"—is: "Probably not."

Examination of correctional programs in states other than California would probably yield essentially similar results and the conclusion may generally apply. There is considerable evidence that different types of offenders have markedly different likelihoods of recidivating, and there can be little doubt that the different available correctional program options have markedly different degrees of

unpleasantness associated with them. Since the more unpleasant or punishing alternatives are more likely to be invoked for those offenders with serious present offenses or multiple past offenses, it is natural that different success rates and, *apparently* different degrees of effectiveness will attach to some alternatives, though these differences of effectiveness are illusory. Since the more unpleasant or punishing alternatives tend also to be the more expensive, the choice of appropriate disposition for offenders should be determined by the amount of punishment we want to impose and the amount of money we are prepared to spend in imposing it; it should not be obscured by illusions of differential rehabilitative efficacy.<sup>45</sup> If the choice is, in fact, merely between greater and lesser punishments, then the rational justification for choosing the greater must, for now, be sought in concepts other than rehabilitation and be tested against criteria other than recidivism.

<sup>45</sup> J. Robison, "It's Time to Stop Counting," Special Report to California Legislature Ways and Means Committee, Select Committee on Criminal Justice, 1969.



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## CRIME and DELINQUENCY LITERATURE

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### Review:

**Intensive Intervention:  
An Alternative to  
Institutionalization**  
by: Eleanor Harlow

## Intensive Intervention: An Alternative to Institutionalization\*

ELEANOR HARLOW

COMMUNITY TREATMENT is a term used to describe such a wide variety of efforts at every stage of the correctional process that it has lost all descriptive usefulness except as a code-word with connotations of "advanced correctional thinking" and implied value judgments against the "locking up" and isolation of offenders. Although the practice of handling offenders outside the institution is not especially new, the development of "community treatment" as a powerful catch-word appears to be fairly recent. As the term has become popularized, and as the phrase is increasingly associated with avant-grade thinking in corrections, the concept has been stretched to include a widening variety of treatment efforts, some of which are "community-based" only in that they are less isolated and confining than the traditional prison.

In the literature on alternatives to institutionalization, the description "community treatment" has been applied to probation and parole (these being the traditional noninstitutional correction measures); probation alone (parole in this case considered an extension in the community of institutional treatment); aftercare (juvenile parole) and halfway house "bridges" between the institution and free society; community-based institutions (located in the community, with perhaps some use of community resources for health, education, or recreation purposes); noninstitutional boarding arrangements such as foster care; small group homes; semi-institutional or "open" cottage living; forestry, work, or outdoor probation camps; and a number of daycare programs, outpatient clinics, and nonresidential work/group-therapy programs. Occasionally, community treatment is viewed as encompassing efforts which are essentially preventive, such as street work with antisocial gangs or early identification and treatment of "predelinquents." The latter are of necessity community-based because in most cases the formal processes of criminal justice have not been invoked.

This lack of clear delimitation might be at least partially attributed to the phenomenon of "jumping on the bandwagon." Increasing evidence that institutionalization may be more destructive than rehabilitative, and may in fact increase probabilities of recidivism, initiated a

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trend which emphasizes alternatives to imprisonment or, where institutionalization is felt to be necessary, transitional programs in the community to facilitate reintegration.

Disillusionment with the traditional institution as a rehabilitative tool appears justified. Research evaluating imprisonment has received support from studies which reveal the ineffectiveness of institutionalization not only in correction but in mental health, child care, and related fields. Following a California study of the effects of institutionalization on mental patients, which found that this experience did not improve the social competence of the mentally ill, a study was made in that state of the deterrent effects of criminal penalties.<sup>1</sup> Penal legislation in California, as in most other states, has been based on the presumed deterrent effect of severe penalties. In this study substantial evidence was found to suggest that lengthy incarceration does not deter crime or recidivism. Recidivism rates of released prisoners were found to be generally constant for all states despite variations in correctional practice. Specific analysis supporting the general conclusions included studies of attacks on police officers, marijuana offenses, and bad-check writing. In each of these cases, increased penalties did not deter commission of the offense. Reducing incarceration time was found to effect no significant increase in recidivism, and in some cases was associated with a decrease in future offending.

Not only has it been shown that imprisonment does not effectively rehabilitate or deter; indeed the actively destructive potential of most correctional institutions frequently has been emphasized. The President's Commission has reported that "life in many institutions is at best barren and futile, at worst unspeakably brutal and degrading. . . . The conditions in which [inmates] live are the poorest possible preparation for their successful reentry into society, and often merely reinforce in them a pattern of manipulation or destructiveness."<sup>2</sup>

Disenchantment with imprisonment as a corrective measure, however, seems to have led to a less than critical acceptance of noninstitutional alternatives as "more effective." Both classification and evaluation of community correction programs are complicated by this lack of clarity and by the interference of value-laden assumptions. As popular and

<sup>1</sup> Crowther, Carol. "Crimes, penalties, and legislatures." *Annals of the American Academy of Political and Social Science*, 381 (no number): 147-158, 1969.

<sup>2</sup> U. S. President's Commission on Law Enforcement and Administration of Justice. *The challenge of crime in a free society*. Washington, D.C., U. S. Government Printing Office, 1967. p. 159.

professional support for incarceration of offenders has declined and as the goals of reintegration, resocialization, and rehabilitation have replaced punishment as primary theoretical concerns, it has become fashionable to label any modification of traditional incarceration as "treatment" and any effort to reduce isolation of the offender as "community-based treatment." As a result, it has become extremely difficult to identify actual alternative dispositions for those offenders who are candidates for incarceration or to make realistic judgments of their relative effectiveness. In reviewing the literature on "community treatment," one must first determine which programs are in fact noninstitutional alternatives and then attempt to distinguish those evaluative results which are relatively free from the influence of interfering variables, including ideological commitment to program on the part of both project and research personnel.

### Alternatives to Institutionalization

Within the range of correctional efforts commonly referred to as community treatment there can be discerned a category of programs which are accurately considered alternatives to institutionalization and which also may be fairly clearly distinguished from regular probation supervision. These might be called *intensive intervention in lieu of institutionalization*. Intensive intervention as an *alternative* to institutionalization would seem to imply exactly that—a means of handling the offender without incarceration. This would not include *post*-institutional measures such as parole or other aftercare, halfway houses for releasees, work furlough, imprisonment at night or on weekends, or any other program of partial or intermittent confinement or of "transitional" management as part of a sentence of imprisonment. Such measures may be favored as improvements over custodially oriented, punitive isolation; they may even be found to effectively rehabilitate. But if the objective is to avoid the negative effects of isolation from the community, the severing of family ties and noncriminal associations, and the institutional culture, then for those offenders for whom institutionalization is neither necessary nor beneficial, the correctional alternative would seem to require that no kind of formal institutionalization be imposed.

The importance of distinguishing a type of disposition discrete from both the institution and probation is pointed up not only by research on the effects of institutionalization. Research in probation has suggested that certain offenders do very well with minimal supervision and that

many do not require greater attention than is provided under regular supervision. Studies of offenders under normal probation supervision have revealed a relatively high success rate. A recent study of 943 male probationers 16-18 years old revealed that about 72 percent were successfully discharged.<sup>3</sup> In a summary analysis of 15 probation studies in various jurisdictions, Ralph England found reported success rates to vary between 60 and 90 percent; and a survey of probation effectiveness in such states as Massachusetts, California, New York, and in a number of foreign countries, presents similar reported results with the modal success rate at about 75 percent.<sup>4</sup>

England explains that many offenders are "self-correcting" and are not likely to recidivate, while others would be dissuaded from further offending merely through exposure to the limited surveillance of the suspended sentence. Empey suggests that, since the majority of offenders now placed on probation can succeed without intensive supervision, many of those offenders now incarcerated might succeed under intensified community supervision.<sup>5</sup> These observations imply that intensive intervention, or specialized treatment in the community setting, should be viewed *not as an alternative to probation*—which seems to do fairly well with a large number of the individuals now served—but as an alternative to the institutionalization of those offenders who are seen to require greater control than that offered by regular probation supervision.

In other words, while the probation system could be upgraded by changes in structure and operation, it should not be viewed by even its severest critics as an outdated predecessor of the newer community programs. There is considerable evidence that many offenders do well under regular supervision and there is no reason to subject them to further and more intensive "treatment." Probation and intensive intervention both are viable alternative dispositions, each with distinct advantages and uses. The latter envision a much greater involvement

<sup>3</sup> Scarpitti, Frank R. and Stephenson, Richard M. "A study of probation effectiveness." *Journal of Criminal Law, Criminology and Police Science*, 59(3):361-369, 1968.

<sup>4</sup> Cited by LaMar T. Empey (*Alternatives to Incarceration*. Washington, D. C., Office of Juvenile Delinquency and Youth Development, 1967.); England, Ralph. "What is responsible for satisfactory probation and post-probation outcome?" *Journal of Criminal Law, Criminology and Police Science*, 47 (Mar./ Apr.):667-677, 1957; Grünhut, Max. *Penal reform*. New York, Clarendon, 1958, pp. 60-82; and Tappen, Paul W. *Crime Justice and Correction*. New York, McGraw-Hill, 1960, pp. 576-584.

<sup>5</sup> Empey, *Id.*, p. 32.

with the offender than mere supervision and attempt to achieve a sometimes considerable modification of values, attitudes, and behaviors which may extend beyond the prevention of specific violations of the law. Probation should be retained as a separate disposition of low intervention level. Intensive intervention can make possible the management in the community of those offenders who otherwise would be placed in an institution. For those now institutionalized the alternatives to be considered would be: imprisonment or intensive community supervision; for those now on probation the alternatives would be: regular probation, minimal supervision, or suspended sentence with no supervision.

### Varieties of Intensive Intervention

Intensive intervention programs, then, are those which provide the means for retaining in the community those offenders who are eligible for institutional placement because they cannot be placed safely and effectively under probation supervision. Most of the community alternatives which have been developed fall generally into one of three classifications: (1) specialized units of probation and parole agencies (probation "plus," or more intensive involvement and supervision than normal probation); (2) nonresidential intensive treatment (attendance centers, guided group interaction programs); or (3) residential programs and out-of-home placement alternatives. A fourth category may develop from the community correctional center. The distinctions between one category and another are not always clear. Some specialized units in probation or parole may be so intensive that they are difficult to distinguish from daycare; and some residential programs are so structured and self-contained that they must be classed as community-based institutions, rather than alternatives to incarceration. The groupings nonetheless may be generally useful in identifying alternative noninstitutional dispositions.

### Specialized Units in Probation/Parole

While a valid distinction may be made between regular probation or parole supervision and intensive intervention, much of the most interesting research with relevance for the design and operation of intensive community programs has come from the fields of probation and parole. In recent years, the emphasis of research in these areas has shifted from the question "Is probation effective?" to "Under what conditions is probation effective?" For many years it was believed that if caseloads

could be reduced, if officers had more time to devote to each case, then probation (or parole) supervision could more effectively rehabilitate. The 50-unit caseload—and, more recently, the 35-unit caseload—has been repeatedly recommended as the "ideal." Specialized units in probation and parole developed from the findings of caseload research.

**Caseload Research**

Despite the appeal of reducing caseloads to improve supervision, research during the last decade has clearly indicated that merely reducing caseload size is not the answer. A parole research project in Oakland began in 1959 to test whether reducing caseloads of parolees in Alameda County, Calif., would improve parole performance.<sup>6</sup> Additional agents were employed and ten experimental 36-unit caseloads were set up, with five 72-unit caseloads as controls. When the project was terminated in 1961, no overall difference was found in parole performance in reduced and in full-size caseloads. It was observed that many parolees required so much services that a modest increase in agent time available for each case had little effect.

The University of California's San Francisco Project has undertaken to study federal probation and parole and to examine the effects of specific caseload sizes.<sup>7</sup> Individuals placed on probation or parole were randomly assigned to caseloads receiving one of four types of supervision: minimum, intensive, ideal, or normal. Persons in minimum or "crisis" supervision caseloads were required only to submit a monthly written report to the probation office; no routine contacts occurred except when requested by the offender. Intensive caseloads consisted of 20 units each and contact occurred at least weekly; ideal caseloads were composed of 50 units; and normal caseloads consisted of 100 units per month. It was found that, when cases were randomly assigned to different degrees of supervision, offenders in minimum caseloads performed as well as would be expected had they been receiving normal supervision; the minimum and the "ideal" caseloads had violation rates which were almost identical; and in intensive caseloads, despite 14 times attention provided the minimum cases, the violation rate not only failed to decline but increased with respect to technical violations. The results were interpreted as suggesting (1) that some offenders will

<sup>6</sup> Johnson, Bertram M. "The 'failure' of a parole research project." *California Youth Authority Quarterly*, 18(3):35-39, 1965.

<sup>7</sup> University of California. School of Criminology. *San Francisco Probation Research Reports*. Berkeley, 1965-1969.

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ceed under supervision regardless of the type of service, while others will violate no matter how much treatment they receive, and (2) that with identification of these offenders, officer time could be allocated to give attention to those whose success depends on the presence of certain types of supervision. It was concluded that the concept of 50-unit (or any other number) caseload is meaningless without systematic classification and matching of offender type, treatment, and officer.

The Special Intensive Parole Unit (SIPU), conducted in California from 1953 to 1964, obtained similar results.<sup>8</sup> Study of parolees released to caseloads of various sizes found no differences in violation rates until parolees were classified according to "risk" categories on base expectancy scores and assigned on this basis rather than randomly. It was found that while, regardless of size of caseload, high-risk parolees violated extensively and low-risk parolees seldom violated, the middle-risk cases performed distinctly better in smaller caseloads. The low-risk cases did as well in very large caseloads as in regular caseloads.

As supporting evidence accumulated, the emphasis in research shifted from reducing caseloads to classification of offenders and development of appropriate treatment types. One of the most widely acclaimed experimental/demonstration projects, the California Youth Authority's Community Treatment Project, was established to test the feasibility of substituting intensive supervision of juveniles in the community for the regular program of institutionalization plus parole and to develop optimum treatment/control plans for defined types of offenders.

### The Community Treatment Project

The Community Treatment Project (CTP) was instituted in California in 1961. Phase I, completed in 1965, had the following as its objectives: (1) to determine whether selected Youth Authority wards could be released directly from a reception center to a treatment/control program in the community, and whether communities would be willing to accept the return of wards who had just been committed to the Youth Authority; (2) to compare the effectiveness of a period of intensive supervision in the community with treatment in the regular institutional program; and (3) to develop hypotheses regarding specific

<sup>8</sup> California. Corrections Department. Special Intensive Parole Unit. *Reports, phases I-IV*. Sacramento, 1953-1964. Also see: *NPPA Journal*, 3(3):222-9, 1957.

treatment plans for defined types of delinquents in specific settings.<sup>9</sup>

During Phase II (1964-1969) the Project continues to develop data relevant to the goals of the first phase, with special emphasis on determining which treatment variables are most related to success on parole for different types of delinquents. Efforts are made to describe program elements in detail to provide a research base for extension of the program, for training correctional staff, and for comparison with other community programs.<sup>10</sup>

In brief, the research procedure consists of the following. After assessment of eligibility for the project and classification according to I-Level, male and female Youth Authority wards committed from the juvenile courts of Sacramento, Stockton, San Francisco, and Modesto are randomly assigned to experimental or control status. Experimentals are treated in an intensive community program; controls go into the usual Youth Authority program. In San Francisco (Phase II) experimentals are randomly assigned to one of two different forms of community treatment: a Differential Treatment Unit or a Guided Group Interaction Unit.

The CTP progress reports have been consistently positive in their evaluation of the experimental program. During Phase I, the program was judged to be feasible in the community, and the overall success rate of the project participants was found to be significantly higher than that of youths in the regular Youth Authority program. Differential success rates were reported: certain types of youths appeared to do especially well under the given treatment conditions, while others did about as well as they would have in an institution or on parole.<sup>11</sup> Additionally, in terms of psychological test scores, experimentals were observed to have achieved greater positive change than control subjects and a higher level of personal and social adjustment. Throughout Phase II, ongoing follow-up of study subjects from both Phases has continued to indicate large differences favoring experimentals over controls. Factors associated with greater effectiveness of the community program have been identified: (1) differential and treatment-relevant decision-making; (2) matching of types of offenders with types of workers; (3) intensive and/or extensive intervention by workers made possible by

<sup>9</sup> Stark, Heman. "Alternatives to institutionalization." *Crime and Delinquency*, 13(2):323-329, 1967.

<sup>10</sup> California. Youth Authority Department. *The status of current research in the California Youth Authority*. Sacramento, 1969. p. 1.

<sup>11</sup> *Op. cit. supra* note 9.

reduced caseloads; (4) ability and perceptiveness of workers; and (5) emphasis on working-through of the worker/ward relationship.<sup>12</sup>

Another explanation of these results has been offered. Robinson and Smith have analyzed the findings of the Community Treatment Project in terms of factors which influenced the recidivism rates of experimentals and controls.<sup>13</sup> They explain that recidivism rates can be influenced, within certain parameters, by the decision-making authorities, and that in the CTP study, rates were managed in such a way as to make the experimentals appear favorable. Quoting from the seventh Progress Report (1966) of the CTP, they show that 68 percent of control failures and only 29 percent of the experimental failures were accounted for by the agent's recommendation that parole be revoked. Quoting Lerman<sup>14</sup> in a re-examination of the data, the authors explain that when the offense is of low or moderate severity, experimentals are less likely to have their parole revoked; they are treated similarly to controls only when the offense is of high severity. Experimentals, they conclude, were no less delinquent in their behavior than the controls. They suggest that the important point is that an ideological belief in the effectiveness of community treatment apparently altered the experimental results.

Research findings on the relative effectiveness, in terms of recidivism at least, of one major community project are equivocal. Despite the enthusiastic endorsement that the CTP has received from most sources, it appears that the experimental program is not yet established as clearly superior to institutionalization for reducing the recidivism rate. While intensive intervention programs generally are less costly and probably less personally damaging than the institutional experience, evaluative reports of all such projects should be scrutinized for interfering variables which might affect or determine relative success in terms of violation rates.

### Community Delinquency Control Project

Another community-based treatment program for young offenders who normally would be institutionalized is the Community Delinquency

<sup>12</sup> *Op. cit. supra* note 10.

<sup>13</sup> Robinson, James and Smith, Gerald. "The effectiveness of correctional programs." To be published in *Crime and Delinquency*, January 1970.

<sup>14</sup> Lerman, P. "Evaluating the outcome of institutions for delinquents." *Social Work*, 13(3):1968.

Control Project (CDCP) of the California Youth Authority Department. This program also offers intensive supervision in the community, makes use of multiple resources, and provides different types of treatment. Both the Community Treatment Project and the CDCP are located in community centers which serve selected offenders released directly on "parole" without prior institutionalization. The main difference between the two projects is that the Community Treatment Project systematically classifies offenders in terms of Interpersonal Maturity and matches types of wards with types of supervising officers.

The Community Delinquency Control Project was begun in 1964 in an effort to reduce overcrowding in Youth Authority Institutions, to determine the feasibility and effectiveness of such a program in the community, and to effect significant and lasting behavioral change in a nondelinquent direction.<sup>15</sup> Three CDCP units were established in Los Angeles and one in Oakland. Each unit was designed to supervise 95 wards in the intensive phase (for an average of 12 months) and up to 50 program graduates under less intensive supervision. Wards receiving intensive service are placed in caseloads of 15, and each agent carries a total caseload of less than 25 parolees. The major treatment elements include: increased general supervision, intensive individual counseling, group and family counseling, remedial tutoring, psychiatric and group work consultation for agents, increased use of subsidized out-of-home (foster home and group home) placements, and activity groups for wards. Originally, wards eligible for CDCP placement were male first admissions to the Youth Authority. Eligibility was later broadened to include both sexes, juvenile court readmissions, and adult court first admissions.

Two of the project goals were rapidly achieved: commitments to juvenile institutions were reduced and the community and law enforcement officials demonstrated their acceptance of the program. In March 1966, a random experimental design was introduced in two Los Angeles units to determine whether CDCP eligible wards assigned to the program were more successful than CDCP eligibles assigned to the regular Youth Authority program.<sup>16</sup> The California Youth Authority

<sup>15</sup> *Op. cit. supra* note 9.

<sup>16</sup> "A comparative study of the Community Delinquency Control Project." In: *The status of current research in the California Youth Authority*, *op. cit. supra* note 10, pp. 29-31. *Community Delinquency Control Project - Los Angeles study: progress report* (May 1968) and *Progress report number 2* (May 1969), by Esther M. Pond. Sacramento, 1968, 1969.

reports that it is too early to derive any definite conclusions from the Los Angeles study. Their tentative analysis showed that of 187 CDCP male first commitments, 51 had violated parole within six months (27.3 percent) as compared to 29.4 percent for the 102 controls. More reliable information is promised in the final report scheduled for 1970.

A 1968 study of 565 male wards released to the four CDCP units (not including the Los Angeles study population) reported a parole violation rate of 41.6 percent over 15 months, as compared to 47.7 percent for wards on parole state-wide. It is suggested that, since CDCP eligibles were statistically poorer risks (younger and excluding offenders against persons), the difference between the program population and a true control group might be much greater. In July 1969, the four CDCP units were terminated and converted into Community Parole Centers. The program elements of these centers are generally the same as in the CDCP, except that all parolees from the local community, rather than selected wards in lieu of institutionalization, will be served.<sup>17</sup>

The Community Delinquency Control Project, like the Community Treatment Project, has not yet provided unqualified support for the thesis that management of offenders in the community is significantly more successful in preventing further crime than is institutionalization. However, both programs have demonstrated a more important fact: offenders normally not released to community supervision can be as safely, and at least as effectively, handled in intensive intervention programs without institutionalization.

### Other Programs of Specialized Supervision

Another attempt to test the effectiveness of intensive community intervention was the San Francisco Rehabilitation Project for Adult Offenders, instituted to provide individual offenders with a helping relationship focused on changing patterns of behavior.<sup>18</sup> Its purpose was to replace a jail or prison term with professional counseling in the community. The offender sample of 109 subjects was intended to be broadly representative of the group normally sent to jail and prison, although Robinson and Smith report that project cases tended to be

<sup>17</sup> "Assessment of the Community Parole Center Project." In: *The status of current research in the California Youth Authority*, Id., p. 32-33.

<sup>18</sup> Northern California Service League. *Final report of the San Francisco Rehabilitation Project for Offenders*. San Francisco, 1968. 56 p.

somewhat younger, with fewer minority group members, a disproportionately high number of property offenders and low number of narcotic offenders.<sup>19</sup> The final report of this project suggested that while the superior results obtained by the community program must be considered tentative, it is safe to conclude that intensive counseling by professionally trained workers can reduce recidivism at least as effectively as imprisonment. It is emphasized that this program can be set up by existing governmental agencies and that its economic returns, in terms of support of the offender and his dependents during treatment, can exceed the costs of treatment.

Most of the programs of specialized supervision that have been instituted in various parts of the United States have not been rigorously evaluated. Assessments of "effectiveness," where this has been attempted at all, frequently are not very useful—no control group is used, the groups are not comparable, or assignment is not random. Many descriptive studies merely report the subjective judgments of staff or the observed changes over a period of time in arrest patterns of the project participants. This means that much of the "community treatment" literature must be guardedly interpreted; but it is still useful in suggesting the variety of intervention alternatives which have been tried and which may be duplicated elsewhere.

A very broad range of services and programs has been provided for the treatment of offenders who require more intensive services than regular supervision: group or family counseling may be offered as a service of the juvenile court; the offender may be referred to a psychiatric clinic for additional treatment; probation officers may meet in frequent sessions of guided group interaction with selected probationers; the juvenile probationer may be required to attend daycare centers or centers providing remedial education and vocational training; or juveniles, for whom living with their families is contraindicated because of undesirable home situations, may be placed in foster homes, in group homes, or in "halfway houses."

The Positive Action for Youth (PAY) Program has been operating at various community schools in Flint, Mich., since September 1966.

<sup>19</sup> *Op. cit. supra* note 13.

<sup>20</sup> *Current Project: Positive Action for Youth (PAY). Correspondent Maxwell Terrance, Mott Crime and Delinquency Prevention program, Flint Board of Education, 923 E. Kearsley Street, Flint, Mich., 48502 (Project report no. in Information Center files).*

This program provides intensive treatment and attention to male juvenile probationers, including group counseling, work experience, family counseling, supportive action, and individual counseling with concerned school and social agency personnel. The probationer's peers, teachers, and family also participate in the program. An attempt is made to deal with the range of family problems, rather than just the needs of the program participant. In 1968, the program was evaluated to ascertain the attitudinal and academic progress of participants. Although no controlled study was undertaken, police arrests for the 55 probationers dropped from 38 to 9 following participation in the program, and overall grade averages in school improved.

Some courts have utilized local volunteers to work with juvenile offenders in various capacities, providing tutoring assistance, foster homes, group discussion sessions, counseling, or simply a supportive relationship with an adult community resident. The Juvenile Court of Boulder County, Colorado, instituted a program involving over 200 volunteers in programs of delinquency prevention and treatment. One of these, the Attention Home program, is a group foster home program totally supported by the community.<sup>21</sup> Children who live in the Home are encouraged to participate in the special probation programs, already established and staffed by community volunteers, which provide tutoring, group discussion sessions, and relationships with adults; they are also encouraged to participate in community arts and craft programs, classes, and job training.

The variety of services available as an adjunct to probation has permitted many courts greater flexibility in their disposition of offenders for whom neither probation nor institutionalization is suitable. However, in a large number of jurisdictions the court simply has no available alternatives to imprisonment, and many offenders are sent to prison or training school because probation supervision is not felt to be sufficient. The state probation subsidy programs have emerged in an attempt to reduce costs and overcrowding in state institutions by handling more offenders in the local community. Some of the savings resulting from reduced commitments are returned to the county probation departments for purposes of expanding and upgrading probation services.

<sup>21</sup> U. S. Health, Education, and Welfare Department, Juvenile Delinquency and Youth Development Office. "The Attention Homes of Boulder, Colorado," by John E. Hagardine. Washington, D.C., 1968. 35 p.

### State Subsidy Programs

In 1965, the California State Legislature passed legislation which provided a state subsidy to county probation departments to set up "special supervision" programs, to increase the degree of supervision of individual cases, and to develop and improve supervisory practices.<sup>22</sup> Reduced commitment rates of offenders to state correctional institutions was made a mandatory condition for the receipt of subsidy monies. The enabling legislation was the result of the recommendation of a 1964 study undertaken to determine how state costs could be reduced while county probation programs were improved. This study found wide variations in the frequency of the use of probation in different counties and determined that 25 percent of state correctional commitments could be maintained safely and effectively within county systems if probation facilities were improved.<sup>23</sup> The plan which was ultimately adopted provided for reimbursement by the state to the counties in proportion to the number of cases retained in the county exceeding the existing rate. A sliding scale was developed to avoid penalizing counties which already had a low commitment rate. Since its implementation, the subsidy program has resulted in a reduction of expected institutional commitments by 2,481 in 1967-1968. Forty-seven percent of this number were adults. Of the 36 counties participating in the program, all but two have reduced their expected commitment rates.<sup>24</sup>

One example of the county programs developed under the California state subsidy is the Special Supervision Unit Program of Santa Barbara County Probation Department.<sup>25</sup> This program provides intensive, individualized supervision as an alternative to institutionalization. Caseloads are limited to 42 cases per officer. Each officer receives training in classification and diagnosis. All cases are classified by I-Level methods on a scale that determines the individual's level of social integration. Methods of treatment vary with type of offender, but the basic goal of early confrontation and intensive involvement with the

<sup>22</sup> For a description of the origin of state subsidy programs in California and six other states, see: National Council on Crime and Delinquency Research Center. *Research, demonstration and social action*. Prepared by Leslie T. Wilkins and Don M. Gottfredson for the Office of Juvenile Delinquency and Youth Development. Davis, Calif., 1969. pp. 43-70.

<sup>23</sup> *Id.*, p. 46.

<sup>24</sup> *Id.*, p. 48.

<sup>25</sup> Santa Barbara County Probation Department. "Special supervision unit program." Santa Barbara, Calif., 1968. 9 p.

probationer is standard. Typically, the offender is seen two to four times per month; in addition, he participates in group counseling, a public agency therapy program, or a special Unit program (such as the Work Project) one-half day per week. Minor violations may be handled in the Unit or by modification of probation, thus serving as a lesson in rehabilitation.

Not all state subsidy programs have been used to upgrade or modify probation supervision. In Oregon, state funds were used to develop small group home facilities, and in Philadelphia a day center was established.<sup>26</sup> The concept of the state subsidy to county probation departments or, as in Oregon, to the public or private agency operating the program, is a flexible tool which could be used not only to finance improvements in probation services or to set up specialized units, but also to provide the means for the development of a wide range of other community programs for offender rehabilitation.

### Nonresidential Intensive Treatment

#### Attendance Centers

The attendance center, or "daycare," represents an alternative to institutionalization for probation failures or for offenders who require more intensive care than probation but would not benefit from incarceration. This approach permits offenders to live at home and concentrates solely on a school and counseling program. As Weber notes in the report of the Juvenile Institutions Project (1966), some specialized units in probation and parole agencies which have developed services involving youth almost daily in program activities are difficult to distinguish from the daycare program.<sup>27</sup> Attendance centers provide a structured correctional "in-house" program, as opposed to the use of existing community services or outside employment. Placement in such a program is the result of a court order, and it is an alternative to commitment, not an alternative to probation; it is either a condition of probation as ordered by the judge or a condition of parole, as ordered by the State Authority.<sup>28</sup>

<sup>26</sup> *Op. cit. supra* note 22.

<sup>27</sup> Weber, J. Robert. *A report of the Juvenile Institutions Project*. New York, National Council on Crime and Delinquency, 1966. p. 192.

<sup>28</sup> *Id.*, p. 193.

The Philadelphia Youth Development Day Treatment Center was created as a result of legislation passed in 1965 providing for the State to match funds on a 50:50 basis, using Federal Manpower Development Training Act monies.<sup>29</sup> Juveniles are assigned to the attendance center by the court as a condition of probation. The Center's program is designed to improve probation services to boys whose rehabilitation may be achieved through vocational and academic training and intensive individual and group counseling while they continue to live at home; and to reduce the institutional commitment rate of boys who are capable of adjustment outside the training school setting.

In 1965, a day program for delinquent girls was established in San Mateo County, Calif., to alleviate overcrowding in placement facilities for this group of offenders.<sup>30</sup> The program is based on the belief that a child should be kept in her own home and community whenever possible and that parents should continue to be responsible for their child. To encourage parental acceptance of responsibility, the parents are instructed by the court to pay a certain amount of their child's expenses and the girl and her parents share responsibility for compliance with the conditions of the program. Girls accepted for this program continue to live at home and attend the center during the day for school classes and counseling. One of the most important criteria for acceptance into the program is that the girl must have a "meaningful adult" able to give her an appropriate home.

With a high ratio of staff to children (probation officer caseloads are limited to twelve), this program provides services to the child and her family—together and individually—to keep the family intact. Each girl is involved in group counseling with her probation officer twice a week. Many of their parents also are involved in group counseling with their child's probation officer. One night a week the parents meet in a group at the center, and at least once a week both parents and children are seen individually or conjointly for counseling.

Aftercare is provided when the staff decides that a girl no longer needs to come to the center every day, with the needs of the child and her family determining the aftercare planning. The probation officer continues to work with the girl on aftercare, and some of the parents continue to attend the family group meetings.

It is reported that the program appears to have definite advantages

<sup>29</sup> *Op. cit. supra* note 22, p. 61.

<sup>30</sup> Post, Gene C.; Hicks, Robert A.; and Monfort, Mariam Felicia. "Day-care program for delinquents: a new treatment approach." *Crime and Delinquency*, 14(4):353-359, 1968.

over the traditional institution program for the type of adolescent treated, but that final evaluation must await the results of research currently being conducted. The girls admitted to this program will be compared over a three-year period with a similar group of girls in institutions and in a group daycare program outside the county, in terms of costs, recidivism, other overt behavioral measures of adjustment, and on psychometric tests.

The Girls' Unit for Intensive Daytime Education (GUIDE) in Richmond, Calif., is a voluntary neighborhood program for girls, ages 14 to 17, who fail to adjust adequately on probation. Girls are referred to the program by their probation officer; if there is an opening and a girl indicates she is willing to participate, entry is accomplished by court order. This program offers group counseling, remedial education, and home management experience in maintaining and improving the Center. A parents' group meets weekly, and family counseling sessions are held as needed. The goals of the program are to instill in the girls responsibility and a sense of self-esteem, to raise academic level and performance, and to strengthen family ties. The cost of the program is approximately one-half the cost of placement in a closed institution.<sup>31</sup>

### Guided Group Interaction Programs

Of the various kinds of nonresidential programs which have been experimented with, one group of programs can be distinguished by their common theoretical orientation. These are the guided group interaction (GGI) programs, which are primarily concerned with peer group dynamics and the operation of the peer group in restructuring the youth "subculture" around more socially acceptable norms and values.<sup>32</sup> These programs also depend to a sometimes considerable extent on the involvement of youth in their own treatment. While other nonresidential programs frequently incorporate the group session into the daily program, less emphasis is placed on the peer group as the major treatment resource.

GGI programs involve the delinquent in frequent and intensive group discussions of their own and other members' current problems and experiences. Based on the theory that antisocial youth behavior

<sup>31</sup> Winters, Carolyn and Greer, Rae. "A county looks to its girls." *California Youth Authority Quarterly*, 20(4):17-21, 1969.

<sup>32</sup> For a discussion of the theory and practice of peer group dynamics in corrections, see: Empey, LaMar T. *Peer group influences in correctional programs*. Submitted to the President's Commission on Law Enforcement and Administration of Justice, Washington, D.C., 1967. 51 p.

receives the support and approval of the delinquent peer group, and that substituting acceptable norms for delinquent values and attitudes also requires the support of the peer group, these programs encourage the development of a group culture and the acceptance by members of responsibility for helping and controlling each other. As the group culture develops and the group begins to accept greater responsibility, the staff group leader allows the group a greater degree of decision-making power. Ultimately, the group's responsibility may extend to decisions involving disciplinary measures imposed on a member or determination of a member's readiness for release.

Demonstration projects based on the use of peer group dynamics derived their program content from the Highfields project, established in New Jersey in 1949.<sup>33</sup> Highfields was a short-term residential program for 20 boys, ages 16 and 17. The boys worked during the day at a nearby mental institution and participated in guided group interaction sessions in the evening. There were few formal rules. The project was judged to be at least successful as a training school, in terms of recidivism, and much less costly. The basic principles of Highfields have been applied in nonresidential settings with apparent success. Essexfields, Collegefields, and the Provo experiment are perhaps the best known examples.

Guided group interaction programs are unique in that the group process itself is expected to determine the culture and social system of the entire program. The decision-making authority permitted the group is considerably greater than in traditional group therapy and this is thought to be crucial to the rehabilitation of youth through group influence and support.

### The Provo Experiment

The Provo program was initiated in 1959, in Provo, Utah, in an effort to provide an alternative placement for those delinquents whose persistent offenses made them candidates for an institution. The underlying theory of this program held that most habitual delinquency is a group effort or is sanctioned by the offender's peer group. It was postulated that habitual delinquents tend to be children of low-income families and to have experienced limited opportunity for conventional

<sup>33</sup> McCorkle, Lloyd W.; Elias, Albert; Bixby, F. Lovell. *The Highfields Story: an experimental treatment project for youthful offenders*. New York: Henry Holt, 1958. 182 p.

success and satisfaction,<sup>34</sup> and that membership in a delinquent system develops as an alternative means for achieving social, emotional, or economic goals. Treatment of delinquency was assumed to be most effective if the delinquent peer group is utilized as a source of support and the vehicle by which norms are perpetuated, problems solved, and sanctions imposed.<sup>35</sup> The Provo experiment involved 20 boys, ages 15 to 17, in an intensive daily program including work or school and guided group interaction sessions. Each day, following full-time paid employment or school, the boys went to the center for group sessions; at night they returned to their own homes.

Group development was given high priority since the group, rather than the staff alone, was given major responsibility for controlling member behavior and working out solutions to individual or group problems. This kind of activity requires techniques not generally associated with group psychotherapy: helping members to recognize and deal with group process problems, subgroupings, interpersonal relationships, and power structures within the group.<sup>36</sup>

In program design and implementation, an effort was made to provide means by which offenders could assume greater responsibility for their lives and to reward them for help that they were able to give to others. The offender was given an active reformatory role rather than a passive one in which he is acted upon by others. Group development appeared to move through several stages, from minimal involvement of members to the acceptance by boys of increasingly heavy responsibilities. The more seriously boys were concerned with dealing with issues and helping others to change, the more they were likely to accept the common purpose of the group, to identify with other members, and to grant prestige to those who succeeded in the group.

Offenders assigned to the experimental program were compared to two control groups: one under regular probation supervision, the other incarcerated in a training school. Prior to the experiment, only about 50 to 55 percent of the kinds of persistent offenders who participated in the program were succeeding on probation. Six months after release, 73 percent of those initially assigned and 84 percent of those who

<sup>34</sup> Empey, LaMar T.; Erickson, Maynard; and Scott, Max. "The Provo experiment: evaluation of a community program." In: California. Corrections Board. *Correction in the community: alternatives to incarceration* (Monograph No. 4). Sacramento, 1964. pp. 29-38.

<sup>35</sup> *Id.*, p. 33.

<sup>36</sup> *Id.*, p. 36.

completed the program had no record of arrest. Of the remainder, none had been arrested more than once and none had been sent to training school. It was concluded that the experimental program was responsible for improved success rates. During the same period, however, the success rate for those offenders on regular probation also rose to 73 percent for offenders initially assigned and 77 percent for those who completed probation; this was explained as probably due to the influence of the experiment on court and probation operations. Of the offenders sent to training school, 58 percent had been rearrested and half of these had been arrested two or more times. Youths released from the reformatory appeared to be nearly twice as likely to commit an offense as were program graduates.<sup>37</sup>

As Empey has pointed out, although both probation and the GGI program seemed to have resulted in considerably less recidivism than incarceration, these results must be confirmed through replication.<sup>38</sup> Phase II of the Community Treatment Project is concerned with demonstrating the effectiveness of "Provo-type" treatment and comparing it with differential treatment in the community. Experimentals in San Francisco have been randomly assigned to either a Differential Treatment Unit or a GGI Unit. The GGIU does not use differential diagnosis as a basis for treatment, although I-Level classification is made for research purposes. Wards in these Units participate in full-time school or work, plus attend guided group interaction meetings. Each youth is assigned to a group on the basis of age. The group is led by the community agent and average caseload size is 15. During the initial, intensive phase of the program, wards are required to attend group meetings for an hour to an hour and a half every weekday.

### Essexfields

The Essexfields Rehabilitation Project was established in 1959, in Essex County (Newark), N.J., on assumptions similar to those of the Provo experiment. Essexfields was envisioned as an extension of the Highfields project and the Residential Group Center programs patterned after Highfields.<sup>39</sup> Like these programs, Essexfields was to consist of short-term, group-oriented rehabilitation. In contrast to previous exper-

<sup>37</sup> *Ibid.*

<sup>38</sup> *Op. cit. supra* note 4, p. 39.

<sup>39</sup> Elias, Albert and Pilnick, Saul. "The Essexfields Group Rehabilitation Project for youthful offenders." In: *Correction in the community, op. cit. supra* note 18, pp. 51-57.

iments, however, Essexfields was to be nonresidential. To insure broad-based community support, an advisory board of prominent local citizens was appointed and arrangements were made for the boys to work on the grounds of the county mental hospital. To facilitate transmission of the Highfields culture to Essexfields, the first admissions were a small group of Highfields boys.

One of the assumptions of the Essexfields program was that to intervene effectively in delinquent patterns of adaption it is necessary to create a setting which encourages the development and maintenance of a conventional social system.<sup>40</sup> Length of participation was indeterminate, but usually extended from four to five months. Each group of ten boys was kept fairly intact and progressed through the program as a distinct unit. Five days a week, the boys participated in the program from seven in the morning to ten at night, working during the day and taking part in group sessions in the evening. The program was limited to 20 boys at a time, ages 16 and 17, who had been referred by the juvenile court as a condition of probation. Boys who previously had been committed to a correctional institution were excluded.

The Essexfields program was evaluated by comparing recidivism rates with the rates of groups on probation in Residential Group Centers, and in the State Reformatory. Of a total of 1,210 cases gathered for the study, 943 were committed to probation supervision, 100 to Essexfields, 67 to Group Centers, and 100 to the State Reformatory. This study demonstrated that a program of treatment patterned after Highfields and other Group Centers can be carried out successfully in a nonresidential setting in the community.<sup>41</sup> Despite the potential hazards of the high delinquency area in which it was located, Essexfields demonstrated a rate of in-program failure that was slightly lower than that of the Residential Group Centers. Recidivism rates indicated that reformatory boys *would do no worse and might do better* at Essexfields or in the Group Centers. It was suggested that treatment might be improved if greater selectivity of cases were achieved.

### Collegefields

Collegefields, established in Newark, N.J., in 1965, developed out of the same theoretical base as Essexfields and Provo, in that peer group

<sup>40</sup> *Id.*, p. 52.

<sup>41</sup> Stephenson, Richard M. and Scarpitti, Frank R. "Essexfields: a non-residential experiment in a group centered rehabilitation of delinquents." *American Journal of Correction*, 31(1):12-18, 1969.

dynamics were considered essential to modification of delinquent behavior and attitude. Collegefields, however, sought not only to achieve delinquency rehabilitation through peer group influences but also to improve educational ability and achievement.<sup>42</sup>

To test the hypothesis that the dynamics of peer group interaction could be successfully applied to the rehabilitation of younger age groups, this nonresidential program was designed for 25 male delinquents and predelinquents, 14 and 15 years old. These boys participated in the program for a period of four to seven months. It was postulated that guided group interaction programs are effective only if the adolescents have a genuine sense of decision-making power in matters concerning their own lives.<sup>43</sup> To facilitate development of a positive peer culture which would possess this kind of decision-making power, the Collegefields daily schedule was designed to provide maximum opportunity for the boys to interact among themselves. The major function of the staff was to insure through skillful guidance that group decisions were in the best interests of the members' rehabilitation. Each weekday the boys participated in the program from 7:30 until five, with academic classes in the morning and guided group interaction sessions in the afternoon. It was observed that although the daily afternoon meetings helped to formalize the subculture, language, and normative system of the peer group, internalization of these as well as development of allegiance to the group were achieved largely through interaction outside the group meetings.<sup>44</sup>

The academic program was a vital component of the Collegefields project. The planners were concerned with the relationships among antisocial or "acting-out" behavior, peer group influence, negative attitudes toward school and adults, and recurring educational failure. A major goal of the project was to alter the educational experience of delinquent or pre-delinquent boys. The objectives of the academic components of the program were to provide opportunities to acquire educational skills and attitudes necessary for successful achievement on the level at which the individual could function; to motivate students to attain skills which they would continue to develop upon release; to develop attitudes and behaviors acceptable in social activities; and to encourage use of community services. The basic curriculum of the local

<sup>42</sup> Pilnick, Saul *et al.* *Collegefields: from delinquency to freedom*. Report to the Juvenile Delinquency and Youth Development Office on Collegefields Group Educational Center. Newark, Newark State College, 1967. p. 6.

<sup>43</sup> *Id.*, p. 14.

<sup>44</sup> *Id.*, p. 17.

public school system was modified to meet individual student needs, and remedial instruction was provided. Modern instructional techniques, visual aids, field trips, and discussions were utilized. During stays of from four to seven months in the program, boys advanced in achievement by as many as three academic years.

Although the Collegefields project was in existence for only two years, tentative evaluation was made. Comparison of outcome of experimental subjects with two control groups (a tested control group of boys on probation and a non-tested control group) demonstrated greater gains for the Collegefields boys on I.Q., attitudes toward teachers and school, realistic self-assessment, and achievement motivation than were found among boys in the control groups. It was concluded that the Collegefields program provides a useful model for the rehabilitation of many delinquents in this age group, and that further experimentation is warranted.

### The Parkland Non-Residential Group Center

The Parkland experiment in Louisville, Ky., begun in March 1965 and terminated in July 1967, provided nonresidential treatment for younger (13½ to 15½ years) delinquents who were candidates for institutionalization. The purpose of the program was to demonstrate to the boys the desirability of socially acceptable behavior and to increase their interest in attending school.<sup>45</sup> Sixty-three boys participated in the program, which used a guided group interaction approach, with a revised half-day educational plan, remedial assistance, and a half-day work setting. Parental participation was required for admission and an aggressive program of intensive family counseling was provided. Evaluation of the project concluded that the Center could not be termed a success in the sense of indicating new methods of treating and preventing delinquency in specific areas or among particular groups of boys. The findings were ambiguous and contradictory: only 14 of the 63 boys could be adjudged program successes and, while project participants improved more on four measures of delinquency, there was no significant difference between Parkland boys and controls in degree of delinquency during the follow-up period. In marked contrast to other community programs, the Parkland Center was judged to be "unrea-

<sup>45</sup> Kentucky Child Welfare Research Foundation. *Community rehabilitation of the younger delinquent boy: Parkland Non-residential Group Center*. Final report to the U. S. Department of Health, Education, and Welfare. N. P., 1967. 132 p.

sonably expensive" even if its rate of success had been high.<sup>46</sup>

Despite this not so positive evaluation, the Parkland project did not contradict the overall conclusion that intensive intervention in the community is at least as effective as incarceration, or that offenders normally sent to an institution can be as safely retained in the community when special services are provided.

### Out-of-Home Placement and Residential Treatment Group Homes and Foster Care for Delinquents

Jurisdictions in which sufficient resources are not available to the courts frequently institutionalize those juveniles for whom living in their own homes is considered adverse to their rehabilitation, simply because the judge sees no alternative. Group home programs and foster care for delinquents have been developed to provide such alternatives.

*Foster homes* may be provided under a very wide variety of arrangements. Reporting on the findings of the Juvenile Institutions Project, Robert Weber states that the variety of administrative patterns and auspices of foster home programs defies concise description. In many jurisdictions, foster care is not administered by the local court; referrals are made by the court to other public and private agencies for foster care placement and, if the referrals are rejected, the judge must release the youth to his own home, commit him to an institution, or place him in a local detention center.<sup>47</sup> Foster care programs are operated by almost all states in which there is a state agency responsible for institutions and, where such an agency does not exist, the state may rely on the child welfare division of the state welfare department. Weber reports that where foster care is primarily a function of a state agency, with few local resources, commitment to the state becomes dependent, inappropriately, on placement needs.<sup>48</sup> The Juvenile Institutions Project also found some disillusionment with foster care for delinquents, as expressed by reception center staffs. Weber reports that, while "foster care would seem to be in eclipse, based on discussions with state administrators, . . . a look at actual placements in foster-care by state agencies and local courts indicates an unabated use of foster homes as a placement resource for delinquent children."<sup>49</sup>

<sup>46</sup> *Current Project* (final report): The Parkland Non-residential Group Center. (Project No. P281 in Information Center files).

<sup>47</sup> *Op. cit. supra* note 27, p. 174.

<sup>48</sup> *Ibid.*

<sup>49</sup> *Id.*, p. 173.

Private families also may volunteer their services to care for juveniles in a family setting; these homes vary according to the number of children they accept, the qualifications of the foster parents, and the financial arrangements between the agency and the foster family.

The Detroit Foster Homes Project was undertaken to demonstrate that children who have lived in many homes and institutions and who manifest disturbed behavior can be placed and treated successfully in "highly reinforced" foster homes.<sup>50</sup> Boys between the ages of seven and thirteen, referred to the project by various Detroit agencies, were placed in foster homes, although all of them would have been difficult or impossible to place by the usual standards. Considerable professional time was devoted to each child, and a major concern of the staff psychiatrists, educators, and research personnel was to develop improved methods of foster home placement and care.

The *group home* differs from foster care in a number of ways. Institution dwellings are owned or rented by the agency or corporate group, and the operation is more closely supervised by professional staff at the agency or clinic.<sup>51</sup> Houseparents and other staff are employed on a working week, salaried basis. The facility continues to exist even if the house-parents resign. Generally less family atmosphere is present in an agency-operated group home. There may be several unrelated adults providing casework in varying degrees of intensity. The staff of the group home program may consist of on-grounds personnel (resident houseparents and a groundworker) and off-grounds personnel (psychotherapists, psychiatric consultant, a group home caseworker, and a director).<sup>52</sup>

The contract group home may be operated by an organization such as a church or civic group, or by private individuals, and financed through a contract arrangement with the state agency. Agency-operated group homes are staffed by employees of the agency responsible for placing the youth in the program. Most of these are "halfway houses" for releasees from institutions, but there is an increasing use of such facilities as the initial placement of choice in lieu of institutional commitment. These "halfway-in" homes are used by courts for youth

<sup>50</sup> *Current Project*: The Detroit Foster Homes Project of the Merrill-Palmer Institute. (Project No. P487 in Information Center files).

<sup>51</sup> Gula, Martin. "Group homes: new and differentiated tools in child welfare, delinquency, and mental health." *Child Welfare*, 43(8):393-397, 1964.

<sup>52</sup> Herstein, Norman. "What is a group home?" *Child Welfare*, 43(8):403-414, 1964.

who fail on probation and by state agencies for placement of some committed juveniles directly from the reception centers.<sup>53</sup> Weber states that a clear distinction should be made between the agency-operated group home providing a program within the home and one which provides residence for a youth involved in a total program in the community.<sup>54</sup> The Juvenile Institutions Project found that the former was more often characteristic of the "halfway-in" program, while the latter was more often the case in "halfway-out" homes for releasees. It was also noted that some agency-operated group homes which provide considerable programming are difficult to distinguish from the small institution.<sup>55</sup> The point at which the group home can no longer be considered a noninstitutional alternative cannot be clearly identified.

The Silverlake experiment in Los Angeles is an example of an agency-operated group home providing a program. This program is similar to the Provo, Highfields, and Essexfields programs in that an effort is made to create a nondelinquent culture and to involve offenders in decision-making. Male serious delinquents, ages 16 to 18, are placed in a large family residence in a middle-class neighborhood in lieu of institutionalization. All the boys, not more than 20 at one time, live in the residence and attend school daily. They are also responsible for maintaining the residence and (except on weekends, which are spent at home) attend a daily group meeting. This meeting is the major formal mechanism for implementing program goals. The goal is to structure a social system in which emerging norms, and their observance, are a function of collaborative inmate-staff decision-making.<sup>56</sup> A study of the extent of actual collaboration between staff and boys found that information about problem behavior was freely shared (indicating the boys' interest in social control) and that the effectiveness of the program culture as a social control measure increased over time.<sup>57</sup>

The Attention Home program of Boulder, Colorado, which opened its first group home in the fall of 1966, is a distinctly different kind of group home program in concept, organization, and operation. The

<sup>53</sup> *Op. cit. supra* note 27, p. 178.

<sup>54</sup> *Id.*, p. 179.

<sup>55</sup> *Id.*, p. 180.

<sup>56</sup> Empey, LaMar T. and Newland, George E. "Staff-inmate collaboration: a study of critical incidents and consequences in the Silverlake experiment." *Journal of Research in Crime and Delinquency*, 5(1):1-17, 1968.

<sup>57</sup> *Ibid.*

major difference is that the program is entirely locally supported. Additionally, the program is run almost entirely outside any formal agency setting. The basic idea is broad community involvement in and support of court-led programs to curtail and prevent juvenile delinquency, without resort to institutionalization.<sup>58</sup> While the Attention Home program does have close cooperative relations with the court, this is predominantly a citizen-run organization. Most of the children residing in the Home are referred by police to the Juvenile Court, but some of them have been brought to the Court by parents who felt they could no longer control their children. Where living at home is considered to be detrimental to treatment of difficult and delinquent children, residence in the Home is available as an alternative. It is reported that local financing and broad policy participation by the community have some disadvantages. Goals and purposes are less clearly defined, much time must be spent on fund-raising, and the program might be terminated if the community loses interest. However, community involvement in the group home program tends to produce greater concern and understanding of the problems of the juvenile court and delinquency prevention and control. Because of extensive volunteer support in services and materials, the Attention Home costs considerably less than comparably-sized government supported group home programs.

There have been a number of reports that some adolescents adjust successfully in group homes when they had not been able to do so in single placement foster homes.<sup>59</sup> This fact has been attributed to the less intense personal relationships required in the group home. Rabinow has suggested that the more impersonal environment of the group home may be best suited to the needs of the adolescent, since many adolescents are disturbed to the degree that they cannot tolerate the intimacy of family life in the foster home.<sup>60</sup>

The Group Home Project of the California Youth Authority was undertaken to develop and test temporary confinement facilities with varying and controllable atmospheres.<sup>61</sup> This project is an integral part

<sup>58</sup> *Op. cit. supra* note 21.

<sup>59</sup> *Op. cit. supra* note 27, p. 175.

<sup>60</sup> Rabinow, Irving. "Agency-operated group homes." *Child Welfare*, 43(8):415-422, 433, 1964.

<sup>61</sup> Pearhon, John W. and Palmer, Fred. "The use of group homes for delinquents in a differential treatment setting." (Group Home Project interim progress report). Sacramento, California Youth Authority Department, 1968. 29 p.

of the Community Treatment Project, which has made wide use of out-of-home placements to facilitate the emergence of nondelinquent behavior patterns in CTP wards. The objectives of the project are to determine the feasibility of establishing five types of group homes for particular types of youths; to develop a taxonomy of relevant environments in terms of structure, nature of rewards and penalties, methods of teaching, and type of houseparents; to evaluate the impact of the group home experience on the youths assigned to them; and to evaluate the utility of each home and of group homes generally.<sup>62</sup>

Of the five types of group homes originally proposed, types I, II and III were designed for the long-term placement of wards with specific I-Level classifications only; types IV and V were designed as temporary placement facilities for all types of youths. When no candidates were found for the fifth group home type (short-term restrictive home in lieu of detention home placement), a sixth type was designed and implemented. The characteristics of the different types of homes, houseparents, and wards assigned to them are described in detail in the first and second reports of the Group Home Project<sup>63</sup> and are summarized briefly in a recent report on California Youth Authority research.<sup>64</sup>

Evaluation has revealed that these homes in general have provided a readily available, needed placement resource for a substantial proportion of CTP youths. The feasibility of establishing and operating all but the Type V home has been demonstrated. While some difficulties have been experienced in the matching of parole agent personalities and treatment styles with types of wards, it has been concluded that group homes are one very meaningful and useful alternative.

The Juvenile Institutions Project found that where group homes have not succeeded, their failure was associated with one of three factors: (1) a lack of community acceptance; (2) a "poor fit" of the group home in the state's correction system; or (3) incongruence between program objectives and staff performance.<sup>65</sup>

<sup>62</sup> "Group Home Project: differential treatment environments for delinquents." In: *The status of current research in the California Youth Authority*, *Op. cit. supra* note 10, p. 11.

<sup>63</sup> A number of complex dimensions have been identified as contributing to the relative success or failure of the homes; these and related issues are discussed in the first and second year progress reports. California Youth Authority Department, Division of Research. *Group Home Project: research reports*. Sacramento, 1967 and 1968.

<sup>64</sup> *Op. cit. supra* note 10, pp. 11-16.

<sup>65</sup> *Op. cit. supra* note 27, p. 184.

## The Community Correction Center

The term "community correctional center" usually refers to a community-based institution, located in a carefully selected neighborhood in an effort to reduce the isolation from community services and other resources. Most designs do not envision any considerable participation of the offender on the outside. Others are centers for released offenders and services are not provided in lieu of institutional commitment. One recent model, not yet implemented, does suggest a new direction for the community center: the Youth Correctional Center designed by the Institute for the Study of Crime and Delinquency.

A two-year project (1966-1968) undertaken by the Institute for the Study of Crime and Delinquency to develop conceptual, operating, and architectural designs for advanced correctional practice resulted in a proposal for a community-based program for young adult offenders.<sup>66</sup> This model program, like other residential programs, cannot be classified decisively as either community management or institutionalization; but in this case the blurring of the line is intentional. As director of the project Bradley explains: "The line between being 'locked up' and 'free' is purposely indistinct because it must be drawn differently for each individual. Once the client is out of Phase 1, where all clients enter and where they all are under essential custodial control, he may be 'free' for some activities but still 'locked up' for others."<sup>67</sup> The program will include three residential units located in the high delinquency areas from which the young adult felon population is drawn. Some of the project wards will be kept in medium custody and others will be relatively free to pursue supervised outside employment, education, and community activities. Phase I consists of strict confinement at all times in the secure unit (approximately one month). Phase II consists of residence in the secure unit, but with access to the outside community for work, school, or other activities (approximately three months). The third Phase involves residence in the community, with return to the unit once a week or more for group meetings and special services. This third phase lasts about 20 months.

The treatment design is not a therapeutic community nor is it a

<sup>66</sup> Bradley, H. B. "Community-based treatment for young adult offenders." *Crime and Delinquency*, 15(3):359-370, 1969. For detailed description of the models developed, see: Institute for the Study of Crime and Delinquency. *Design for change: a program for correctional management*. Sacramento, Calif., 1968.

<sup>67</sup> Bradley, *Id.*, p. 369.

guided group interaction model, but it does envision the sharing of decision-making with the correction client and use of the closed group as a major correctional resource. The model proposes an active client role in the treatment effort in two important areas: it will involve him in his own treatment and in the treatment of others by allowing him to share in treatment decision-making; and it will provide for the recruitment of staff from among project clientele. Treatment plans are designed for each client and conducted by the staff-client group; progress is marked by the movement of the client through a three-step progression and successful completion of a series of treatment plans. A central concern of the project planners and presumably of those who conduct the program is the utilization of the group and group processes in engendering and supporting positive behavior and attitudinal change.

The community correctional center is perhaps more accurately described as a community-based institution than as a noninstitutional community resource, even in the later phases of the treatment model. The Youth Correctional Center is part of a movement to place the correctional institution in the community in order to overcome the disadvantages of isolation from community resources and opportunities. An institution situated in the locale which supplies the offender population is better able to draw upon the medical, social work, psychiatric, educational, and employment resources of that community and to involve community residents and family members in offender rehabilitation and reintegration.

However, this is a new model which has yet to be implemented. The forms taken by programs based on this model could vary widely in degree of community contact, in the proportions of time spent in custody and living in the community, and in the amount of involvement of the offender in the decision-making process. This is a flexible design with a broad range of potential uses, and assessment must await its implementation.

### "Community Treatment": The Community as Correctional Client

The growing emphasis on the role of the community in the etiology of crime and the rehabilitation of offenders, which undergirds the movement to establish corrections in the community setting, has led to speculation as to the proper goals of community correction programs. If the offender is to be retained in the community in order to facilitate his

reabsorption into community life, then the correctional goal is presumed to be the reintegration of the offender. The goal of reintegration as opposed to goals of punishment, removal from society, or even reform of the offender, implies a dual target: both the offender and the receiving community often must be changed if reintegration is to be achieved. A number of writers have suggested that community corrections involves change in both the offender and his society; that the task of corrections involves the construction or reconstruction of ties between the offender and the community through maintenance of family bonds, obtaining education and employment, and finding a place for the offender in the mainstream of social life.

One writer has suggested that the goal of social change and offender reintegration is not feasible for corrections.<sup>68</sup> First, the community will resist being cast in the role of correctional client and resent the associated stigma. In addition, the global nature of the goal of achieving reintegration prevents the delimitation of the boundaries of correction. If the goal is offender-community reintegration, the sphere of interest and responsibility of the correctional program is unlimited and success or failure cannot be operationally defined or assessed.

This observation has important implications for intensive intervention programs and any other correctional measures involving the community. If, as Weber suggests, the goal of community correction is to provide the means and opportunities for reintegration by directing the offender to community resources and acquainting the community with the needs and skills of the offender, then success may be defined as the appropriate provision of those opportunities. Community corrections, then, could concentrate on helping the offender to link appropriately with the normal community resource channels.

Community correction goals, and the relative weights to be given to treatment in the community as opposed to treatment of the community, need further attention and clarification to facilitate program evaluation.

### Conclusion

In the California study of the effects of criminal penalties, it was concluded that since severe penalties do not deter more effectively, since prisons do not rehabilitate, and since the criminal justice system is

<sup>68</sup> Weber, J. Robert. "Goals of community correction: a redefinition." In: National Council on Crime and Delinquency. Probation Management Institutes. (Papers to be published, January 1970).

inconsistent and has little quantitative impact on crime, the best rehabilitative possibilities would appear to be in the community.<sup>69</sup> This reasoning is fairly typical of much current thinking in correction and it serves to illustrate the kind of cognitive leap on which enthusiasm for "community treatment" is based. If prisons do not rehabilitate, and if the stated goal of correction is to reduce recidivism through integration of offender and community, it seems axiomatic that treatment of the offender without removing him from society will be more effective. Unfortunately, while one may express the opinion that, since prisons are not effective (a validated observation), then one *might as well* retain offenders in the community, it cannot be assumed without adequate controlled research that the best *rehabilitative* possibilities are to be found in the community.

The most rigorous research designs generally have elicited the finding that offenders eligible for supervision in the community in lieu of institutionalization do *as well* in the community as they do in prison or training school. When intervening variables are controlled, recidivism rates appear to be about the same.

This is not to derogate community alternatives to institutionalization, for it is a most important finding: a large number of offenders who are candidates for incarceration may instead be retained in the community *as safely, as effectively, and at much less expense*. Additionally, the observed effects of the overcrowded and isolated institution on the personality and social adjustment of the incarcerated individual are avoided. It is unnecessary to demonstrate, as most experimental/research projects appear to feel pressured to do, that recidivism rates are *lower* when offenders are retained in the community. Given the fact that expensive and over-crowded institutions are not doing the job they are intended to do, it is appropriate to suggest that less costly, less personally damaging alternatives be utilized wherever they are at least as effective as imprisonment.

Until alternatives to institutionalization are demonstrated to be more effective than imprisonment in preventing further crime, a major rationale for the use of community programs will be that correctional costs can be considerably reduced by handling in the community setting a large number of those offenders normally institutionalized. Experimental/demonstration projects in intensive intervention have shown that, for a large number of institution candidates, incarceration is clearly unnecessary. Thus, if society is still determined, in the light of

<sup>69</sup> *Op. cit. supra* note 1.

this evidence, to keep these offenders in prisons and training schools, it must be willing to pay the price. The central question becomes: are the goals of punishment and custodial control worth the high costs of constructing institutions, and maintaining the inmate in the institution, as well as the observed and the still unknown personal and social costs incurred through exposing individuals to the institutional experience.

The cost of building an institution has been estimated at about \$22,000 a bed; maintaining and treating a ward in an institution costs about \$400 a month.<sup>70</sup> A study conducted by the District of Columbia Department of Corrections provides data on the correctional costs generated by the offense careers of 25 young men paroled from the D.C. Youth Center.<sup>71</sup> The subjects, whose median age was nearly 26 years, had spent an average of 32 months in the Youth Center, 8.5 months in Federal reformatories, 4.5 months in the D.C. jail, 23 months on parole, two months on adult probation, 16 months in Welfare institutions, 22 months in foster homes, and six months on juvenile probation. During the average nine-year "criminal history," the offender experienced about 25 correctional actions and services. When the current costs of these actions were totaled for each offender, the individual costs ranged from over 13 to more than 68 thousand dollars, with a median cost of about 31 thousand dollars. A projected cost of about ten million dollars was estimated as the amount the public will have invested in this group by the time the men are released to the community. It is suggested that this enormous expenditure could be reduced by the early management of young offenders in programs of greater cost effectiveness. Two recommendations are presented: "the introduction of community treatment programs such as those operated by the California Youth Authority; and the use of detached worker programs such as those developed in Los Angeles County." Cost comparisons led to the conclusion that "both these programs have shown a high level of cost effectiveness, and their ultimate result will be the saving of many millions of dollars in new correctional costs."<sup>72</sup>

The costs savings obtained in substituting intensive intervention programs for institutionalization are clearly demonstrated in the concept and operation of the probation subsidy. Following a study which found that 25 percent of state correctional commitments could be

<sup>70</sup> *Op. cit. supra* note 9, p. 329.

<sup>71</sup> District of Columbia. Corrections Department. "The cost of correcting youthful offenders," by Barbara Cantor and Stuart Adams. (Research report no. 6). Washington, D. C., 1968. 17 p.

<sup>72</sup> *Ibid.*

maintained safely and effectively in the community, providing that counties were given the means to improve probation, the California subsidy program was carefully "sold" to the state legislature in terms of a cost reduction.<sup>73</sup> During the 1966-1967 fiscal year, the 31 counties participating in California's subsidy program reduced institutional commitments to the extent that what would have been a 5.8 million dollar expenditure on institutional programs was reduced to 2.4 million for intensive supervision programs.<sup>74</sup>

The literature reflects a growing interest in cost-benefit analysis as a means of determining more systematically which correctional procedures actually "succeed" in terms of return on funds invested. Adams reports that the data from six controlled experimental projects, carried out between 1955 and 1967, permit greater precision in cost-benefit analysis.<sup>75</sup> The use of "new correctional costs," rather than recidivism rates, are taken as the primary index of adjustment in the community. According to Adams, comparative research reveals that the highest gain per capita is produced by the "community treatment project," while the group guidance project produces the highest gain per caseload. The results of further application of cost-benefit techniques to corrections could be used to achieve optimal performance of the system as a whole.

The Assembly Office of Research of the California Legislature has issued a report on the costs and effects of the California criminal justice system with recommendations for legislation to increase support of local corrections programs.<sup>76</sup> Major findings of the study include: (1) commitment to state institutional corrections is the most expensive penal alternative in the state; (2) local corrections is less expensive and permits the maximum rehabilitation potential and return of costs to system by offender; (3) at least 50 percent of the men entering prison each year may be no more serious offenders than many of those placed in local probation systems; and (4) the increased use of local corrections which has occurred in California within the last decade has been

<sup>73</sup> *Op. cit. supra* note 22, pp. 43-46.

<sup>74</sup> *Ibid.*

<sup>75</sup> Adams, Stuart. "Is corrections ready for cost-benefit analysis?" (Revised version of paper presented at the 98th Congress of Corrections, August 1968). 24 p. mimeo.

<sup>76</sup> California. Legislature. Assembly Office of Research. *Preliminary report on the costs and effects of the California criminal justice system and recommendations for legislation to increase support of local police and corrections programs*. Sacramento, 1969. 225 p., app.

associated with no recorded increase at all in serious crime among the population supervised. The report states: "Information presented to the Legislature from many sources has suggested that increased investment in direct community-offender interaction . . . would be most effective in controlling crime."<sup>77</sup>

Review of the literature on alternatives to institutionalization leads to one other observation: there is a conspicuous lack of interest in intensive supervision programs for adult prison candidates. While there has been some experience with reduced caseloads and specialized units in probation and parole agencies dealing with adult offenders, these have generally been limited to groupings based on age, sex, or offense category. Alcoholics, narcotic addicts, and misdemeanants are sometimes given special treatment, but it might be argued that such offenders should instead be *diverted from* the criminal justice system. Probation "plus" for adults has included attendance at mental health clinics and group therapy programs.<sup>78</sup>

Adults are more often handled by a "prison plus" approach: once confined to prison, selected inmates are then partially released on furlough, to work release programs, or to halfway houses. Evidence that many adult inmates can be safely released to work in the open community should suggest that most offenders who are eligible for such programs could be safely and effectively retained in the community in the first place.

There would appear to be no factual basis for the assumption that only juveniles are significantly influenced by their peers, that group dynamics function only among the young, or that selected adult offenders could not greatly benefit from involvement in their own treatment and the decision-making process. Placement in a work/training/guided group interaction program could be offered as an alternative to institutionalization for adults as well. Group homes and "foster family" or single placement boarding homes might even be made available on a voluntary basis to adult offenders without family or ties in the community or who need assistance until they are able to establish themselves in a job and neighborhood. Just as probation and the treatment orientation for adult offenders followed the development of these concepts for juveniles, adult correction might now be moved to

<sup>77</sup> *Id.*, p. 1.

<sup>78</sup> For example, the Civic Center Clinic of the Brooklyn Association for the Rehabilitation of Offenders. See: Bassin, Alexander and Smith, Alexander B. "Group therapy with adult offenders on probation and parole." *Group Psychotherapy*, 12(1):52-57, 1959.

benefit from the experience of juvenile correction in the community.

A major obstacle to the wider development and use of community alternatives in both adult and juvenile correction may be the widespread rejection of the offender by the community itself and the desire on the part of society to keep the offender "out of sight and out of mind". The task of "social" control has been relegated progressively to a small proportion of the social body, while the majority in society refuse responsibility for an increasing variety of behaviors and persons. Isolation and banishment has not "worked". Unless society is willing to keep a very large and growing number of its "offenders" in permanent custody, it must begin to accept greater responsibility in the areas of social control and correction.

The evidence obtained from experimental work in community programs, and supported by the results of experience with partial imprisonment and graduated release, the treatment of mental illness, and alternatives to processing by the criminal justice system, clearly indicates that a vast proportion of offenders could be managed in the community at least as effectively, and with much less cost, or diverted from the justice system entirely, thus returning to the community its responsibility for dealing with behavior it defines as antisocial or deviant.

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Senator BAYH. What precisely is this aftercare to which you refer?

Mr. WARD. "Aftercare" is a euphemism for "parole."

Senator BAYH. The youngsters that are on aftercare have already been in the institutions?

Mr. WARD. Absolutely right.

Senator BAYH. In the information you provide, could you distinguish the success rates for children on probation from those on aftercare? Without such data it would be impossible to make meaningful comparisons.

Mr. WARD. There are about 60,000 children on aftercare annually, compared with 250,000 on probation.

Senator BAYH. So, of the 82 percent a significant majority have not been in institutions?

Mr. WARD. Exactly right.

Senator BAYH. If you could delineate these differences with greater specificity, it would be very helpful to us.

Mr. WARD. All right.

Although State per capita expenditures for juvenile institutions range from 19 cents to \$3.05, the overall cost for juvenile institutions is 10 times more than the cost of juvenile probation or aftercare, or 92 cents compared with \$10.66.

One of the most depressing findings of this study was that over \$150 million of new construction is being planned by 1975, at an estimated cost of almost a half a billion dollars by today's prices. The operating expense for these additional institutions based on present salaries and staff ratios would exceed \$100 million a year, or more than the \$93 million now being spent on all community-based services including probation and aftercare.

Most institutional administrators agree that at least one-third of their population, if not one-half could be transferred to community services. Some claim as many as 75 percent of the children received should not have been committed to them in the first place. If only one-third of the children were transferred to probation or aftercare services, along with their share of the institutional budget they could be placed in caseloads of less than 10 instead of 75, which is the average for probation.

So, the question might well arise as to whether we should make the investment of an additional \$100 billion in community services and save the cost of the estimated half a billion.

Senator BAYH. Although we all recognize the necessity for investing more resources in this area, based on our study so far, it is apparent that we can do a far better job with existing tax dollars. I am encouraged by this evidence.

Mr. WARD. Right; exactly.

Mr. RECTOR. Senator, if I may interrupt Mr. Ward. This is some of the documentation as to the need for guidelines. If you increase authority here to back up the guidelines for comprehensive planning, to assure that Federal money to States and communities is properly spent, the kind of planning which indicates how money now available could reach far more youngsters in more positive ways is just not being done by the State planning agencies.

Senator BAYH. This approach appeals to me, not solely as the chairman of this subcommittee but also as a former State legislator. I

recall visits to neighboring States to examine "model" penal institutions costing millions of dollars. We have not done this in Indiana. Perhaps rather than investing dollars in one big monument, if we direct them equitably and sensibly to the various communities in a State, we will be able to meet the challenge of delinquency in a less expensive and more effective way.

Mr. WARD. The system of juvenile justice has been called a non-system, in that it is made of several interrelated parts, usually separately administered at different levels of government. Consequently, no one body oversees the whole system and allocation of funds for program and personnel are generally uncoordinated. As a result, within the same State we find difference in quality between services operating side by side.

Only two States, Alaska and Rhode Island, administer all juvenile correctional services in a single State department. At the other extreme we find in five States, each juvenile institution operates autonomously under its own board, administratively unrelated to any other services.

A good deal has been said about juvenile detention, and I think I will not go into that in much detail. You have the material for the record.

However, suffice it to say that the 242 special detention homes in the United States, are serving only 40 percent of the total population and only 7 percent of the counties, so that if the rest of the children who require detention are to be served by special detention services, then the States are going to have to play a much larger role in the planning of facilities.

However, special detention facilities do not in themselves guarantee good programs nor wise use of detention which varies from all children arrested, in some jurisdictions, to only 5 percent of those arrested in others.

Senator BAYH. Have any studies been conducted to determine what happens to the 41 percent of the children detained which are ultimately dismissed without further action?

Mr. WARD. There have not been, as far as I know, any good followup studies on that population.

I think that perhaps Mr. Hurst may have some information based on specific studies of individual communities and detention home needs.

Mr. HURST. I do not have in this testimony, but I do know that the State of Hawaii, with LEAA funds, is attempting just such a study now for that State.

Senator BAYH. It is difficult to ascertain what impact the detention has had on their futures.

Mr. WARD. We would guess, generally negative.

Senator BAYH. I am sure that is right.

Mr. WARD. Juvenile probation service goes back to 1869 in this country and now serves about one and a half million children annually. While 75 percent of all counties report having such services many of these are little more than a token provided by deputy sheriffs, visiting teachers, or welfare workers on a part-time basis serving as probation officers.

Despite research findings which point to possibilities of effective

innovations and widespread reports about new and more effective programs in the juvenile probation field, few probation agencies report having any unusual or imaginative programs underway, and this was a disappointment in light of the encouragement and the kind of funding which the Federal Government put into this years ago. This may in part be explained by the deficiencies in basic services, but also is due to a lack of inducement or support for change which administrators get.

To help meet this need, one of NCCD's principal training efforts is to help correctional administrators learn to manage for change and to gain acceptance for change from their own staffs, officials, and the public.

#### TRAINING SCHOOLS

The State training schools have traditionally been used and are still being used for a variety of purposes other than for changing antisocial behavior of hardened delinquents. Instead, training schools are used to house children whose basic problem is neglect. Training schools are also a substitute for other State and local facilities for the mentally retarded and for children with severe psychiatric problems but for whom no residential treatment facilities exist.

An even less appropriate, but frequent, use is for girls in need of maternity care.

The average daily population of State training schools is around 45,000 and additionally an estimated 15,000 are found in local institutions and in camps and in private facilities.

Training school programs for the most part are not diversified. About half of the States have only one general institution for boys, and about five States still have no institutions for girls, which is probably a very good thing.

Few States have reception and diagnostic centers or programs to individualize institutional placement.

Professional resources are unevenly distributed. The equivalent of 46 psychiatrists serve 200 institutions. Half of all training school psychiatric and psychological personnel are found in nine States. In 34 of 46 States, there is less than the equivalent of one such full-time staff member.

Now, the standard, for the size of an institution, calls for facilities of less than 150 with living units of less than 20, but in actuality the trend seems to be toward building larger institutions, so now we find several States with institutions exceeding a thousand and one which even exceeds 2,000 on one campus. Today, most institutions are still custodial, and considering their locations in rural cultural areas and their 18th century approach to child behavior, they are, for the most part, anachronisms. Today, we are just beginning to recognize that alternatives to institutionalization exist, even for the most hardened delinquent, rather than to isolate him and the inevitable result is adjustment to an institutional culture rather than preparation for living responsibly in a free society.

Intensive intervention programs have successfully demonstrated that offenders who are eligible for institutional placement can be retained in specialized units of probation, or probation "plus" programs, attendance centers using guided group interaction methods,

and community "out-of-home" placement centers. Parenthetically, these are described in the appendix.

Senator BAYH. You have stated that half of all training school psychological personnel are found in nine States, and that in 37 States there is less than the equivalent of one full-time staff member. Are these figures per State or per institution?

Mr. WARD. Yes; per State training school.

Senator BAYH. Per school? They could conceivably have more than one school.

Mr. WARD. Right. Some have more than one; many only have one or two, one for girls and one for boys. You will find some States with as many as 19, but in 37 of the States there is less than the equivalent of one full-time psychiatrist available for the institutions of that State.

Senator BAYH. That is what I was afraid you meant.

Mr. WARD. Juvenile aftercare or juvenile parole which serves over 60,000 youngsters released from institutions is the newest and least developed juvenile correctional service. Standards call for these services to be administered by the same State agency responsible for institutions. However, we find aftercare programs carried on in a variety of ways by separate lay boards, departments of public welfare, State youth correctional agencies, State departments of correction, State departments of health, local probation departments, and others.

A more standardized pattern is emerging and in some States we find specialized statewide staffs working energetically and creatively using a variety of techniques and services to reintegrate youngsters into community life. The irony of this is that had this approach been taken at an earlier stage the commitment of many, if not most of these children, could have been avoided.

Perhaps, because of the newness of the program in some States, aftercare caseloads are lower and personnel standards are higher than for probation services in those same States. However, many States have not yet initiated sound programs of aftercare, and as a result, thousands of children are still being released from institutions compelled to "make it on their own" as they return to their sometimes hostile but usually indifferent home community.

In concluding this summary, it is obvious that gaps between standards and practice and the problems of fragmentation and lack of coordination and planning must be overcome, if the juvenile justice system is to function in the best interest of society and the young people it is designed to serve.

But we must also encourage and support implementation of alternative service systems for dealing with problems of antisocial behavior and defiance outside the juvenile justice system. In the long run this may be the most effective means to achieve juvenile justice in a free society.

(The prepared statement of Mr. Frederick Ward follows.)

PREPARED STATEMENT OF FREDERIC WARD, JR.

AN OVERVIEW OF THE JUVENILE JUSTICE SYSTEM, 1967 TO THE PRESENT

The only comprehensive national overview of the correctional agencies of the juvenile justice system was undertaken by NCCD as a part of a national

survey of correction in the United States for the President's Commission on Law Enforcement and the Administration of Justice. While in some instances constructive changes have been introduced since the report was published in 1967, in others, conditions have become even worse. The general findings of the study and the implications for change updated where possible are still valid and will be illustrated in other testimony drawn from NCCD's recent surveys of individual agencies in various parts of the United States.

The problems of the various elements of the juvenile justice system, which include detention, probation, local and state institutions, and aftercare or juvenile parole, are many and varied, but when taken altogether they extend well beyond the system itself, for when justice is unfair, uneven, and unavailable, and agencies created to deal with the problem become part of the problem itself, confidence in government is weakened and forces of reaction and counteraction are set in motion, which in turn gives rise to punitive and repressive policies unlike those of the American ideal based on freedom and trust. It has been said of the Juvenile Justice System that the total is less than the sum of its parts.

On any one day over 350,000 children, or about 30% of all offenders, are under the custody and supervision of juvenile correctional agencies and institutions. In addition many more youngsters are regularly held in a variety of jails and police lock-ups pending transfer or other disposition.

About 18% of the daily total are in institutions and 82% are on probation or aftercare status in the community. But when costs are compared, 70% of the juvenile correctional dollar is being spent on institutions and only 30% on all community based services. The total annual cost is in excess of \$315,000,000.

Although state per capita expenditures for juvenile institutions range from 19 cents to \$3.05, the overall cost for juvenile institutions is 10 times more than the cost of juvenile probation or aftercare, or 92 cents compared with \$10.66.

One of the most depressing findings of this study was that over \$150 million of new construction is being planned by 1975, at an estimated cost of almost half a billion dollars. The operating expense for these additional institutions based on present salaries and staff ratios would exceed one hundred million dollars a year, or more than the ninety-three million dollars now being spent on all probation and aftercare services.

Most institutional administrators agree that at least one third of their population, if not one half could be transferred to community services. Some claim as many as 75% of the children received should not have been committed to them in the first place. If only one third of the children were transferred to probation or aftercare services, along with their share of the institutional budget they could be placed in caseloads of less than 10 instead of the 75, which is the average for probation.

The system of juvenile justice has been called a non-system, in that it is made up of several interrelated parts, usually separately administered at different levels of government. Consequently, no one body oversees the whole system and allocations of funds for program and personnel are generally uncoordinated. As a result, within the same state we find differences in quality between services operating side by side.

Only two states, Alaska and Rhode Island, administer all juvenile correctional services in a single state department. At the other extreme in five states, each juvenile institution operates autonomously under its own board.

Generally, juvenile detention and probation are locally administered. This results in lack of free coverage in most states, especially in rural areas where there is no mechanism for achieving regional arrangements.

*Detention:* For this reason we find that 39 states have only one special detention home. In those states youngsters in all but the largest are held in common all-purpose jails. The 242 detention homes in the United States serve 48% of the population but only 7% of the counties.

It seems clear if the rest of the population and the 90,000 children who are otherwise being detained annually in common jails are to be served by special detention homes, the states must assume responsibility for the planning and operation of regional facilities.

However, special detention facilities do not in themselves guarantee good programs nor wise use of detention which varies from all children arrested, in some jurisdictions, to only 5% of those arrested in others. The general overuse of detention is apparent from findings that 41% of all children detained are ultimately dismissed without further action. As far as children are concerned

preventive detention, without the safeguards guaranteed adults, is being practiced daily throughout the United States.

*Probation:* Juvenile probation service goes back to 1869 in this country and now serves about one and a half million children annually. While 75% of all counties report having such services many of these are little more than a token provided by deputy sheriffs, visiting teachers, or welfare workers on a part time basis.

One of the key functions of probation services is screening for informal adjustment, acceptance, or referral of juvenile problems to some other community resource. Yet less than half of the probation agencies use such methods, and a large number of children are placed on probation or committed to institutions without the benefit of a social study to help determine the most appropriate disposition.

High caseloads, lack of inservice training, and inability to use other community services to supplement counselling efforts of probation officers, plagues most probation departments. Yet properly used probation offers the greatest potential, within the framework of authority, for preventing long term deviant and criminal careers.

Despite research findings which point to possibilities of effective innovations and widespread reports about new and more effective programs in the juvenile probation field, few probation agencies report having any unusual or imaginative programs underway. This may in part be explained by the deficiencies in basic services, but also is due to a lack of inducement or support for change.

To help meet this need, one of NCCD's principal trianing efforts is to help correctional administrators learn to manage to change and to gain acceptance for change from their own staffs, officials, and the public.

*Training Schools:* The State Training Schools have traditionally been used and are still being used for a variety of purposes other than for changing anti-social behavior of hardened delinquents. Instead, training schools are used to house children whose primary need is for a foster home or a group home, or for children whose basic problem is neglect. Training schools are also a substitute for other state and local facilities for the mentally retarded and for children with severe psychiatric problems but for whom no residential treatment facilities exist.

An even less appropriate, but frequent, use is for girls in need of maternity care.

The average daily population of state training schools is around 45,000 and additionally, an estimated 15,000 are found in local institutions and in camps and in private facilities.

Training school programs for the most part are not diversified. About half of the states have only one general institution for boys, and about 5 states still have no institutions for girls, which is probably a very good thing.

Few states have reception and diagnostic centers or programs to individualize institutional placement.

Professional resources are unevenly distributed. The equivalent of 46 psychiatrists serve 200 institutions. Half of all training school psychiatric and psychological personnel are found in 9 states. In 34 of 46 states there is less than the equivalent of one such full-time staff member.

The strongest program in most training schools is the educational program where the pupil-teacher ratio generally exceeds that of the public schools.

The cottage staff of institutions have greater contact with students than all other personnel, and studies indicate that such persons have a far greater influence on the behavior of students than other personnel. While this situation is fostered in some systems to support the treatment program, in others the position is used more as that of a guard or watchman who has little communication with the students.

Because of the low salaries for such personnel in most states, persons having even a high school education are unattainable. No educational requirements for the position are set in 25 states.

Standards for the size of institutions call for facilities of less than 150 with living units for 20 youngsters or less. Only 24% of all institutions meet living unit standards and the tendency is to increase the overall size of institutions. Several states now have training schools with populations that exceed 1,000 and at least one now exceeds 2,000. As the population of a training school increases so does regimentation, repression, and corporal punishment, which is still authorized in 25 states, and practiced in many more.

Today most institutions are still custodial and considering their location in rural, agricultural areas and their 18th century approach to child behavior, they are for the most part an anachronism.

Today we are just beginning to recognize that alternatives to institutionalization even for the most hardened delinquent, may be preferred over punitive isolation in remote institutions where family ties and community ties are severed, and where the inevitable result is adjustment to an institutional culture rather than preparation for living responsibly in a free society.

Intensive intervention programs have successfully demonstrated that offenders who are eligible for institutional placement can be retained in specialized units of probation or probation "plus" programs, attendance centers using guided group interaction methods, and community "out-of-home" placement centers. (These are described in the appendix.)

Juvenile aftercare or juvenile parole which serves over 60,000 youngsters released from institutions is the newest and least developed juvenile correctional service. Standards call for these services to be administered by the same state agency responsible for institutions. However, we find aftercare programs carried on in a variety of ways by separate lay boards, departments of public welfare, state youth correctional agencies, state departments of correction, state departments of health, local probation departments, and others.

A more standardized pattern is emerging and in some states we find specialized statewide staffs working energetically and creatively using a variety of techniques and services to reintegrate youngsters into community life. The irony of this is that had this approach been taken at an earlier stage the commitment of many, if not most of these children, could have been avoided.

Perhaps because of the newness of the program in some states, aftercare caseloads are lower and personnel standards are higher than for probation services in those same states. However, many states have not yet initiated sound programs of aftercare and as a result thousands of children are still being released from institutions compelled to "make it on their own" as they return to their sometimes hostile but usually indifferent home community.

In concluding this summary it is obvious that gaps between standards and practice and the problems of fragmentation and lack of coordination and planning must be overcome, if the Juvenile Justice System is to function in the best interest of society and the young people it is designed to serve.

But we must also encourage and support implementation of alternative service systems for dealing with problems of anti-social behavior and deviance outside the Juvenile Justice System. In the long run this may be the most effective means to achieve juvenile justice in a free society.

Senator BAYH. Thank you, Mr. Ward.

Mr. RECTOR. Senator, I wonder if I may ask to be excused and to submit my statement of the proposed alternatives for a Federal agency of children and youth services which we propose to be outside of both HEW and LEAA?

Senator BAYH. Yes. I have read that proposal with great interest. (The statement of Milton Rector and appendix follow.)

#### PREPARED STATEMENT OF MILTON G. RECTOR

#### PROPOSED ALTERNATIVE TO PRESENT LEGISLATION

The National Council on Crime and Delinquency; the White House Conference on Children and Youth, from the first conference to the most recent; and, innumerable other governmental and private organizations have long called for an appropriate priority for the children and youth of this nation. In recent years, we have continued to see the pattern of children and youth, particularly children and youth who are having some kind of individual and/or social problems, receiving a low priority. As this subcommittee knows, within the Department of Health, Education, and Welfare, juvenile delinquency services have, at best, been an impoverished step-child. With the Law Enforcement Assistance Administration, this pattern has continued.

We feel that it is time for the Federal Government to go on record clearly and distinctly with action, not words, in dealing with the juvenile and youth problems of this nation. Therefore, we would like to propose, for the consideration

of this subcommittee, a general outline of possible legislation which can meet this need.

In essence, this legislation will establish an Office of Youth Services independent from HEW and LEAA. This Office shall have the responsibility of providing services to children and youth from conception to age twenty-five. As the problem of juvenile delinquency is only a part of the overall problem of youth development within our nation, this proposed legislation embodies mechanisms to develop comprehensive youth services within the nation.

#### THE OFFICE OF YOUTH SERVICES

**Purpose:** The purpose of this Office is to provide the leadership, direction, and means for enhancing the development of the youth of the nation, and thereby preventing juvenile delinquency and other physical, mental and social dysfunctions of youth and their families.

**Organization:** Within this Office, there would be five programmatic features or titles. They are as follows:

**Title I: Comprehensive Model Building.**—The purpose of this title is to develop comprehensive model structures, including alternatives to existing structures which will serve to enhance youth development and to prevent juvenile delinquency. As conceptualized, this title would operate in conjunction with one or more other federally funded categorical programs, such as Maternal and Child Health, Child Welfare, Youth Employment, Head Start, etc. Funding would be available through this title for meeting the local match for programs under other federal categorical grants. Funding under this title is similar to that of the supplemental funds of the Model Cities Program in the Department of Housing and Urban Development.

**Title II: The Youth Services Institute.**—This title embodies many of the concepts incorporated in the Institute for Continuing Studies of Juvenile Justice (H.R. 45, Mr. Railsback and others), as well as previous recommendations made by the National Council on Crime and Delinquency to this committee over the past ten years.

The Youth Services Institute would be a quasi-independent institute with an independent board, not dissimilar to that of the National Institutes of Mental Health. The Institute would have three functions:

1. The collection, storage, retrieval, and synthesis of known knowledge concerning the functioning and dysfunctioning of youth and families.

2. The sponsoring of independent research within the area of youth and families.

3. To provide, on a mandatory basis, the research and evaluation component to any program or activity partially or wholly funded by this Act. Furthermore, research and evaluation services would be available to any federally, locally, or privately funded program dealing with youth on a request basis. The research and evaluation as mandated under this title shall begin with the approval of any program funded under this Act and would continue through the life of that program.

Sufficient funding should be provided under this title so that one hundred percent of the costs for such research and evaluation shall be borne by the Federal Government.

**Title III: State and Regional Program Development.**—The purpose of this title is to provide the planning, coordination, and funds at the state or regional level for programs in the area of youth services. This purpose will be implemented by the formation in each state of a Youth Service Agency. Larger states would have the option of developing regional Youth Service Agencies and smaller states would have the options of developing inter-state Youth Service Agencies. These Youth Service Agencies would have the responsibility of program planning for the jurisdiction and the distribution of funds, as provided elsewhere in this Act. Funding of programs under this title would be subject to approval of annual plans. These Youth Service Agencies would have representative boards which would include professionals in the area of services for youth, lay citizens, and consumers of services. In general, the board should be made up of the following: The professional representatives—designated representatives of the state attorney general, the State Department of Public Welfare, the State Department of Mental Health, the State Department of Public Health and the State Department of Education, the juvenile courts, juvenile probation, corrections and law enforcement services, and private youth agencies; the lay representatives—lay citizens should constitute at least one third of the board.

The term "lay citizens" should be used to describe individuals who are not now or who have not been professional staff of professional agencies previously described; consumer representatives—at least one fourth of the board should be made up of youth.

Under this title, five general categories of funding should be available. These would include the following:

1. **Prevention Services:** Programs funded within this category would be designed to prevent youth from committing a law violation by some means other than increased or improved police services. Funding under this category should be on the basis of 90% federal funds and 10% local funds.

2. **Diversion Services:** Programs funded within this category would be programs designed to divert youth from the juvenile criminal justice system. This category should be funded on the basis of 90% federal funds and 10% local funds.

3. **Training Services:** Programs within this category would include training new and existing staff on an in-service and/or academic basis. Educational loans to individuals who have received training within this category will be excused by working in the field. Salary supplements would be paid to employing agencies for a reasonable period of time for individuals trained under this category. Funding under this category should be on the basis of 75% federal funds and 25% local funds.

4. **Program Services:** Programs funded within this category would be to improve the quantity and nature of services provided by existing state, local and private agencies operating within the field of juvenile criminal justice. This would include the additional staff and other programs, but it would not include physical construction. Funding under this category should be on the basis of 60% federal funds and 40% local funds.

5. **Physical Services:** Programs funded under this category would include the improvement of physical structures which treat youths. Funding under this category should be on the basis of 50% federal funds and 50% local funds.

**Title IV: Discretionary Grants.**—Grants under this title would be made to state and local government units and private agencies for the development of prevention and diversionary programs. Programs under this title would be wholly funded by the Federal Government.

**Title V: Structure.**—The Office of Youth Services would be organized in the following manner:

1. A central administration with general overall administrative responsibilities. This administration would receive and approve plans developed under Title I and Title III of this Act. It would have general budgetary responsibility for Title II of the Act.

2. A regional structure, under the general supervision of the central administration, with the responsibility for supervising the states and localities within the region. It would have the responsibility for providing technical assistance in the planning and program development to such states and localities. The regions will have responsibility for the implementation of Title I. In addition, each shall receive and approve plans and programs funded under Title III of this Act. The regional offices shall have the responsibility for 50% of the funds expended under Title IV.

3. The State Youth Agencies will have boards composed of members as previously described. These agencies will be served by a professional staff, wholly funded by the Federal Government, which will meet minimum qualifications standards set by the central administration of this Act. The staff will be appointed by the state or inter-state authorities. The youth agencies will have the responsibility for receiving and approving programs developed under Title I of this Act. They may also, subject to approval of the region, develop programs under Title I. They will have the responsibility for planning and developing programs under Title III. They shall receive programs funded under Title IV of this Act.

No cost figure for this Act has been developed. However, we would recommend that funds should be allocated within this Act on the following basis:

Administration:	Percent of funds
Central and regional offices	10
Title I	25
Title II	15
Title III	35
Title IV	15

## Appendix A

## CORRECTION IN HAWAII: A SURVEY OF CORRECTIONAL SERVICES IN HAWAII—1966

## I. THE FAMILY COURT AND PROBATION SERVICES

The Family Court Act, effective July 1, 1966, relegated the juvenile court and domestic relations matters to the family court. Hawaii has one of the most progressive and advanced family court acts in the country. Major emphasis is placed on providing correctional treatment in the community. However, there is a gross shortage of juvenile probation counselors.

The family courts are divisions of the circuit courts and now have jurisdiction over matters previously assigned to the juvenile courts and the Division of Domestic Relations. A board of family court judges is approved for by statute. The board is composed of all the state's family court judges who annually elect a chairman from its membership. At its meetings, the board attempts to agree on general policies for the conduct of the family courts, and rules and forms governing procedure and practice in the courts. Judges are appointed for ten-year terms and either re-appointed or dropped by the governor when the term expires. The Juvenile Division of the court is presided over by the senior judge who is the chief judicial officer and overall administrator of the family court. There are four major departments within the division: judicial, administrative, intake and counseling, and detention. The senior judge is assisted by a professionally trained director of court services who is the chief administrator and executive officer, but under the general supervision of the senior judge. Due to the tremendous workload of the director, the judge also assumes considerable administrative powers over court services. This tends to isolate and weaken the director's position and creates misunderstanding, confusion, and conflict in policies and philosophy of treatment and the achievement of goals, particularly in regard to detention. While intake is the recognized key to quality detention practices and services, in Hawaii it functions independently of detention.

Under statute, any police department has the authority to establish a juvenile crime prevention bureau with the power to take into custody any child allegedly delinquent or beyond the control of his parents or guardian. This circumvents the family court's informal adjustment and referral functions. The statutory provision on detention allows 48 hours to pass between admission to detention and the filing of a petition, and another 48 hours allowed to pass before a court order to continue detention is required. Additionally, the law does not provide for uniform statewide planning for detention care.

The court probation personnel are plagued with staff shortages and inadequate salaries. Although academic background of the personnel is of a generally higher level than found in most states, orientation for new workers is limited. Inservice training for staff is lacking, and there is no organized program to implement the new techniques studied by staff. Little if any time is available for professional guidance and leadership. A general atmosphere of irritation prevails due to inability to solve simple but frustrating problems within the department.

Intake, according to court manual, may return a case to its referral source, refer it to other public or private agencies, make an informal adjustment, arrange for psychiatric, psychological, or other special services, and authorize the filing of a petition or settle the case without a petition. All petitions are filed by court workers, rather than by the police or agency originally involved in the referral. Intake may recommend the dismissal of a petition and waiver of jurisdiction of a child or minor for criminal prosecution. Control of detention admissions and releases is a proper and logical function of intake; however, the intake unit in Hawaii is not involved in screening admissions to detention. Police bypass intake by conveying and placing children in detention. Police have the child admitted to detention without specifying the charge in all too many cases. The superintendent of detention has power of final decision regarding intake. The administrator of intake cannot secure the assistance of the director of court services to resolve intake disputes with the superintendent.

The two detention facilities in Hawaii, the Oahu Detention Home and the Maui Detention Home, are responsible to the family courts of the respective circuit courts. Each is administered by a superintendent appointed by the senior judge of the circuit court. The facilities suffer from inadequate staff; however, they physically meet recognized standards for detention facilities.

In regard to court hearings, all delinquency cases are heard by the three referees, with the exception of selected cases which are heard by the senior judge. All but one of the referees are attorneys. Delays in the court process arise in part due to the fact that flow of cases to the referees is uneven; one referee handles considerably more delinquency cases than the other two. There is an average two month lapse of time between filing a petition and the adjudication hearing. The time lapse between adjudication and disposition averages three to four months, and in some cases up to seven months. A joint adjudication hearing is permissible when two or more minors are involved in the same offense, but all disposition hearings must be held separately. Delinquency hearings in Hawaii do not ordinarily allow for a counselor to comment on attitudes of the child and his parents, and referees do not encourage the child, parent, or counselor to be fully heard at disposition hearings. This limits the referee's understanding of the case as a specific case concerning an individual.

Probation services are under the direct supervision of the administrator of intake and counseling. There is limited personal contact of probation personnel and other court personnel. Communications upward and downward within the Judiciary Building are weak, resulting in a kind of isolation of the probation section. Cases are assigned to probation staff according to their civil service job classification. When the counselor finally makes contact with the child or parent to schedule an appointment, three to four weeks have elapsed since adjudication. Once under the supervision of a counselor, or that of the probation section in general, a child remains under that supervision for an average of two and a half years. An unusually high degree of tolerance of client misbehavior is recorded. A counselor or journeyman status is given the discretion of deciding how a violator in his caseload is to be handled. Follow-through on recommended treatment is lacking, due mostly to the large unmanageable caseloads and lack of personal contact with the clients. Generally, supervision contacts are limited to office visits.

Court clinical services are rendered by one full-time psychologist and a part-time psychiatrist both of whom are employees of the State Department of Mental Hygiene. Cases are referred directly, without any screening process, to the psychologist and psychiatrist by counselors. During an interview, both the child and parents are seen. The psychologist divides his time between direct services, including initial contact for evaluation and treatment; on-going treatment cases; consultation; and program development. The backlog of cases referred for initial evaluation causes a four-month delay from referral to completion of the evaluation.

Petitions are filed on approximately 65% of all referrals to the family court. Police are the referral source for 98% of all cases coming to the attention of the family court. Police refer to court between 60% and 64% of all cases they process. While the total number of referrals to family court has increased commitments to Hawaii Youth Correctional Facility have decreased. Since July 1, 1966, referrals for incorrigibility, truancy, runaway, and other non-law violations are classified as minors in need of supervision (MINS) and are placed on protective supervision and not on probation. It is estimated that 5% of the total juvenile referrals are diverted to other social agencies. The ten-year average annual rate of disposition was 3,635 of which 1,263 were disposed of informally. The recidivism rate of MINS was 15% as compared with 31% recidivism rate of violators.

Community resources available to and utilized by the family courts are: the Salvation Army; Palama Settlement; YMCA; YWCA; Catholic Social Services; Department of Social Services at the Oahu Division; public schools; and, the State Department of Social Services. Delinquent children referred to child and family services are usually first offenders who are receptive to group therapy. The total number of juvenile cases referred to community resource agencies was estimated to be about 150 children annually.

*NGOD recommends that*

1. All social services staff, including detention staff, be placed under the general supervision of the Director of Court Services who in turn is responsible to the senior court judge.
2. Regular staff meetings be held, involving the Director of Court Services, probation staff, and court referees to improve the understanding of the various roles and functions of the various court employees.

3. Supervisory responsibilities of the Administrator of Intake and Counseling be modified, possibly by creating a new position to assume responsibility for intake, separate from field services.

4. Regular staff meetings be held between referees, the Administrator of Intake and Counseling Services, the Supervisor of Detention Services and supervisors of probation sections to improve case flow, evaluate content and quality of case histories, and to encourage free discussion of mutual court problems.

5. Law reform to accomplish the following: provide the board of family court judges with rule-making power; clarify authority of police to establish "juvenile crime prevention bureaus"; permit the board of juvenile court judges to provide for uniform statewide planning for detention care; provide the training school with jurisdiction and authority to release children from the institution.

6. Additional staff, higher salary levels, and intensive on-going training should be provided.

7. The intake unit of the family court should be authorized to screen all referrals, including those referred to the detention facility.

8. The Director of Court Services should be ultimately responsible for all conflicts arising between the court and detention services.

9. Referees should all be licensed attorneys.

10. There should be greater participation by the child and parents in disposition hearings.

11. There should be staff meetings at all levels and interdepartmentally.

12. There should be greater focus on evaluation and diagnosis as related to case dynamics, recommended treatment and goals.

13. The family courts should increase, through community supportive services, their use of existing treatment resources.

14. The number of foster homes and group-subsidized homes should be increased.

## II. JUVENILE TRAINING SCHOOLS

The Division of Corrections of the State of Hawaii, as seen in the juvenile institution and aftercare program, is highly progressive. The strongest assets of the program in the juvenile training school field are variation and receptiveness to change. The weakest parts of the program are functions of organization; lack of integration within the program and lack of an operating master plan. The training school philosophy is reliant heavily upon rehabilitation; however, also built into the theory as it operates is the automatic label of failure of the child. The juvenile institution programs do operate to achieve some of the goals of a "reintegrative" philosophy. But, these programs still contain some of the goals of custodial, punitive, and rehabilitative philosophies. For example, the goals of the institution's detention unit appear to be highly punitive, goals of the farm program appear to be highly rehabilitative, and those goals of the community relations program appear to be highly reintegrative.

The Hawaii Youth Correctional Facility is administratively responsible to the Division of Corrections, Department of Social Services, which is the agency responsible for general policy-making and supervision of the various functions of the Hawaii Youth Correctional Facility. The administration has been progressive, particularly in program design. Individual expression is encouraged among professional staff. There exists a severe lack of lines of communication accompanied by insufficient attention to the technicalities of organization. Departments suffer from fragmentation. Administration within the system does not lead toward continuing evaluation. There is no uniform system of keeping records and data.

The law dealing with training schools is similar to the law concerning the family court in that it is most progressive with certain exceptions. There are provisions for the use of short-term commitments; however, these provisions tend to encourage the children to "do time" and make it difficult for the training school to plan the treatment program whereby the child must make progress in attitude and behavioral change to earn release. In contrast to the short-term commitment, a section of the law requires the child to spend one year at the Hawaii Juvenile Correctional Facility before parole. A child may be contracted out to work at age 15 as a form of parole. Children fourteen years of age or more in a training school may be transferred to an adult jail. A family court judge may also, at any time, transfer a child back to the training school or dismiss the child outright from jail.

Below the administrative level, there exists certain staff inadequacies such as interdepartmental communication barriers, lack of internalized commitment to

the objectives of the institution and its philosophy, and inconsistency of enforcement of rules. Inservice training for staff members is insufficient and there is no continuous inservice training program. Like other correctional sections, the training school staff salary scale is too low.

The training school is clearly lacking an integrated program of intake. Rotating staff members are used as intake officers, and as a result, there are not standard criteria for assignment. Youth often enter the institution without adequate records from the courts, and once they are confined, recordkeeping is haphazard and minimal.

Cottage life in an institution is the guiding concept of the overall corrections program. The idea of providing a home environment and center for many activities is mandatory for a productive system. However, in Hawaii, it is not functioning to use houseparents effectively. Rules and regulations which are all stated negatively, vary considerably from cottage to cottage, and a high degree of permissiveness exists in the cottages. Inconsistency in the determination of discipline and rewards is a distinguishing feature of the cottages and of the staff members on duty. The general appearances of the cottages is poor and indoor recreational facilities are inadequate. The idea of an "appropriate home" image is not generated under these circumstances. Perception of the cottage program by the juveniles was negative. They felt a barrier between themselves and the staff, and there are no regular group therapy or guidance sessions that offer legitimate opportunities for youth to express their views and discernment. Extended furloughs and vacations, work programs, and the Maluhai Opportunity Demonstration Project are admirable aspects of the system.

Social work and psychological services are provided to the institution both through those professionals under the direct authority of the superintendent of the institution and those under supervision of the mental health team. Psychiatric and psychological services are provided by the Department of Health on a regular basis. However, the use of the professional staff at the Hawaii Youth Correctional Facility has indicated a lack of attention to maximize effectiveness of services. The casework staff works at creating opportunities for youth in terms of choices of behavior more appropriate in society, but this effort is neither respected nor truly implemented by the cottage-level staff. Correction suffers from the problem that the better educated a person becomes, the less actual time he spends working with delinquents.

A point system is used as a method of rewarding desirable behavior. The basic problem with the system is that acquisition of points becomes the goal and the real significance of desirable behavior is lost. At the Youth Facility, a youth who might be ready for release a few months after his entry into the institution must remain until he reaches a prescribed number of points; another youth may collect the prescribed number of points and not be ready for release. The point system fails in providing immediate rewards which are needed for reinforcement of appropriate behavior.

Discipline replaced the idea of "punishment" delinquents many years ago; however, in Hawaii, practices such as isolation, as it is used, is far more punitive than disciplinary. Coupling long periods of isolation for young people whose personalities are already volatile with other degrading practices used in detention at the institution is destructive. Punishment by isolation is humiliating and further self-destructive, in opposition to goals of progressive correctional programs. The point system as presently used in effect has a punishing function.

### NOCD recommends that

1. The Youth Facility should use the philosophy of "reintegration" as a guide to developing a much needed master plan.

2. Administrative lines of authority should be reorganized with provision of open lines of communication.

3. Provisions dealing with short-term and long-term commitment to the Correctional Facility should be revised to transfer the jurisdiction over youth to the Division of Corrections.

4. Provisions for contracting children out for day work should be eliminated.

5. Provisions which provide for children 14 or older to be transferred from a juvenile training school to an adult institution should be revised to require the case to be transferred to criminal court to be retired on the new charge before considering transfer to an adult correctional institution.

6. Inservice training programs should be implemented for staff with an increase in the overall salary levels.

7. One of the present caseworkers should be permanently assigned to the intake unit to organize and develop an effective and functional intake program.

8. The Hawaii Youth Correctional Facility should develop a comprehensive program of statistical and data gathering to determine whether the training school program is adequately meeting the needs of the various individuals in the program as determined by their personal characteristics.

9. Cottage parents should be thoroughly integrated into the program of care and services and be used more effectively in the cottage programs.

10. Continued efforts should be made in increasing community-based activities as treatment measures.

11. The point system should be revised to provide for a system that offers immediate rewards for appropriate behavior.

12. The standard minimum length of time before parole as dictated by the point system should be abolished.

13. Isolation practices as they now exist should be discontinued.

14. The practices of transferring difficult juveniles to jail should be discontinued immediately.

15. Alternatives to incarceration should be completely explored.

### III. JUVENILE AFTERCARE SERVICES

The aftercare or parole of juvenile offenders is delegated to the juvenile parole branch. The administrator of the juvenile parole branch reports directly to the Director of the Division of Corrections. The present administrative make-up bypasses the Hawaii Youth Correctional Facility administration. The result is, aftercare workers are not wholly integrated in the aftercare treatment program in making definite plans for the child after release from the institution.

There are several types of parole from the Youth Facility authorized in statute. A child may be released on "home placement" at any time by the director of the institution, but he can be released on parole to his parents only after he has served one year in the school. Another type of parole is the contracting out of youths for day work with private employers. All types of parole are revokable at the discretion of the Director of Social Services. Parole responsibilities within the institution are performed inadequately. Parole officers are not integrated members of planning teams from the time of commitment. The individual case-loads are not unreasonable to account for any such difficulties. Incentives for recruitment and retention of parole officers are weak. Inservice training and use of community resources has been neglected and opportunities for continuing education are not available. The poor lines of communication and lack of integrated effort between the institution and the Juvenile Parole Branch exact a heavy toll on the outcome of the entire program. Parole counselors stated that five to eight hours were spent on locating residential placement of offenders. The officer is not trained or prepared to handle the tasks of a total aftercare program. The high rate of juvenile recidivism in Hawaii and the increasing number of juveniles and young adults who exhibit deviant behavior are indicative of the ineffectiveness of the program. Juvenile parole officers operate only on the island of Oahu. Neighboring islands are serviced in parole functions by agencies that agree to furnish needed supervision. The fact that the parole branch is not functionally nor operationally integrated with other services of the correctional system or related social agencies is apparent in all aspects of the program and its effects.

#### *NCOO recommends that*

1. The administrative structure should allow for the juvenile parole branch to become an integrated and cooperative agency with the Youth Correctional Facility, requiring aftercare counselors to become functioning members of the juvenile offender's treatment team.

2. A view of aftercare should be generated to permit the provision of a wide range of care and services for released offenders.

3. The law should be revised to eliminate the requirement of one year before eligibility of parole.

4. In the event of revocation of parole, the decision should be based on a hearing, not the discretion of the Director of Social Services.

5. Regular inservice training should be provided for staff.

6. Consideration should be given to the establishment of small group homes with foster parents to serve as alternatives in residential placement.

7. Parole officers should be required to justify the continuance of a parolee's supervision after one year's time.

## JUVENILE CORRECTIONS IN DELAWARE—1969

### I. OVERALL STATE ORGANIZATION OF SOCIAL SERVICES

Executive functions are discharged through several boards or commissions. Massive fragmentation of the administrative system is not functional in view of the tremendous urban problems and needs.

#### *NCOO recommends that*

1. A merger of all agencies dealing with public welfare, corrections, health, mental health and vocations rehabilitation, and youth services into a department that might be called Rehabilitation Services, Human Resources or Health and Welfare.

2. Merge the Board of Corrections, the Youth Services Commission, intake predisposition, and probation supervision services of the family court and presentence investigation for superior courts into a Department of Corrections with adult and juvenile divisions.

### II. CORRECTIONAL SERVICES FOR JUVENILES

A. *Administrative Organization—Court Services.*—Family courts are administratively responsible for the provision of juvenile probation services. The Youth Services Commission is responsible for administration of all other juvenile correctional functions.

#### *NCOO recommends that*

All juvenile probation services should be removed from the administrative responsibility of the family courts and should be re-organized as an integral service of a comprehensive Department of Corrections or Human Resources.

#### *B. Institutional Services.*—

(1) *The Board:* Membership of the Youth Services Commission consists of nine members who are appointed by the governor for terms of four years. The commission along with its other functions is also responsible for an active review of all cases for discharge purposes.

**NCOO RECOMMENDS THAT:** The Youth Services Commission Board should be a policy making board and should delegate administrative responsibility to the Executive Director.

(2) *Administration:* The chief administrator of the Youth Services Commission is the executive director. Four institutional facilities are operated under the commission, they are headed by superintendents who are responsible to the executive director. The director of preventive services, the business officer, and the food services director report directly to the executive director.

#### *NCOO recommends that*

1. The present functions of the executive director and superintendents should be clearly delineated to eliminate possible duplication in administration and supervision.

2. The supervisory personnel with obligations in more than one institution should act as consultants to the superintendent concerned rather than representatives of the executive director with supervisory duties.

### III. CORRECTIONAL PROGRAMS AND MANPOWER NEEDS

#### *A. Juvenile Delinquency Prevention.*—

(1) *Administration:* The Youth Services Commission is vested with the statutory power to foster the expansion of community services directed toward the overall prevention of juvenile delinquency.

(2) *Prevention Services:* Prevention work has been primarily in the area of attempting to encourage and stimulate community action programs. A workshop on delinquency has been developed for school personnel and additional programs have been organized and published in pamphlet form. Adult-youth conferences have been developed which are designed to establish communications between youth and adults. During 1967 the administrator addressed 157 separate groups and in 1968 he spoke to 73 groups.

### B. Juvenile Services.—

1. *Family Court Organization:* The agencies responsible for administration of juvenile probation services in the state of Delaware are the family courts. The Family Court in and for New Castle provides probation services for Wilmington and New Castle and the Family Court for Kent and Sussex provides services for its residents. All three courts are operated independently of each other.

NCCD recommends that: A statewide court system should be created and a board of family court judges should be created and they should appoint a presiding judge.

2. *Judicial Services:* The judiciary of the family courts in Delaware is composed of three judges in the New Castle County family court and one judge each in the two lower counties. Assisting the judges are one full-time master and four part-time masters in New Castle and one part-time master in Sussex County. A master is not employed at Kent.

NCCD recommends: Six additional full-time masters and the family court be employed at the family court in and for New Castle and the family court for Kent and Sussex Counties should be provided with three full-time masters or judges.

3. *Probation Services:* The court is administered by a director of court services who under the supervision of the judge's is charged with the duty of administering all the various services of the court. There is a chief probation officer who presently administers all probation services as well as the intake division.

NCCD recommends that: The position of assistant court administrator should be created to relieve the court administrator and chief probation officer of excessive administrative duties.

4. *Casework Supervision:* Three casework supervisors are presently employed at the New Castle family court. The intake division is composed of two different units. During fiscal year 1967, 4,884 persons filed applications were taken.

NCCD recommends that: At least four additional probation officers should be hired or transferred to the intake unit so that a majority of all cases coming before the court can be directed through the intake unit.

5. *Probation Staff:* Probation staff in the New Castle County Family Court work with both adult and juvenile cases. In 1968 there were 17 probation officers and 2 counselors assigned to work with alcoholics. Kent and New Castle counties both have one case-work supervisor and three probation officers each. The average age of the probation officer in the New Castle County Family Court is 26 years and the average length of service at the court is 16 months.

Starting salaries have been at \$6,000 annually. A majority of the delinquent children appearing before the court live in fatherless families. At present 2% of the staff is female. From 1963 to 1968 the court consistently placed 11.6 per cent of all referrals on probation.

NCCD recommends that

1. Base salaries for probation counselors should be raised to \$7,200.  
2. The courts administration should work toward recruiting and retaining male counselors.

3. All probation counselors in Delaware should have the minimum NCCD requirement for the position by holding a BA degree and by completing one year of related social work experience.

4. Long range planning for staff at the family court in New Castle should include the provision for 40 probation counselors in 1970, 47 in 1975 and 56 in 1980.

6. *Probation Casework:* Almost all probation counselors carry an average load of 50 work units. Caseloads are usually composed of about one-half juvenile cases. In 1967 there were 5,214 new juvenile referrals to the family court. The largest number was in the 16-17 year old age bracket. In 1967 there were 855 juveniles detained at the detention home, while 151 children were detained at the adult jail or police station.

NCCD recommends that

1. Children should not be placed in adult jails.  
2. In their working with juveniles, probation counselors should involve the family to a greater extent through family counseling.

3. Alternatives to institutionalization should be developed including group homes and day care centers.

7. *Services for Dependent and Neglected Children:* Present responsibility for the care of dependent and neglected children is with the Department of Public Welfare. It funds a foster home, a private children's boarding home and a Catholic boys' and girls' home. The presiding judge of the Sussex family court states that there are no existing facilities for non-delinquents.

NCCD recommends that: Child Welfare Services through the Department of Public Welfare should be commissioned by the State of Delaware to develop and staff several community group homes in the more populous areas to be used as a short term residence for dependent and neglected children.

### C. Juvenile Detention Services.—

1. *Administration:* The Youth Services Commission has the responsibility of supplying detention services to the Family Courts through its facilities at Bridge Water and Stevenson House. Each superintendent has an assistant.

2. *Detention Services:* a. Staffing pattern: The counselor staffs at the detention centers in Delaware consist of male and female group workers who are not only involved in group supervision and counseling but are responsible for other various duties that are required in an institution.

3. *Treatment Program:* At Bridge House the social worker is responsible for the preliminary review on each child arriving at the detention center, as well as individual and group counseling. At Stevenson House treatment services are meager. A part-time psychologist from one of the school districts offers primarily educational testing as needed.

NCCD recommends that: The services of a half-time psychologist at Bridge House and a social worker should be added to the staff at Stevenson House.

4. *Detention Practices:* Of the 308 detainees at Stevenson House during 1968, 302 were received from the courts. Of the 1,132 detainees at Bridge House, 788 were referred from police services and only 145 from courts and 199 from other services.

NCCD recommends that: The Youth Services Commission work closely with the police and with the family courts to establish uniform and efficient referral and screening procedures.

5. *Detention Program:* Boys and girls attend school on a half-time basis except at Stevenson House where the children attend part-time in the afternoon. Teachers in the programs are paid less than their counterparts in the local school system.

A part-time nurse spends two days per week at both Bridge and Stevenson House and is on call during the remaining part of the week. A thorough medical examination is given only at the recommendation of the court.

NCCD recommends that

1. A thorough medical examination be given to every child who comes to the detention center within 24 hours after admission.

2. Physicians should be retained for a half-day a week and they should be on call the remaining time.

3. The teachers employed should be given either a \$500 differential or some other form of fringe benefits.

### D. Juvenile Training Facilities.—

1. *Administration:* The chief administrative officer and the assistant superintendent at the Ferris School have been in acting status for a period of over three months. They have had no indication as to whether they are to be replaced or appointed on a permanent basis.

NCCD recommends that

1. Personnel should be appointed on a permanent basis at the Ferris school.

2. Staff practices should be of the type that encourage free thinking; in-service training and other things that will give the staff incentive and allow them to improve their service.

2a. *Treatment Service:* There are presently 31 group supervisors at Ferris and 17 group supervisors at Woods Haven. Professional counseling staff at the institution includes one case supervisor and seven social workers at Ferris. The five counselors at Woods are involved, for the most part, in case-work and aftercare responsibilities.

3. **Treatment Program:** Girls are held in reception status for a period of four weeks while boys remain in reception for five weeks. At the end of this period they are processed and assigned to a cottage.

*NCCD recommends that:* The reception period be reduced to a maximum of 2 weeks.

4. **Social Services:** Social workers are responsible for both in-resident counseling, visits, and aftercare parole work in the community. Psychological and psychiatric services are available to the facilities but they are generally involved in testing, counseling and preparing cases for referral to the Mental Hygiene Clinic.

*NCCD recommends that:* In addition to their testing and therapy, psychologists and psychiatrists at both training facilities be involved in staff development and training.

5. **Discipline:** At both schools discipline takes various forms. For minor offenses, a child may lose privileges by degree. With continual violations the child may be restricted for a weekend or "lose all privileges" for one week or more. For more severe problems children may be placed in the "lockup" room at Woods Haven or in the security unit at Ferris.

*NCCD recommends that*

1. That slapping be forbidden and regulations against the use of corporal punishment be strictly enforced.

2. The security unit of Ferris should be eliminated.

3. The practice of utilizing the security unit as a detention center for boys awaiting court hearings, trial home visits, or after-care violators should be discontinued.

6. **Education:** Almost all the children committed to the juvenile training schools are extremely retarded in their school work. There are a number of assignments at Ferris for which a boy can receive school credit. Technical vocational training is limited at Ferris. At Woods Haven girls are placed in academic classes according to their needs and interests. Girls attend school six hours per day. Teachers are handicapped by low salaries.

*NCCD recommends that*

1. That a comprehensive school program should be developed at Ferris.

2. The present school building at Ferris is completely inadequate and needs to be replaced.

3. Maintenance and Custodial personnel should be hired to do the work presently being done by the boys.

4. One full-time school administrator at Woods Haven should be hired without teaching duties.

7. **Recreation:** There is one full-time staff member responsible for the recreation program at Woods Haven School. Ferris employs only one full-time recreational person. On occasion girls have participated in dances with the boys at Ferris.

*NCCD recommends that*

1. That three full-time recreation workers be added to the staff at Ferris School.

2. Part-time recreation counselors and/or instructors should be hired at Woods Haven.

3. Coeducational recreation activities should be held at both training schools.

E. **Aftercare services:** Each institution is responsible for its own aftercare services so that caseworkers on the staff have dual responsibilities.

*NCCD recommends that:* A division of aftercare, separated, but integrated with the training schools, should be created by employing 15 caseworkers, 3 casework supervisors, 1 Director and 3 clerical workers.

F. **Physical facility needs.**

1. **Noninstitutional facilities:** The present welfare and private boarding homes are inadequate to meet the needs of the dependent and neglected children. At Ferris School and Woods Haven generally about 50 percent of the children fall into this category.

*NCCD recommends that:* Funding should be made available to construct and staff several group residences.

2. **Court facilities:** The present facilities at New Castle are inadequate. There are 12 clerical and docket workers lodged into a small space that would

barely accommodate six to eight workers. Four juvenile probation officers are located at the YMOA, without telephone service. In Kent county all four probation officers and five clerical workers and court employees were located in one large office facility.

*NCCD recommends that*

1. The New Castle County Court should consider establishing a satellite facility of the court to service outlying areas.

2. An adequate building with sufficient office space should be provided to house the family court at Kent County.

3. **Training school facilities:** During fiscal year 1968, 38 new commitments and 21 commitments were made to the First Offenders Building on a joint custody basis. The cottage at Ferris consists of four cottage buildings, of which two serve as double units for a total of six cottages. The security unit is located in the basement.

*NCCD recommends that*

1. An analysis of the treatment and security requirements of youth taken into custody be undertaken to determine the need for a security facility at Delaware.

2. The two older cottages should be remodeled so that there is not a need for a common recreation unit.

3. There should also be a new school building, library, administrative offices, teachers lounge and a fully equipped vocational shop constructed at Ferris.

#### LUBBOCK COUNTY, TEX.—JUVENILE COURT, PROBATION, AND DETENTION SERVICES—1970

##### I. LAW ENFORCEMENT SERVICES

Law enforcement agencies, in particular the Juvenile Division and the Lubbock County Police Department, are responsible for the majority of referrals to the Juvenile Court in Lubbock County. Arrest and referral constitute the major duties of these agencies in regard to juvenile offenders and their initiation into the juvenile justice system.

In 1969, Lubbock Police arrested 1,193 children and referred all but 121 on to the Juvenile Court. It would appear that screening practices are at a minimum. However, the police are exercising screening prior to arrest and are in effect screening out close to 60% of the law violators, because they are in fact only arresting 50%. This can be considered a desirable practice in that it has been found that up to 50% of juvenile arrests do not require court handling. But, by screening prior to arrest, the deterrent effect of arrest is not being fully used. Of those actually arrested, many are being arrested for non-criminal offenses, such as truancy, which could be better handled by a community social services agency than by police and courts.

The youth section of the city police department jail is used for very short term holding of juveniles after initial arrest. However, the average length of stay was twenty hours which indicates excessive overnight stays in the ward. Currently, two counselors have been employed by the Juvenile Division to handle cases of contact without arrest. However, the counselors could become more functional by referring a greater number of cases to social agencies where the specific problems can be adequately addressed.

The staffing pattern of the Juvenile Division is to be commended, but staff training is minimal. A new officer receives only two weeks of inservice training. Additionally, referral practices are not set down as written policy.

*NCCD recommends that*

1. Only those who have actually committed a criminal offense should be arrested with referral of cases to social agencies whenever possible. Holding of children in the juvenile ward overnight should cease.

2. Standards of policy and practice should be set in written form with an overall upgrading and expansion of staff training.

##### II. THE COURT HEARING PROCESS AND JUVENILE CODE

Cases are brought to the attention of the Probation Department prior to direct introduction to the Juvenile Court. Intake consists of investigation and screening carried out by the probation office. Referral to community social agen-

cies is employed whenever possible to avoid entrance into the juvenile justice system.

The court system operates in theory upon the principles set forth by NCCD's Juvenile Court Act. With the exception of holding children in detention, the Act is implemented in accordance with guidelines set forth in NCCD's *Standard Juvenile Court Act*. A problem arises in Lubbock in regard to the definition of delinquency. As it stands, the definition is far too ambiguous and all-encompassing to the point where most all children under the age of eighteen residing in the county could be adjudged in some way delinquent. It draws in non-criminal offenses which could be most effectively dealt with on a social level rather than by the Juvenile Justice System.

A petition system does exist. But, the petition itself is so worded to pre-judge a child delinquent before such a determination has been properly ascertained. Decision-making in regard to the detention of a youth is not uniform. It is within the discretion of each probation officer to determine whether or not a child is to be detained. The Chief Probation Officer provides the only check.

Juvenile Court hearings are held every Wednesday of each month and are heard by one of a board of four rotating judges. This practice enables familiarity of juvenile court proceedings for all members of the board; however, it also provides discontinuity in proceedings. In order that a case be heard by the same judge, continuances by necessity cannot be of short duration. The efficient and effective processing of a youth is given secondary importance. This practice is questionable in that the use of one judge, who would become skilled in the problems of juvenile justice could be more effective for both the youth and the workings of the court.

NCCD's *Model Rules for Juvenile Courts* recommends a bifurcated hearing process which eliminates pre-judgment of the youth by introducing the social history and case information after the adjudicatory hearing and prior to the dispositional hearing. At present, Lubbock County does not employ this practice, but instead has a continuous adjudicatory-dispositional hearing. During the process of this continuous hearing, formality and dignity are given higher priority than communications. At present, the youth stands before the judge with his parents and counsel while the county attorney and probation officer are seated before the bench.

#### *NCCD recommends that*

1. Delinquency should be more narrowly defined with maximum diversion of non-criminal offenders to community social agencies.
2. The hearing process should be bifurcated and conducted in a more informal atmosphere conducive to communication.
3. The Board of Juvenile Judges should designate one person to become highly skilled and solely responsible for the juvenile court function.

### III. PROBATION

The Chief Probation Officer of Lubbock County is vested with the executive functions of the Probation Department. He receives directives for his department during monthly meetings with the Board of Juvenile Court Judges, but has direct administrative responsibility for operations. This practice alleviates the judges from performing the dual role of judge and probation administrator. The judges are free to employ a strategic position in probation policy development. In Lubbock County, however, the judges do not take full advantage of this position. The greatest shortcoming of the county is a lack of written operational policies to be used by probation staff. The result is inconsistency in decision-making.

Interdepartmental staff training exists only on a limited basis. Weekly staff meetings are held to discuss cases and the process of the Juvenile Court and Probation Department. The Juvenile Board and administrators of the Probation Department do encourage staff enrollment in graduate and other academic courses related to their work. However, such enrollment is totally at the cost of the staff member. The salaries within the department are currently at a deplorably low level resulting in continual loss of personnel. Additionally, there is no increase in salary based on increased educational levels.

The department compiles a statistical report after each calendar year; however, the information is limited and incomplete thereby being of little use for effective program assessment and planning.

All juvenile cases generally fall into two main categories: judicial and non-judicial. At the point of intake, Lubbock County needs to adhere more strictly to the distinction of the two types of cases. Too few petitions are filed. The majority of cases are continued (informal adjustment) for a three month period to determine whether the child can make a successful adjustment to the community without adjudication. In 1969, 1,270 referrals were filed for court intake. Petitions were filed for approximately 10% of the total referrals. Effective intake screening would result in petitioning 40% of the referrals. The probation officer is responsible for the decision to detain a child. This decision is not fully understood by the staff. Children should not be detained unless a petition is filed, yet in 1969, 271 were detained with only 84 petitions filed. Due to lack of adequate detention facilities, the probation department did not detain some children who actually required secure custody. A standard detention policy is clearly needed. Intake policies and practices need strengthening.

Upon intake, a predisposition study is begun by the probation officer. This puts the officer in the roles of both investigator and prosecutor. The study is intended to be used as a treatment tool to assist the judge in making a decision. It should include a treatment plan. In Lubbock County, the study is used as evidence against the youth and does not set forth a plan of treatment. The Lubbock probation staff do envision their role as one of helping the youth successfully adjust to community life, however.

#### *NCCD recommends that*

1. Policies and procedures be developed in written form with the involvement of the Juvenile Court Judges.
2. Probation staff training should be improved with salaries upgraded including an incentive system.
3. The Intake Unit should become a separate and exclusive unit with the predispositional study used as a treatment tool.

### IV. COMMUNITY SERVICES

The probation staff is making inadequate use of referral to community social agencies. Little cooperation on the part of these agencies is cited as the reason for few referrals in the past. However, not all possibilities have been explored. Good relationships do exist now with school guidance counselors and teachers, the Child Guidance Center, and the Family Services Association. Greater cooperation still needs to be developed.

There is a lack of foster homes for those children requiring non-secure custody, and there are not enough group homes for dependent and neglected children. In 1969, 138 children not requiring secure custody were detained in the Lubbock County Jail due to lack of shelter care facilities. This again is partially due to an ineffective intake unit.

#### *NCCD recommends that*

1. Policies and procedures be developed in written form with the involvement and community social agencies.
2. A group home program be developed.

### V. DETENTION SERVICES AND NEEDS

Lubbock County needs a fourteen bed facility for children awaiting court disposition and by 1980 will require a 21 bed facility. Group and foster homes are not available for this purpose nor would they provide the secure custody needed. The Lubbock County Jail has an area allotted to juveniles however, the problems in supervision, lack of privacy of inmates, lack of an area for parental visiting, and promotion of criminal tendencies makes the use of the jail undesirable. Feasible alternatives are a wing of the Lubbock County Hospital and the construction of a regional detention facility.

#### *NCCD recommends that*

1. Both detention alternatives be explored.
2. Detention of children in Lubbock County Jail cease.
3. Use of the Police Holding Ward be used only with specific approval of the Juvenile Court through the Probation Department.

## ORLEANS PARISH, LA., DETENTION NEEDS: REPORT OF A SURVEY, 1970

## I. THE JUVENILE CODE

With the exception of children 15 years or over who have been accused of capital offenses or attempted rape, the Louisiana Juvenile Code provides jurisdiction to the juvenile court over children less than 18 years in matters such as delinquency, neglect, traffic violation, adoption, support and custody. The court exercises jurisdiction over mentally defective or disordered children.

Furthermore, the Statutes do not distinguish between delinquent and neglected children. This allows for a neglected child to be committed to a state training school. The Statute fails to distinguish between detention and shelter care of children. There is no provision in the code for a detention hearing. The Louisiana Statute does not establish the purpose or procedure for conducting a social background study in juvenile cases. There is no specific provision in the code for the modification of a decree.

As written, the Louisiana Revised Statutes do not have adequate safeguards for the child.

*NOCD recommends that*

1. the judiciary of the Orleans Parish Juvenile Court should formulate standard rules of procedure and practice throughout Orleans Parish relative to referring, receiving, and hearing juvenile matters. This would overcome many of the weaknesses in the Louisiana juvenile code, such as the lack of constitutional safeguards for children.
2. the judiciary of Orleans Parish should immediately initiate preliminary effort aimed at formulation of a Juvenile Court act for the state.

## II. ADMINISTRATION OF THE COURT

Overall administrative responsibility is vested with four juvenile court judges. Recognizing the difficulties inherent in administration by committee, judicial practice has been to rotate administrative duties among the judges for short periods of time, generally 3 to 4 months. Since submission of a preliminary draft of this study, the judiciary has agreed to assign administrative responsibility to a single judge on a full-time basis to go into effect in late 1970. All staff functions under the judiciary fall within departments or sections. The directors and administrators report directly to the administrative judge.

*NOCD recommends that*

1. the administrative judge should divide his time between administrative duties and hearing cases.
2. the judiciary should function as a broad policy-making body, with the administrative judge presiding and all judges actively participating.
3. the Director of Court Services should be responsible for overall administration of court services. He should be under the supervision of the Administrative Judge. His qualifications should include successful administrative experience, professional training, knowledge of the courts, etc.
4. the Director of Court Services should be responsible for preparation of the court's budget, disbursement of all funds, purchases, etc.
5. The Administrative Judge and Director of Court Services should evaluate all jobs and salary classifications.
6. Each person holding administrative positions should be responsible for recommending policies within his department or section.
7. The Director of Court Services should be responsible for implementation of all judicially approved policies.
8. The Director of Court Services should be responsible for the development of a manual of operations. Material included in this manual should be approved by the Administrative Judge.
9. Personnel policies should be restructured. All personnel files should be retained in one file in the office of the Director of Court Services. These records should be available only to the judges, division director, and assigned section supervisor.
10. The Director of Court Services should evaluate the court's need for statistical information and develop a plan for obtaining it.
11. An annual report should be prepared by the Director of Court Services

## III. PROBATION DEPARTMENT MANAGEMENT PRACTICES AND PROCEDURES

The probation staff has no unified concept of the juvenile court or its philosophy, but rather four concepts, each unique to each particular judge. The staff of the juvenile probation department view each judge differently, and because of these differing viewpoints, differing procedures depending upon the interest of the particular judge rather than that of the court as a singular unit have been adopted.

At present, there is no manual of operations outlining current policies, procedures and regulations that is available to staff.

Collection of statistical information in the Orleans Parish Juvenile Court began in 1969. The information relating to court workload, by type of case, and dispositions by the court is valuable. However, data collected by the probation department are not broken down into useful categories for planning purposes and has limited use in its present form. Also, an annual report is not presently published for studying trends and seasonal peak loads as well as internal control.

The Orleans Parish Juvenile Court is housed on the first floor of the Civil Court Building in the civic center complex. Occupying approximately 12,000 square feet, it provides insufficient space for the four courts, judicial chambers, probation offices, etc. Because of the poor floor plan, halls cut heavily into available space. The present facilities are totally inadequate for present staff and cannot accommodate additional staff. The need for space became apparent when the court recently erected an enclosure in the court waiting room. Its stated purpose is to provide custody for children being transported to or from the detention facility. Lacking other usable space, the administrators constructed "the cage", as referred to in the press. This feature not only adds to the congestion in the halls of the court, but is a destructive method for dealing with children and detracts from the image of the court in the eyes of the public. Unfortunately, no plan exists for construction of a separate building. New physical facilities are an urgent need.

The goal of a probation department is to prevent or deter delinquent behavior. From this point of view, the philosophical orientation of the court as stated by the probation department and the juvenile court judges is basically similar. A vast gap exists between that strategy verbalized by the juvenile court judges and that utilized by the juvenile probation department. Where the court emphasizes a progressive treatment-oriented approach, the juvenile probation department practices a punitive, repressive approach. To this extent the strategy of punishment is elevated to the position of a goal for the probation department. In this manner, the philosophy of the juvenile probation department is at variance with that of the Juvenile Court.

Generally, the juvenile probation department suffers from a lack of philosophical direction and constructive leadership. Its administration is based on personal rather than professional considerations. Administrative standards, goals, strategies, and philosophies are formulated in isolation, ignoring the suggestions of other staff. Personnel have grown to accept the status quo. New ideas, when offered by staff, are rarely evaluated.

Policy is generally unwritten, unstable and changes from day to day. On November 4, 1969, a "memogram" to probation staff indicated that hereafter all probation officers would make themselves available to testify as prosecution witnesses in hearings involving delinquency matters. Requiring probation officers to serve as witness for the prosecution aborts their role as treatment agents.

One positive aspect of the Orleans Parish Juvenile Probation Department is the community's deep personal respect for the men on the juvenile bench.

Under the present procedures, all children are subject to predisposition studies ("further study") prior to initial appearance before the court. One reason for this is to allow the officer to determine whether or not there is sufficient evidence to bring the child before the court. This places the probation officer in a prosecuting position, thereby aborting the treatment relationship with the child should he be placed on probation. It also gives rise to wasted effort, since the court dismisses over 25% of the cases appearing before it. Another substantial portion of cases are "unassigned" by the probation officer upon completion of the background study.

The average period of time between arrest or other contact and the initial intake interview is four weeks; between the intake interview and the filing of the petition, almost 5 weeks are consumed. Another 12 and a half weeks pass before the child is completely processed and on probation.

There are no formulated duties of the probation officer during the hearing. In most cases the probation officer who studied the child is not present at the hearings. This can frequently cause delays during the hearing.

Serious problems are encountered by the judges because of the various roles they are required to assume during the course of the hearing, sometimes as prosecutor, defense counsel, or the probation officer. There appears to be little uniformity of hearing procedure or content among the judiciary.

There are presently 25 professional, 8 clerical, and 4 voluntary staff in the Orleans Parish Juvenile Probation Department. Plans call for the establishment of two court detention officers in the near future.

Probation staff are generally of high quality as to minimum educational standards and prior experience. All professional staff have bachelor's degrees. The director and assistant director of probation services hold an MSW and a lawyer's degree respectively.

#### *NCOD recommends that*

1. The Juvenile Probation Department, with the court, should evaluate its present philosophical foundation and formulate strategies coincident with non-punitive individualized treatment of children.
2. The Juvenile Probation Department and Juvenile Court should present to the community a unified approach in handling the juvenile offender.
3. provision should be made to insure continuity of processing children within the court system through uniform docketing, which provides for an individual hearing officer to be assigned a case from the point of preliminary involvement through disposition.
4. consideration should be given to use of predispositional conferences.
5. the bifurcated hearing process (2 separate hearings) should be initiated.
6. arraignment and detention hearings should be made available to the child within 48 hours of admission to detention.
7. the use of probation staff in the prosecutorial role at the adjudication hearing should be eliminated.

#### IV. JUVENILE PROBATION SERVICES

The responsibility for intake is assigned to a special unit of the juvenile probation department. A basic problem facing intake in the Orleans Parish Juvenile Probation Department is lack of decision-making criteria. Intake is also generally undermanned. The criteria for detention by the intake section at the Youth Study Center is relatively adequate. The basic strategy of the probation department is that it is not a treatment agency, but a law enforcement agency. As long as this prevails, probation can only remain ineffective in Orleans Parish. Only 13 professional staff exercise supervision over probationers and also conduct predisposition studies. Staff efforts have been concentrated on predisposition study at the expense of probation supervision. Regular personal contact with the probationer is rare, and contact with the child in his home is almost nonexistent.

#### V. LAW ENFORCEMENT SERVICES FOR JUVENILES

The New Orleans Police Department Juvenile Bureau has responsibility for handling cases of children under 18 who are suspected of violating the law. Of 1,300 officers 43 are assigned to the juvenile bureau. Formalized inservice training for juvenile officers does not exist. The bureau's manual of operations includes sections on the juvenile law, purpose of the juvenile court, and procedures for handling juveniles. Periodic staff meetings are held which closely resemble training sessions.

#### *NCOD recommends that*

1. the number of officers within the juvenile bureau should be increased to 65
2. all cases should be referred to the court within 24 hours.
3. interrogation procedures should be revised.
4. the Juvenile Bureau, Juvenile Court and the Probation Department should develop a working agreement which clearly states responsibilities and procedures each agency should follow.

#### VI. JUVENILE DETENTION IN ORLEANS PARISH

There is a Youth Study Center which is administered by the Department of Welfare and has a capacity for 50 children. The purpose of this center is to provide housing for children awaiting juvenile court hearing and to provide

protection to the community and the child. There is no written criteria or guidelines for use by intake officers in determining whether the child should be detained. Nor is there a manual of operations for staff concerning care and treatment of the child or personnel policies. The education program is not adequate; there is no full-time recreation director or arts and crafts director. Nor does the Youth Center have a full-time supervisor.

#### *NCOD recommends that*

1. there should be a manual of operations for staff regarding treatment of children and personnel practices.
2. data on the child population and other study center records should be used for the basis for planning.
3. budget should include provisions for inservice training programs, education programs, etc.
4. a full-time recreation director, arts and crafts director and superintendent should be employed.
5. an extensive report should be prepared on each child.
6. the probation department should establish 24-hour intake screening to reduce the number of admissions to the detention center.
7. the court should develop written criteria for the detention of children.
8. neglected children should not be held at the Youth Study Center.
9. two social caseworkers should be employed.

#### A PROBATION AND DETENTION PLANS ROCK ISLAND AND HENRY COUNTIES, ILL.—1970

##### 1. PREREQUISITE FOR PLANNING: A STATISTICAL INFORMATION SYSTEM

The administration of criminal justice in the United States is seriously lacking in reliable and valid statistical information concerning its various operations. Unfortunately Illinois is no exception.

#### *NCOD recommends that*

1. The creation of a comprehensive criminal statistics program through the establishment by Illinois of a statewide bureau of criminal statistics.
2. The development of a local model for Rock Island and Henry counties based on the premise that accurate and consistent data is basic to all planning or administrative purposes regardless of where this model is applied.
3. A unified information system which accurately depicts the quantitative work of the justice systems in Rock Island and Henry counties should be developed.
4. Two alternative modes of development are recommended in the following order of priority:
  - (a) Development in Rock Island and Henry counties of a working model by the State of Illinois financed through ILEC.
  - (b) Development of a working model at the local level using local resources with the purchase of the necessary technical consultation. This could probably be financed through funds from ILEC.

##### II. ADULT AND JUVENILE DETENTION SERVICES

On the average day in 1969, there were an estimated 155,970 individuals in jails or other local institutions throughout the United States. One-hundred four were either in Rock Island or Henry County jails. Nine were children. In 1969, there was a total of 4,033 individuals booked into the Rock Island and Henry County jails; almost 14 per cent of which were under the age of eighteen.

(A) *Juvenile Detention Services.*—Detention is defined as the temporary care of children in secure facilities pending court disposition or transfer to another jurisdiction or agency. It differs from shelter care in that the latter is the temporary care of children in a non-secure facility pending return to their own homes or placement for longer-term care elsewhere. The Illinois Juveniles Court Act, effective January 1, 1966, provides in article 2, Section 8, Part 1, that "no minor under fourteen years of age may be confined in jail or a place ordinarily used for the confinement of prisoners in a police station."

In Henry and Rock Island counties, children are detained in the county jails previously described. In both counties, the initial decision to detain rests with

the respective arresting law enforcement agency. Generally, a child has spent a period of time in one of the six police lockups (in the two counties) prior to being delivered to the respective county jail.

The random samples of the Henry and Rock Island county jail populations for 1969 indicated that of the total number of 4,033 individuals admitted to those jails, 544 were children or adolescents under the age of eighteen. The children detained in the Rock Island and Henry County jails in 1969 were held for a total of 3,123 days; the average length of stay for both counties was 5.74 days, with children detained in Henry County for an average of 3.79 days, and those in Rock Island more than double this figure, 7.85 days. In terms of national standards, Rock Island and Henry counties are detaining children at almost twice average necessary rate.

The relative short length of stay, 5.74 days, is also indicative of over detention. Short periods of stay reflect not only over-detention, but the practice of detaining children who do not need detention.

#### *NCCD recommends that*

1. An attempt be made to construct a regional juvenile detention facility and in addition care should be taken to see that it meets the needs of the children.
2. Administrative and personnel situations should be worked out in order to provide maximum benefits for all concerned.
3. Provisions for release on recognizance, work release, or housing of individuals in a manner not tending to lead to physical and mental deterioration should be considered.

### III. PROBATION SERVICES

Juvenile probation services in Illinois are unique in that generally they are administered on a regional basis (through judicial circuits) with policy and practice dependent upon a county administrator.

The implications of this administrative structure for both Rock Island and Henry counties are compounded in that members of the 14th Judicial Circuit rotate juvenile court assignments on a monthly basis. The lack of a single policy-making leader in the 14th Judicial Circuit is visible in every operational aspect of the Rock Island and Henry County juvenile probation departments.

Under the Illinois Juvenile Court Act, the juvenile probation department is conceptualized as a full-service socio-legal agency. In practice this is not the case either in Rock Island or Henry County.

Three full-time juvenile probation officers in Rock Island County were supervising a total of 340 juveniles during the data collection phase of this study. Without considering informal supervision, the present caseload would require seven juvenile probation officers merely to supervise the 340 children. The total caseload in Henry County is 190 children, not including an additional 200 considered to be on informal probation. There are currently no misdemeanor probation services offered in either Rock Island or Henry counties.

1. Probation Services should be regionalized under a central administrative authority throughout the 14th Judicial Circuit.
2. One judge, if not the chief judge, should be assigned full time to the juvenile bench.
3. A misdemeanor probation program should be developed.
4. Collection and disbursement of Court ordered restitution should not be a responsibility of either adult or juvenile probation officers.
5. Additional personnel in sufficient numbers meeting the minimum standards for probation should be hired.

### IV. LAW ENFORCEMENT AND JUDICIAL PRACTICES

**A. Law Enforcement:** The FBI estimates that nationally approximately fifty per cent of the property offenses (burglary, larceny over \$50, and auto theft) are committed by juveniles between the ages of eleven and seventeen. If this 50 per cent estimate is valid when applied to the figures for Rock Island and Henry counties, children between the ages of eleven and seventeen are responsible for approximately 45 per cent of the offenses known to police. The "crime problem" in Rock Island and Henry counties is a juvenile problem.

In recognizing weaknesses in juvenile detention and probation services, law enforcement officials, especially in Rock Island County, have over-extended themselves in an effort to divert children from the juvenile court. The small percentage of police referrals to the juvenile probation department in Rock Island indicates the method utilized by the police in resolving their dilemma.

**B. The Judiciary:** Some of the problems seen in this area were: lack of community resource utilization; lack of adequate staff to handle prospective case loads, seemed to be the problem in both counties.

#### *NSSD recommends that*

1. The responsibility for initiating change rest not only with the judiciary but be shared with local governmental units, and, in the final analysis, the citizens of Rock Island and Henry counties.

2. A small but active citizens court advisory committee should be established in order to provide a vehicle of communications between the judiciary, the board of supervisors in each county and the citizenry.

### RICHLAND COUNTY, S.C. DETENTION NEEDS: REPORT OF A SURVEY, 1970

The Richland County Family Court system was established in 1968 under the State Family Court Act. The court system has broad organizational deficiencies which prevent it from effectively delivering services to the community. The judge is the sole administrator for an overworked untrained and underpaid staff. There is no clear administrative organization for the daily business of the court. The various service courts work with little coordination.

The jurisdiction of the court is too broad. Delinquency has never been adequately defined. The court has responsibility for children who could be treated better by non-criminal justice agencies. Truancy, for example, is an offense dealt with by the family court. This activity could better be dealt with by improving the attendance programs within the county school system.

The screening procedures for the court are inadequate. This produces a "dumping" effect which severely hampers the services of the court by overloading it. As an example, in 1968 42% of the cases before the court were dismissed.

The court has planned to have pre-hearing social studies prepared by the probation staff to enable the judge to make sound decisions. However, due to staff shortages, many pre-sentence investigations are not prepared. As the court is organized on the basis of having these reports their absence further contributes to the court breakdown.

No court reporters or attorneys were present at the hearing observed during the study period. This is of questionable legality.

Random assignment of probation caseloads prevents effective probation. Case files, necessary for casework, are not kept current because there is no time or effective administrative supportive services. Probation officers differ in their approach because of training differences and a lack of established in-service training policy.

Two law enforcement agencies serve the Richland County Family Court; the Columbia Police Department and the Richland County Sheriff's Office. There is little contact between either agency and the Family Court.

The Columbia Police Department has one juvenile officer. In 1968 1,278 juveniles were arrested and 964 petitioned to Court. Many of these children could have been handled by social service agencies had sufficient manpower been available for screening.

The Richland County Sheriff's Office also has only one juvenile officer. In 1968, 320 juveniles were arrested and 175 were petitioned to the courts. The smaller workload of the Richland County juvenile officer allows more time for screening, resulting in fewer court referrals. This serves to emphasize the need for additional juvenile officers in both agencies.

There are no juvenile detention facilities in the county. Juveniles are detained in the county or city jail. This is illegal under South Carolina law. The Community Services which exist are isolated and unorganized. Communication links should be developed between the court and community agencies to insure full resource utilization and court effectiveness.

The lack of clearly written policy, administrative direction, staff training, manpower, interagency cooperation, and detention facilities all contribute to poor service delivery by the Richland County Family Court.

#### *NCCD recommends that*

1. the Family Court Act is amended so it limits the jurisdiction of the court; provides state aid; upgrades selection process for judges; and provides for the disposal of juvenile records after a reasonable length of time.
2. the Family Court be reorganized and a Director of Court Services be employed.
3. a bifurcated hearing process should be implemented to enable the use of the social investigation study as a treatment tool.

4. the probation staff be increased and the county regionalized for case assignments and supervision.
5. that the Director of Court Services develop: personnel policies, interagency policies, a manual of operations, staff training, personnel files and a published *Annual Report of the Family Court*.
6. that detention policies be formulated stipulating: detention only with court authorization; and hearings within 48 hours.
7. that juvenile facilities be constructed and an immediate end be placed on jail detention.
8. that existing community services be expanded and coordinated.
9. that office space be provided for vocational rehabilitation its services be extended to pre-juvenile delinquents and non-serious offenders.
10. that public school services be expanded to prevent court action in school-related juvenile offenses.
11. that family court be constructed separately, but to use the chambers for hearings whenever possible.
12. that filing and office equipment be centralized.
13. that a law enforcement agency be appointed as a liaison to the court and develop criteria for court referrals with adequate training of staff.
14. that a juvenile bureau be established in each law enforcement agency and that the total number of juvenile officers be increased by sixteen.
15. that police referrals to court be modified to increase efficiency; that a statistical reporting system be established for law enforcement agencies.
16. that preservation of testimony and counsel be provided to indigents.
17. that 14 probation counselor positions be added.
18. that social investigation be prepared in depth, for every case.
19. that informal adjustment be provided for appropriate state agencies.

#### A SUMMARY OF LOOKING THEM UP

#### A STUDY OF INITIAL JUVENILE DETENTION DECISIONS IN SELECTED CALIFORNIA COUNTIES

(By Helen Sumner, 1970)

*Looking Them Up* is a document concerning juvenile detention practices in eleven California counties. It is the end product of a year long research study to discover what happens to juvenile offenders when they break the law. It is also an account of adult decision-making behaviors—of how those in authority sometimes let apprehended children go home promptly, but on other occasions just as swiftly lock them securely away from family and familiar surroundings. The reasons underlying juvenile detention decisions have rarely been touched upon in prior research related to juvenile court services. It was the belief that uncovering and examining these reasons might shed important light on detention practice which prompted initiation of the study.

The project was sponsored by the California Council of the National Council on Crime and Delinquency, funded by the Rosenberg Foundation of San Francisco, and completed in 1968.

#### Background leading to the research

In most states, criteria for juvenile detention are determined by administrative policy. In California, they are written into the state's Welfare and Institutions Code. The Code is inclusive of the Juvenile Court Law, and the criteria therefore apply equally to all counties in the state.

But this circumstance has offered no guarantee that juvenile jurisdictions would apply detention criteria either uniformly or equitably in their handling of juvenile cases. On the contrary, great differences in detention rates among counties has long been a matter of common knowledge. Rates proportionately have for years far exceeded nationally recommended figures. Efforts based on numerous past detention control studies have proved somewhat ameliorative, but more as stop-gap measures than corrective. Even with the writing of a new Juvenile Court Law in 1961 and several partial revisions since then, many practitioners have feared that juvenile justice is fast becoming a meaningless concept promising little and producing less.

One cogent question frequently encountered is what the possibilities may be that rate variation is primarily due to adult disregard of existing laws pertaining to detention. If even one such possibility exists, who then is the victim and

who the perpetrator of offense? These were the concerns, and this the mood, that led professional and lay leaders to request the present study.

During initial planning phases, the expectation was that legal factors would have a bearing on detention rates. They were for this reason included for study and assessment. However, the main hypothesis was that *non-legal factors*, in California. The basic purpose of this research was to discover what those factors might be and to make recommendations which would help erase inequities in the juvenile justice system.

#### Major planning details

As in any research, what was wanted was new knowledge; to gain better understanding of the subject under exploration. To meet this objective, an integral part of the study plan was to gather and validate data pertaining to detention decisions on as comprehensive a basis as possible; to inquire what decisions are made, how decision-makers feel about making them, and why they make them.

As a vehicle for gathering needed information, eleven schedules (questionnaires) were created. These contained approximately 250 separate items capable of providing both subjective and objective data and affording thus an unusual blending of qualitative and quantitative findings. Counties collaborating in the study did so by invitation or else directly volunteered to join in the research to be conducted.<sup>1</sup>

The study plan called for consultative rather than interrogative methods of interviewing. Also, provision was made for officials in each community to be active partners in the research. To the extent possible, this approach was observed not just in interviews but in the collection of statistical data as well.<sup>2</sup> To facilitate analysis of statistical data, counties were placed in rank order according to their respective detention rates, then classified as "high" or "low" depending on their position above or below the median. (When compared with national standards for rate of detention, it should be noted that no county could be considered to have low detention rates.)

With the one exception of detention hearings, to be discussed in a moment, the study is concerned only with initial detention decisions. Detention is defined as the overnight holding of a child in secure custody. A precautionary statement regarding both the aim and the outcome of the study is this: Generalization from any single factor found to be related to detention should be studiously avoided.

#### Legal aspects of detention

California has in many ways been a pioneer in the juvenile field. Not the least of its accomplishments has been its frequent response to the need for altered juvenile legislation. It has reviewed and changed its juvenile law oftener and with greater alacrity than many other states. As earlier mentioned, the legislative body passed an entirely new juvenile law in 1961. Long before the *Gault* decision was rendered in 1967, California had already made legal provision for legal counsel and for mandatory records of proceedings. Late in 1967, additional legislative action was taken in connection with *Gault*. Finally, California is credited with leading the nation in providing for detention hearings and for the sealing of records.

Still, for all the gains that have been made, the juvenile statute remains a highly imperfect instrument. Indeed, so far as detention is concerned, recent legislative changes have served to worsen juvenile law rather than improve it. The grossest example of this is the fact that detention criteria are now even more incompatible with national standards than was previously the case. Evidence for this is too detailed for inclusion here. There will, however, be later need for additional reference to legal matters.

#### Study findings based on interviews, direct observation, and analysis of departmental statistics and reports

The supply of information from school, social agency, court, and law enforcement administrators was rich and varied. Examining both group and indi-

<sup>1</sup> Due to time and money limitations, along with the need to maintain balance between rural and urban and northern and southern counties, not all volunteer counties could be included.

<sup>2</sup> Readers interested in the types of statistical technique used are referred to the original document.

vidual attitudes and uncovering differing points of view produced several findings of note, few of them salutary. For example, among them was a dismaying willingness among counties to maintain a full house in the juvenile hall. More often than not, this costly, mostly unnecessary habit was accompanied by the firm belief that bigger detention homes are needed. By implication, the beds here too should be permanently and fully occupied.

Exception must be taken to both points of view. Wherever a juvenile hall is perpetually filled to capacity, something is the matter with the court's screening process. As for new and larger halls, no jurisdiction should even begin to entertain such a notion—certainly not without first asking itself whether the present high rates are necessary or make any sense. And maybe doing a better intake job isn't the whole answer either. There are alternatives to detention to consider. A cardinal one is reduced reliance on incarceration and increased reliance on community-based rehabilitation.

#### *Detention hearings*

As previously indicated, part of the study plan called for observation of action taken at detention hearings. The importance of including these hearings lay in ensuring that the court's role in detention not be overlooked or underplayed.

Two findings are considered to take precedence over all others reported. The first concerns the discovery that far more cases go through juvenile court without benefit of legal counsel than with it. This seems an odd circumstance since in no single instance did any judge fail to advise a juvenile offender of his right to counsel at the beginning of each detention hearing. But time after time the information was given in lifeless dreary fashion. Often it was so hurriedly given that not even the research observers could be certain what was said. As for parents and children, many appeared too frightened to make any reply whatsoever to the mumbled legalities.

The second finding has to do with much time judges spend on individual detention hearings. Most hearings were reported as exceedingly brief—some of them lasting no more than two or three minutes. The point must be made that a child in enough trouble to require court appearance is in enough trouble to merit whatever amount of time is required to help him. A minimum of thirty minutes would probably be a realistic allotment of time for many if not most detention hearings.

#### LAW ENFORCEMENT

##### *Juvenile statistics*

A difficult problem to cope with during the course of the study was the dearth and lack of uniformity in police juvenile statistics among counties. Some law enforcement agencies quite literally keep no record whatever of work done with children; others measure volume but ignore much more critical aspects of juvenile record keeping.<sup>3</sup>

This problem, of course, is not unique to police agencies. Seemingly, all segments of the justice continuum are plagued with misleading and usually inaccurate crime statistics. Very likely there are numerous explanations for this condition. But lack of uniformity, insufficient know-how, and what may well be actual disinterest in record keeping must surely contribute to the problem. A partial solution would be the forming of an agency empowered to develop a system of juvenile police statistics which would be broadly applicable to all police jurisdictions. Such a system would be invaluable for use in studies comparable to the present one, and would offer statistical data essential to accurate description of what is happening in juvenile police work.

##### *Police detention decisions*

In most jurisdictions across the country, it is firmly believed that law enforcement officers quite definitely influence detention rates. It is not uncommon for non-police agencies to heap much abuse upon them for this. California seems to be no exception. In the collaborating counties, the police themselves claim to make more detention decisions than anybody else, and most of them feel that this is rightful procedure. Probation departments claim that this attitude explains high and varying rates. According to study data, faulty statistics notwithstanding, the claim is not without considerable support. However, it is against California law for a police officer to detain a child, and there is a provision empowering him to make a detention decision. It seems clear, there-

<sup>3</sup> There were two outstanding exceptions to this general finding.

fore, that police agencies are disobeying the law, and that neither they nor the probation agencies making any genuine effort to correct the situation. If between them they cannot find a way to obey the law, then recourse to higher authority is obviously indicated.

#### PROBATION DEPARTMENTS AND COURT INTAKE

##### *Probation's contribution to varying detention rates*

For all that has just been said, study data offer no statistical indication that police activity determines whether a county will have high or low detaining rates. The finding was both unexpected and welcome.

Such was not the case with probation and court intake personnel. The study showed that probation department activities with juveniles clearly are associated with differences in detention rates. This finding, of course, is a "natural" and would be in sorry plight. Unfortunately, the finding neither relieves nor excuses probation for continuing to permit police detention decisions. Indeed, it serves mainly to underscore prior evidence that where police agencies have in fact overstepped their authority, probation has given its tacit approval. Granting the lack of easy solution to the issue of rightful responsibility, probation agencies can at least promptly cease censuring the police for taking action which the law specifically delegates to probation. If the police have taken over the job of making detention decisions, probation must retrieve it. And there must be no delay. Prompt action is imperative.

##### *Probation attitudes toward detention rates*

One question put to probation staff during the course of the study concerned attitudes toward detention rates as they now stand. Not all, but a fairly high percentage of probation officers and intake staff felt that rates "are about what they should be." Since not even counties in the low rate category are meeting nationally recommended standards, this response was not the expected one. It led to some interesting conjecturing. For example, are recommended rates exceeded because probation staff does not really trust its own judgment? Is there undue concern over "what the community will think?" Is it possible that some staff believe the old bromide that swift retribution is the best answer to delinquency? Whatever the answers, it seems likely that probation officers who find the present detention rates satisfactory will not be greatly interested in lowering them. Perhaps administrative officers would do well to make a comparable analysis of attitudes within their respective departments.

##### *Length of detention*

Study findings indicate that overlong detention is less of a problem in the collaborating counties than may be the case elsewhere in California. There were some exceptions, but in general a child held in detention for an unusual period of time proved more often than not to be a dependent or neglected child for whom a suitable foster home was being sought. However, the point must be made that holding non-delinquent children in secure custody for such purpose is contrary to recommended practice.

##### *Juvenile courts*

In California, there are two sets of statutory criteria for detention decisions. One is for judges, the other for probation personnel, and they are not alike. This may, for some undisclosed reason, have been by legislative intent. Nevertheless, the result is that decision-makers are being guided by different sets of principles, which must in turn account at least in part for detention rate variation. In addition, (and this more likely was legislative oversight than intent), the statutory provision for judges in a sense defeats its own purpose. As the law reads, judges must release a child where certain prescribed conditions do not exist, but there is no accompanying requirement to detain him where these same conditions do exist. In short, the provision goes only half way, and thus permits greater leeway for discretionary decisions than may be consonant with due process.

But overshadowing all other considerations pertaining to the courts was the discovery that there is almost literally no channel through which judicial accountability for detention decisions can be expressed. Annual reports of court activity (prepared almost entirely by probation departments) carry no statistics as to detention hearing outcomes.<sup>4</sup> Court clerks attending detention hearings do

<sup>4</sup> There was one exception to this finding.

record decisions to continue detention or to release a child, but there is no clear-cut requirement for judges to state their reasons for action taken; to explain why they consider one course of action preferable to another. Unfortunately, this means that courts cannot examine trends in detention patterns, compare likenesses and differences in practice from one jurisdiction to another, or validly attempt any kind of qualitative assessment of existing detention processes.

Probation officers and other court personnel are answerable to the court, to probation supervisors, and to the community at large, both for quantity of work and for quality of performance. Why should this not also be true for judges? That their authority exceeds that of probation officers only accentuates the need for a reporting system for judges whereby their important work may also be reviewed and evaluated.

Some few judges will dispute this point of view, perhaps maintaining that the presiding judge serves the purpose adequately. But most are keenly sensitive to the principle of professional accountability. Given the opportunity, it seems probable that the majority of them would welcome any vehicle which afforded better public understanding of their multiple responsibilities.

#### *Detention facilities*

Superintendents and other juvenile hall personnel were interviewed in all eleven counties and appropriate study schedules applied in each instance. Information gained from detention personnel introduced a new dimension to the study—a fresh, warm and more personal approach to the problem of detention. A high degree of cohesiveness and intra-departmental cooperation appeared to obtain among detention personnel through all counties. Even data obtained from study schedules (and thus relatively free of observer bias) strongly indicated many common beliefs and goals among the group, as a whole. Almost on all sides, it was reported that this group possesses surer convictions and wider philosophical agreement than was observed in any other group of decision-makers.

One possible explanation for this greater singleness of purpose is that detention staff relationships with children living in the juvenile hall differ of necessity from those of the outsider. Contacts with children in detention are not and cannot be the same as those in an unrestricted environment. Under confinement, rapport between child and adult is hard to achieve and harder to maintain—and because detention personnel are constantly in close proximity with children, they come to learn this in quite a personal way. The frequent result is understandable impatience with the outsider for failure to recognize in-hall problems and a tendency to turn to their own ranks for sharing and understanding these problems.

Nor is the issue merely one of different kinds of relationship. Involved also are some fundamental differences of opinion as to how juvenile halls can and should be used. For example, referral sources (including probation staff) appear less concerned than they should be about overcrowded hall conditions, and about the indiscriminate mixing together of all ages and types of children. Detention personnel maintain that better screening would largely eliminate these problem-producing conditions and help significantly reduce the emotional damage now all too prevalent in most juvenile halls.

Another point of disagreement between detention and probation personnel was the matter of bed capacity (or hall size). Reference has already been made to the obsolete belief still existing among many probation practitioners that huge detention homes are necessary to good rehabilitation work. Study findings suggest that detention staff rarely share this opinion; further, that they vehemently and openly oppose the use of jails for children, a practice which still flourishes in many California communities today. Doubtless, many probation officers frown on jail detention, but detention personnel tend to decry it aloud, not silently.

*Why is Detained.*—(The findings described in this section are based on the combined data from all counties, without reference to high and low rate categories.)

In the remainder of the study, findings were obtained almost exclusively from the application of statistical methods and techniques.<sup>5</sup> These were based on a specific group of children in relation to certain items of information regarding this group of children. (The only exception occurs in the concluding phases of the study where the emphasis shifts from children to decision-makers.)

<sup>5</sup> The reader knowledgeable in research procedures will wish to turn to the original document for detailed explanation of the methodologies used and for full description of study findings.

Items selected for examination are those commonly associated with detention processes, and are frequently referred to in the study as "children's characteristics" (or attributes). This terminology is loosely used as a convenient way of designating the various aspects of information available about the children under study. The research plan was one of examining these information items first under one set of conditions, then another, then still another. Toward this end, the major tasks were these: (1) to determine what items (characteristics) in general appear to be related to the detention decisions; (2) to identify differences between the group of children who were detained and the group who were not detained; (3) to examine what relationships would emerge under analysis of data from all counties combined; and (4) to discover whether results from the above three phases held true when data from high and low rate counties were analyzed separately.<sup>6</sup>

To aid in determining what children were to be included, a time limit of two months was set. During this period, all children referred to respective probation departments by reason of alleged offense were included for study. A total of 1,849 children were available for study.

With a few exceptions to be noted in a moment, findings in general indicated that decisions to detain or not detain are indeed influenced by what is known of a child's characteristics. Some examples of items found to be related to the detention decision outcome are as follows:

*Ethnic Background.*—The largest proportion of children detained were Negro children. Children classified as white were less often detained. The proportions were a third of the white children compared to nearly one-half those of the Afro-American group.

*Truancy.*—Truant children were relatively rarely detained. Five percent of all children referred were designated as truant, and of this number, only 19 percent were detained as compared to an overall rate of 36 percent.

*Runaway.*—Runaway children are much more apt to be detained than truant children. Of the 14 percent classified as runaways, one-half of them were detained as compared with the overall rate of 36 percent.

*Prior Offense* (considered a crime if committed by an adult and *Prior Delinquency* (not considered a crime if committed by an adult).—Nearly one-half of the children falling in each of these two categories were detained.

*Probation Status.*—Seventy-one percent of all children referred had never been placed on probation. Among these children, the detention rate was 25 percent. For those presently on probation, the rate was 67 percent. Of those previously on probation, with probation revoked, 74 percent were detained.

These findings are not to be construed as meaning that a given characteristic "causes" the detention decision. It is true that definite association was found to exist in nineteen of the twenty-three items studied. But there was neither plan nor intent to prove causation.

Items found *not* to be related to the detention decision were:

- Sex of the child.
- Source of referral.
- Nature of alleged offense.
- Incorrigibility.

Since items of this sort must sometimes be considered at time of intake, the lack of specific association between them and the detention outcome may surprise some readers. It may help to remember that this phase of the study is restricted to an examination of possible relationships between characteristics and the detention decision. In later phases, it will be seen that an item showing little or no relationship (or the obverse) under one set of test conditions may take on considerable importance under another set.

*Differences in Detention Practices.*—(In this section, data from high and low rate counties are considered separately in order to determine what decision-making differences exist between the two sets of counties.)

That relationships in general do exist between children's characteristics and detention decisions has been established. In this section, the task was to learn whether these relationships differ when data obtained from high rate counties is viewed apart from that of low rate counties; i.e., is there a difference in the kind of decision a high rate county will make, given certain information about a child, and the decision a low rate county will make, given the same information?

<sup>6</sup> To distinguish between high and low rate counties for this part of the investigation, those detaining a third or more of children referred were arbitrarily classified as "high rate," and those detaining less than a third as "low rate."

tion? To use a common example, would a child referred to the court for truancy receive the same detention decision (detain or release) in both high and low rate counties?

To find some answers to these questions, the same kinds of characteristics and attributes were applied as were used in the preceding section. There was no change in the group of children under study.

At the outset, it was discovered that detention rates varied markedly among counties for the children under study. The overall range was from 19 percent detained to 66 percent detained. As might be expected, this rate variation was reflected in subsequent findings. For although relationships between children's characteristics and the detention outcome were found also to exist when high and low rate counties were examined separately, an accompanying rate variation between the two groups was clearly distinguishable. The following examples will serve to clarify the point:

**Prior Record.**—This item was related to decision outcomes for both sets of counties. But 54 percent of those children with a prior offense record were detained in high rate counties as against 23 percent (less than one-half as many) in the low rate counties. Also, in low rate counties, considerably fewer children apprehended for alleged delinquency were detained with no history of past offense than was true for high rate counties.

**Prior Offense** (considered a crime if committed by an adult) Here again, there was association for both groups of counties between the item and the detention outcome. But 53 percent were detained in high rate counties as against 32 percent in low rate counties.

**Prior Delinquency Adjudication.**—This item was closely associated with the detention decision in both sets of counties, but detention rates varied according to how many times a child had previously been found delinquent. Of those with a history of four or more prior offenses, high rate counties detained 87 percent. For the same group, low rate counties detained 50 percent. Where there was no history of past delinquency adjudication, high counties detained 32 percent and the low 20 percent.

**Probation Status.**—On this item, although relationship was again established for both groups of counties, it was found that the number of children previously on probation was low for both groups, and the number of those with a history of revocation lower yet. But the high rate counties detained 81 percent of such children as compared to 46 percent for the low, or roughly almost twice as many.

**Family Living Arrangements.**—The detention rate was relatively low in both groups for children living with both parents.

**Runaways and Incurable Offense.**—Children classified as runaways or as incurable were more likely to be detained in high rate counties. Thirteen percent of children classified as runaways in high rate counties were detained more than two-thirds of the time, and the 7 percent classified as "incurable" were detained three-fourths of the time.

These examples are intended to reflect a kind of "closing in" on the problem at hand; to permit a closer look at the complexities involved in searching for reasons for rate variation. They are not offered as absolutes but rather as a necessary prelude to continuing investigation.

#### The likelihood of detention

By way of quick review, the basic purposes of this study were (1) to discover why detention rates differ so widely from county to county; (2) to investigate factors which contribute to extensive rate variation among counties. Several of the steps taken toward fulfilling these goals have been described, necessarily in abbreviated form. They have included a step by step examination of a series of offender characteristics. As comparisons were made between varied groupings of characteristics, it became possible to separate detention-related characteristics from non-related ones. This in turn led to fairly conclusive evidence that children's characteristics and the detention outcome more often than not are related phenomena.

However, none of the findings reported demonstrate that children's characteristics account exclusively for differing detention rates among collaborating counties. Indeed, at the point where it was appropriate to pull all prior findings together and summarize them in a condensed statistical form, there occurred a decided shift of emphasis as to what accounts for a child's being detained. Instead of playing any major role such as had previously seemed to be the case

children's characteristics were found to account for only one-quarter of the detention rate variations among counties!

This was the crucial finding of the study. The investigation throughout concerns two specific sets of individuals: offenders and decision-makers. With the offender identified as only minimally affecting detention rates, there is then strong likelihood that differences among decision-makers constitute the real key to rate variation.

#### Goals of Detention.—(from decision-maker point of view)

From this point forward the decision-maker becomes the focal point of interest. Issues of foremost concern included: (1) How much unanimity is there among decision-makers as a group as to what detention should accomplish; (2) what do decision-makers see as the primary purpose of detention; and (3) what kinds of information do they feel are relevant to the detention decision?

For this portion of the study, two questionnaires were developed. The first pertained solely to detention goals (objectives). In it were listed several possible alternatives. Each of 141 persons empowered to make detention decisions was asked to indicate his choice as to the relative importance (or lack of importance) of each goal listed.

#### FINDINGS BASED ON DATA FROM ALL COUNTIES COMBINED

Analysis of responses obtained from all counties combined ranged from extremely high agreement on some items to clearly divided opinion on others. Samples of close agreement are:

Protection of the child (99%).

Protection of the safety of the community (98%).

Avoidance of detaining children considered no threat to themselves or to others (96%).

Avoidance of detaining and thus exposing child to delinquent attitudes (86%).

Detaining to prevent child from running away (96%).

Samples of disagreement (or divided opinion) are:

Deter child from further delinquency.

Remove child from home environment.

Opportunity for short term intensive rehabilitative efforts.

Impress child with serious nature of his behavior (offense).

Control population at the detention facility.

The second questionnaire concerned decision-maker attitudes toward the importance of certain kinds of information in the making of detention decisions. This one too offered a variety of choices, and again results obtained showed both agreement and disagreement when data from all counties combined were examined.

Items substantially agreed upon as important are:

Number of times child has previously been detained (80%).

Knowledge that present alleged offense was first known offense (83%).

Number of previous offenses (89%).

Seriousness of current offense (97%).

Past record of assault offense (93%).

Apparent likelihood that child will run away (97%).

Items of information considered relatively unimportant are:

Occupation of parents (80%).

Source of referral (65%).

Child living with one parent (72%) (yet children living with both parents were previously found less likely to be detained).

Family income and social status (47%).

Current population at detention facility (75%).

#### FINDINGS BASED ON DATA CONSIDERED SEPARATELY FOR HIGH AND LOW RATE COUNTIES

The reader is reminded that findings on the two questionnaires reported just above are based on data obtained from all counties combined. With counties divided and comparison made between high and low rate categories, results from the first questionnaire took a turn in the opposite direction; e.g., instead of high agreement on some items and varying opinions on others, very little evidence of any real differences between the two sets of counties was found.

This was not the case on the second questionnaire. When high and low rate

counties were considered separately, initial findings of likenesses and differences of opinion held relatively steady. Nevertheless, one important difference did emerge. There was considerable indication that the main concern of high rate counties is whether a child has a prior record or may require detention to keep him from running away, whereas low rate counties evidence considerably more interest in a child's personal and social situation.

#### Opinions concerning detention

The concluding phase of the study was designed to serve several purposes. An important one was to ascertain what kinds of attitudes regarding local detention practices are held by parents, press and other media, school officials, and other citizen groups. Considerable time and attention was devoted to this matter. However, the primary aim was to keep the spotlight trained on the decision-maker; to push for further information as to what he considers fundamental to generic detention practice. To gain this information, two methods of approach were utilized. These will be discussed separately in the ensuing discussion.

#### METHOD I: ATTITUDES TOWARD GENERAL DETENTION BELIEFS AND EXISTING DETENTION CRITERIA

A multiple choice questionnaire regarding general detention beliefs and specific (established) detention criteria was given to 141 key administrators (including others with authority to make detention decisions).

Findings on general beliefs were as follows:

a. Barely more than one-half of all respondents agreed with the proposition that "detention has a positive influence on total correction." This may be taken to mean that those who dissented (42%) are disenchanted with present day use of detention.

b. Eighty-one percent of all respondents disagreed in varying degrees with the statement: "This law specifies clearly who should be detained, so there should be no difficulty in deciding who should be detained."

c. The great majority of respondents (89%) do not hold with the notion that delinquency rates are a function of detention rates.

d. "Detain unless you can prove that detention is unnecessary." Response to this item was one of overwhelming disagreement (87%), with only 1 percent of all respondents indicating strong agreement with the statement. This suggests the likelihood that *detention rates are markedly influenced by a minority of decision-makers.*

The salient finding on detention criteria, in brief, is as follows:

About one-half of all respondents felt that detention as it is presently being used and applied is satisfactory; the remainder felt that current practice is no longer applicable and that distinct change in focus and emphasis is needed. At the same time, of the 141 respondents, almost 90 percent expressed agreement with the need for detention limitations (based on NCCD's national standards) and 97 percent agreed with established guides for children who should *not* be detained (also based on NCCD criteria).

The conclusion to be drawn is that even among professionals who feel that changes ought to be made, there is still consensus that reasonably uniform practice and responsible control of the detention system are not only desirable but essential to acceptable professional performance.

#### METHOD II: THE PROCESS OF DECISION MAKING

The last remaining study task was to put decision-makers to the test of making detention decisions based on specific case information regarding individual children. The purpose here was to measure differences in attitudes concerning the use of detention. To carry it out, decision-makers in all counties were presented with a set of the same hypothetical case samples (vignettes). Each was asked to indicate his detention (or release) decision on a six-point scale. The extremes of the scale went from "certainly not detain" to "certainly detain."

As the reader might guess, there was a good deal of variation in the intensity of attitude indicated as to whether a child should or should not be detained. In

\* This raises a two-fold question not directly pertinent to this study but still worthy of mention: Is it possible to change existing criteria so that today's entourage of juvenile offenders can be better served and still not disturb the traditional *in loco parentis* role of the juvenile court? The juvenile offender is not the same today as he was yesterday, but the court's traditional role essentially remains intact. If ever that role truly served juvenile needs, does it now do so?

some cases, opinion was about evenly divided; in others, opinion swung strongly in one direction or the other. Interestingly, the highest degree of consensus reached on a single case (94% of all respondents) favored *not* detaining the child. (This was the case of a 17 year-old boy with a past history of various delinquencies, but whose present adjustment was satisfactory except for what strongly appeared to be a "trumped up" charge of rape.)

Two of the vignettes were found to differentiate between personnel from high and low rate counties. In the first instance, the tendency to detain was markedly stronger among staff from high rate counties. In the second, both sets of counties showed preference for detaining, but again the tendency was more pronounced in the high rate counties.

These results suggest the uncomfortable possibility that the individual decision-maker may be totally unaware of certain factors which prompt him to decide to detain. If this be so, then ways must be found to measure his "set" or tendency to detain. Perhaps the juvenile offender is not the only one who needs help!

#### CONCLUSION

The study closes on two notes, one precise, the other conjecture: The first is a statement of evidence that non-legal factors are in many instances influencing detention rates in the counties under study and that the initial research hypothesis is therefore supported.

Even with the carefully noted limitations of the study, the second note poses, once again, the issue of accountability. The study did not set out to "prove" that adult attitudes carry the lion's share of responsibility for varying detention rates, nor is such proof implied at any point. Nevertheless, there is plentiful evidence that detention practices and beliefs among decision-makers are widely variant. Must not, then, the question of value standards be raised? Must we not inquire whether decision-makers are imposing personal value standards, whether or not they are appropriate, and callously ignoring those of the child?

In sum, are we genuinely concerned about the needs of the juvenile offender, or are we simply talking a good game when we stress healthful rehabilitation and compassion for him? Young people everywhere are making it very clear that we cannot have it both ways.

#### MAJOR RECOMMENDATIONS

1. The California legislative body should continue its periodic review of the juvenile court law and should promptly review and rework the detention portion of the law.
2. Judges should individually and collectively seek to discover how their decisions are contributing to varying detention rates, this to include a permanent on-going written record showing decisions made, action taken, and reasons for both for every detention hearing held.
3. Judges should avoid any sign of impatience in explaining pertinent constitutional rights to clients in their court. The explanation should be unhurried. Judges should particularly make certain that clients clearly understand both the purpose and availability of legal counsel. In view of *Gault*, the right to legal representation cannot be overemphasized.
4. Section 636 of the Welfare and Institutions Code (Juvenile Court Law) should be amended to provide for the naming of specific findings which dictate the necessity for a judge to order continued detention.
5. Court involvement on most child welfare cases should be limited to those involving physical abuse or termination of parental rights.
6. Police agencies should discontinue the detention of children, or making decisions to detain, and instead adhere to the California Welfare and Institutions Code which empowers them only to take minors into temporary custody.
7. Some step toward solving the urgent need for accuracy in juvenile statistics should be promptly activated through the combined efforts of probation and law enforcement administrators, and in direct and continuing consultation with the California Bureau of Crime Statistics.
8. A State Detention Council should be formed to inform appropriate bodies regarding detention alternatives, to include "relationship surveillance," emergency shelter care, and the use of special group homes and mental health facilities for disturbed or retarded children.
9. Action should be taken on recommendations of the President's Crime Commission Report, particularly those concerning the development of Youth Service Bureaus to serve both delinquent and non-delinquent children.

10. Only probation department personnel should make initial detention decisions.

11. Chief probation officers and state correctional administrators should aggressively pursue all methods for tightening the entire detention system toward improved discrimination as to who requires detention and who does not.

12. Dependent children should be removed from the secure custody of juvenile halls and their care given over to child welfare agencies.

13. No new juvenile hall construction should be undertaken until increased bed capacity has been proved essential; i.e., space problems are interfering with the development of good program and economical management, even though good quality intake techniques have been employed, detention decisions are made only by court personnel, and alternatives to the existing detention system have been thoroughly explored and found not workable.<sup>8</sup>

#### WASHINGTON, D.C., JUVENILE DETENTION NEEDS; REPORT OF A SURVEY—1970

##### I. FACTORS AFFECTING ADMISSION TO DETENTION

The Juvenile Court of the District of Columbia, like many other courts across the nation, has the legal power to control the detention of children. Juvenile detention needs are determined by two sets of variables: (1) The number of children admitted to detention, and (2) the length of stay. Giving consideration to these variables, legislation dealing with the Juvenile Court controls the overall program of juvenile detention in the District.

Children awaiting court disposition are detained in shelter care facilities in cases where secure and restrictive custody is not necessary, and in the D.C. Receiving Home in cases where restrictive custody is needed. The Receiving Home was opened in 1949 with an original capacity of 45 which was expanded to 90 in 1957. Despite this expansion, the Home continually is overcrowded, reaching a peak in 1965 of 202 and expected to have shown another peak reached in 1969.

This overcrowding is directly related to delays in processing, detention of children who do not require restrictive custody, and excessive lengths of stay.

The definition of delinquency used in the District is ambiguous and too broad, leading to misinterpretation at the expense of both the child and the District. The overall result is misuse and overuse of detention. Currently, many non-criminal offenses are being handled by the courts with detention as the result. Truants and runaways are two such examples.

The Metropolitan Police Department has the authority to admit children to the Home pending disposition. It was found that the Youth Division of the Police Department accounts for 73% of the admissions to the Receiving Home. The ultimate decision of detention of a child should rest solely with the Juvenile Court, although the police department would retain the right to bring a child into custody for questioning and bring him to court. Police control of admissions to detention is one of the greatest contributions to the overdetection problem at the D.C. Home. Criteria used by the police department to make the referral decision to juvenile court are basically reasonable and the referral rate indicates responsible application of these criteria. However, this rate could be still further improved and reduced if more alternatives to court referral existed within the community. Police officers concur that there is a need for a youth service bureau. Criteria used by police for detention are not all appropriate. For example, "When the parent, guardian or custodian cannot be located after diligent efforts to do so," is one reason for detention when in actuality shelter care is called for. In 1968, police detained 37% of the court referrals. The police are discharging a court responsibility for which they are unprepared in training and resources, but for which they are held accountable.

The intake practices of the D.C. Juvenile Court show insufficient control of admissions. Children are screened only after detention by police. This in itself can seriously contribute to delinquency. It is estimated that unnecessary detention cost the District \$19,049.10 in 1969.

<sup>8</sup> The study report contains forty recommendations in all. Those included in this partial listing are selected as being perhaps more easily and more promptly effected than those remaining. Generally speaking, the study was geared more toward acquiring new and necessary information, than toward assessment of existing practices. Numerous recommendations were therefore not as pertinent as would otherwise have been the case.

The criteria for detention used by the Court are also inappropriate. However, the Court acknowledges that many of the juveniles detained would not be placed in restrictive custody if adequate shelter care were available which it is not. Unfortunately, shelter care facilities are being used for the overflow of the Receiving Home, thereby exposing juveniles who do not require secure custody to those who do. This also forces use of the Home for those who do not need secure custody because the space in shelter care facilities is filled. The District shows a tendency to retain children in current shelter care facilities far longer than appropriate. A high percentage of the juveniles have been in the facilities upwards of 200 days, and in one case 303 days.

Length of stay is also dependent upon length of time between admission and detention hearing. 1968 statistics for the Receiving Home show an average length of stay of 4.4 days for children released after the detention hearing. This in turn means that the average daily population is increased by five juveniles who do not require secure custody. The number of children screened out of detention becomes progressively larger, although essentially the same criteria are used by the police, intake, and at the detention hearing. Training and attitudes of the persons making the decisions at various stages in the process account for the increase.

##### NOOD recommends that

1. Delinquency should be more narrowly defined, limiting detention to those children who require custody with an increase of alternative referral sources for cases involving minor delinquent acts.

2. The Metropolitan Police Department should not make the decision to detain children, instead the Juvenile Court should immediately assume this responsibility.

3. All sources of referral should make referrals directly to the intake section of the Juvenile Court with intake screening taking place before the child is admitted to detention.

4. The detention hearing should be held before a child is admitted to detention, and no child should be admitted before a petition is filed in his behalf.

##### II. FACTORS INFLUENCING LENGTH OF DETENTION

Length of time a child stays in detention has a dramatic effect on institution needs. Inappropriate admissions contribute considerably to the overcrowding of the Detention Home and shelter care facilities of the District, but most of the overcrowding is caused by unreasonable lengths of stay of children awaiting juvenile court disposition. The median length of stay for children awaiting juvenile court disposition in D.C. Receiving Home is forty days. Children awaiting court disposition represent 21.8% of the total admissions and 71.3% of the average daily population. These 818 children detained awaiting court disposition more than filled the ninety available bed spaces because they were detained too long.

Delays in processing children's cases from the point of referral to initial hearing impede the case disposition process. Increasing use of attorneys in juvenile cases accounts for some of this delay. Legal aid agency attorneys assigned to the court handle detention cases almost automatically. However, if a private attorney is recruited, delays from petition to initial hearing range up to seven months. Lack of availability of private attorneys, and their corresponding lack of knowledge of the juvenile court process are conditions which contribute to the delay. There were only three legal aid agency attorneys assigned to the court full time at the time of this study.

Staff shortages and high caseloads characterize the probation department in the D.C. Juvenile Court. Excessive workloads allow sufficient time for predisposition study. Probation staff estimate an average of forty days is required for completion of a predisposition study under present caseloads.

The method of assignment of cases to judicial hearing officers and the lack of a case docketing system are factors which increase delays. All hearings are usually handled by the chief judge and all hearings are set for the same hour each day. All persons involved in detention release hearings must assemble at a given hour and sit by idly waiting their turn in court. This detracts from the total time available for attorneys and probation officers to prepare other court cases.

Mental health services for the Juvenile Court and the Receiving Home are provided by the Adolescent Division of the Area C Mental Health Center and the Legal Psychiatric Services Clinic of the Department of Public Health. Area C

Mental Health Center provides comprehensive diagnostic evaluation of Area C residents with formal report to the Juvenile Court; direct mental health treatment of adolescents and families; and consultation to probation officers, volunteers and other court officials. The length of time the Department of Health takes to complete a full psychiatric examination contributes to the problem of overcrowding in the detention facility. The time elapsed from referral to examination ranged from a low of one day to a high of 88 days, averaging out at 20.9 days. The elapsed time from date of examination to delivery of a report to the court varied from one day to 117 days, averaging out at 36.5 days. Legal psychiatric services within the Department of Public Health have established a 30 day time goal for completing a report. However, the average time required from referral to delivery was 55.8 days. The D.C. Receiving Home expects to provide the space for full-scale psychological testing and psychiatric evaluations in the future.

The District of Columbia Juvenile Court has begun to permit the Department of Public Welfare to detain children who are awaiting disposition by the Court in the Cedar Knoll and Maple Glen institutions due to the overcrowding of the Receiving Home and shelter care facilities. These institutions house committed offenders and their association with children awaiting court disposition can be highly detrimental.

*NCCD recommends that*

1. The Juvenile Court should strive to reduce the time taken to dispose of delinquency cases to 14 days including provision of adequate attorneys for indigent children, additional probation staff, and a case docketing system.
2. The length of time required for completion of a psychiatric examination should be reduced to 15 days.
3. The practice of placing children awaiting disposition by the court in facilities for committed children should be discontinued.

### III. CAPACITY AND PROGRAM REQUIREMENTS

The District of Columbia detained an average of 130 children a day in fiscal year 1968, although the number who should have been detained normally was 68.6 per day. Capacity requirements projected for 1980 are 106.2 children per day. A new Receiving Home is now in the planning stages with a bed capacity of 110, and a projected cost of \$3,300,000.

Mr. RECTOR. It is quite detailed. I guess, if we had our druthers, we would like to see the entire problem of delinquency and social need of children and adults met in one agency, because some of the recommendations we have made, which are for the children, have also been stated and have demonstrated in the adult field. But such a recommendation at this point in time would seem too impractical because it would mean pulling LEAA out of the Justice Department, broaden it to give it the kind of linkage with education, employment, health, and mental health services that we have proposed for this new Department of children and youth services.

Not only NCCD but many past White House conferences on children and youth have asked for special Federal agencies to give the leadership, aid, and funds, and to require that there will be similar State agencies so there will be a linkage throughout our Nation to give the kind of leadership and thinking and planning for children and youth services which just has not been given in a coordinated way. And this also ties in with the sections of the bill that you are sponsoring in the Senate and one by Congressman Mikva. My associate, Justice Freimund, will stay if you will excuse me, and he is probably more conversant with this than I. After Mr. Hurst he could respond to questions and provide additional detail and documentation that you might wish to fill in the gaps.

Senator BAYH. Fine.

Mr. RECTOR. Will you excuse me?

Senator BAYH. Yes. And we appreciate your being with us, Mr. Rector.

Mr. HURST. I will make this as brief as possible.

The material in this presentation I would like for you to consider is generally descriptive and a critical indictment of specific communities. We only chose specific communities because we had conducted studies in these areas recently.

Briefly, the material addresses the major problems of the juvenile courts and probation and detention in training schools, in courts and in probation as you have heard, and the problems are basically a flow system of adjudication and disposition, failure to conduct adequate screening and diversion of cases, failure to observe the legal rights of children, inavailability of the alternative dispositions, and a lack of knowledge of the information requirements needed to facilitate management.

I notice that many of your questions have been related to the availability of statistics. As one who searches for statistics all of the time, I can tell you that they are not generally available anywhere, and on any given study we spend as much as 70 percent of the total cost trying to generate, not collect data but go in and develop it.

On the subject of dispositions in the District of Columbia last year, we found that the average disposition time for a child in detention was 40 days, and for those in the community awaiting trial it was about 120 days. This was related particularly to the unavailability of legal counsel, lack of probation staff, lack of dispatch in completing psychological and psychiatric evaluations and, of course, the existence of a statute that defined delinquency so broadly that virtually every child in the District could be referred to the court for delinquent behavior.

The existence of such a statute creates an awful lot of busy work for the court. The court, as I am sure you are aware, was established to be all things to all children, and we continue to go their way. There have been no attempts to redefine legislation that would limit delinquency to acts that would be crimes if committed by an adult.

An example is Richland County, S.C., in 1968, where we found that 42 percent of the cases referred to the court were dismissed.

This stems from the very broad and inappropriate and inaccurate definition of delinquency.

On the subject of detention, you heard Mr. Ward say that approximately 50 percent of the children of our population in the country are not served by juvenile detention facilities. That may not be so unfortunate, and sometimes with inadequate facilities communities are hesitant to lock a child up.

But detention is overcrowded; it is also understaffed. There is no screening. Children are placed in detention without detention hearings. They are often sent into detention without benefit of a petition, and then they are sentenced to jail without a hearing. You name it.

The training schools, and I only chose one example of the problem in training schools, because you have heard enough about them, but the one we have in Texas is not very different. I think the response of the public in Texas is not very different than the response of the public nationally and in other States.

I have, in the last 4 years, been in almost every juvenile institution in almost every State with the exception of Alaska, and I do not find a great deal of concern at the community level about the plight of children attending schools or the plight of children in jails or in courts.

You mentioned earlier that if there were citizen awareness, this would be the key to social change. I wish we knew how to create that awareness, because you will see that in the State of Texas, we are continuing to build larger and larger institutions, more remote from the children that are being served, not even providing the basic services and still relying on physical force to just maintain control of the children.

So, in view of this, I really have only one recommendation: citizens must become aware, and I do not feel it is going to occur without strong action of congressional leadership. I think we have demonstrated that. We have, in the last 10 or 15 years, made beginning starts with programs for juveniles and then let them die or killed them, and we found no answer without congressional leadership.

Senator BAYH. Thank you, Mr. Hurst.

(The prepared statement of Hunter Hurst follows:)

PREPARED STATEMENT OF E. HUNTER HURST

The following material cites certain problems in juvenile courts, probation, detention, and training schools in jurisdictions throughout the United States. We would like to request that this subcommittee please consider the following information as generally descriptive of juvenile justice problems nationally rather than critical indictments of specific communities. The jurisdictions selected for reference in this presentation were chosen because the National Council on Crime and Delinquency has conducted recent studies in these locations, not because the plight of children in these communities is any better or worse than in other communities throughout the United States.

*Juvenile Courts and Probation.*—Some of the major problems facing juvenile courts and probation are lethargy in adjudication and case disposition, failure to conduct adequate screening and diversion of cases, failure to observe the legal rights of children, unavailability of alternative dispositions, and a lack of knowledge of the information requirements needed to facilitate management.

In 1969, the National Council on Crime and Delinquency found that the median case disposition time in the District of Columbia Juvenile Court was 40 days for children that were being detained and 120 days for children who were awaiting court disposition in the community. These delays were found to be directly attributable to:

1. Inavailability of legal counsel, both prosecution and defense. At the time of the study there were only three legal aid agency attorneys assigned to the juvenile court. In 1969, the juvenile court in D.C. received in excess of 7,000 delinquency referrals.

2. Inavailability of sufficient probation staff to conduct predisposition studies. An average of 40 days was required to complete a predisposition study in 1969 in the District of Columbia. With sufficient manpower, the time would reasonably be reduced to fourteen days.

3. Lack of dispatch in completing psychological and psychiatric evaluation. The elapsed time from referral for psychiatric evaluation to the completion of the evaluation was 55.8 days. Interestingly enough, the long delay in completing psychological and psychiatric examinations seemed unrelated to the availability of trained personnel. Instead, the time required for such examinations was found to be directly related to the urgency of the court's request.

4. The existence of a statute that defined delinquency so broadly that virtually every child in the District could be referred to the court for delinquent behavior. In the year 1969, 40% of referrals to the juvenile court were for acts of behavior that would not be considered criminal if they were committed by an adult.

The juvenile court in original concept was established to be all things to all children. This pattern continues in spite of the recognition that the quickest

route to a criminal career is via the juvenile court. Diversion of children from the juvenile court is desperately needed, especially for those children who have not committed criminal acts. However, statutes do not provide for such diversion and courts have been slowed to establish diversion practices by court rule. For example, in 1970 in El Paso County, Texas, approximately 3,000 children were arrested and 3,000 children were referred to the juvenile court. Fifty-five percent of the 3,000 children were arrested for non-criminal acts. The same indiscriminate dumping of children into juvenile court resulted in the dismissal of 42% of the cases before the juvenile court in Richland County, South Carolina in 1968.

The crush of inappropriate referrals, untrained judges, and untrained probation officers often results in violation of the rights of children. For example, in Cleveland, Ohio, in 1968, the National Council on Crime and Delinquency found that the Cuyahoga County Juvenile Court conducted 2,440 unofficial delinquency hearings. One hundred ninety-eight of these hearings resulted in children being placed on unofficial supervision; 227 of the total were ordered to pay restitution. These orders were handed down by the court in spite of the fact that no petition had been filed alleging delinquency. In a study of the Lubbock County, Texas Juvenile Court in 1970, NCCD found that the court did not separate the adjudication and disposition phases of the hearing and routinely introduced the social history and predisposition study in the hearing prior to adjudication. In that same study in Lubbock County, Texas, NCCD found that the court did not provide detention hearings for children and frequently sentenced children to jail without benefit of a petition having been filed or any adjudication having occurred.

Juvenile courts and probation departments seldom keep information that is useful in policy-making and planning. For example, in the conduct of the aforementioned study of juvenile detention in the District of Columbia, we found that the police department, juvenile court and welfare department all kept statistics on juvenile delinquency in the District. However, none of the figures were comparable. The same circumstance was found in New York State. The judicial conference, the Probation Commission, the New York State information system, and the FBI were contacted in an attempt to determine how many children were arrested and referred to juvenile court in that state during the year 1970. All of the agencies had partial figures that were not uniform.

*Detention.*—Approximately 50% of the population in the United States is not served by juvenile detention facilities. Children in these jurisdictions are placed in county jails awaiting court disposition. Where detention facilities do exist, they are usually overcrowded, understaffed, and poorly programmed. The most serious problem in this area of the juvenile justice system is the inappropriate admissions of children to detention homes and jails and the unnecessary periods of time that they spend in detention awaiting court disposition.

The inappropriate admission of children to detention is partly a function of the lack of established screening practices on the part of the juvenile court, but it is more a function of the attitude of the persons conducting the screening. In a study of initial juvenile detention decisions in selected California counties in 1969, NCCD found that such non-legal factors as the attitude of the person making the detention decision, the availability of detention space, the proximity of the detention facility and the characteristics of the child to be directly related to the rate of detention. The study also found that the police officer frequently makes the decision to detain a child in spite of the fact that California law forbids such practices. NCCD made the same finding in the District of Columbia Detention Study previously mentioned. In 1969, the youth division of the D.C. Police Department accounted for 73% of the admissions to the receiving home. This practice persisted in spite of the fact that the ultimate decision of detention of a child should rest solely with the juvenile court. The same practice exists in El Paso, Texas, where in 1970 the police department arrested 3,000 children and made the decision to detain 3,000 children.

While inappropriate admission contribute to the overcrowding and inhumane conditions in places of juvenile detention the length of time that a child spends in detention is a far more critical determinant of the amount of space required and subsequently the number of staff that must be employed and the programs that must exist. An excellent example of this phenomena is to be found in present juvenile detention planning efforts in the District of Columbia. In 1970, NCCD recommended that the District build a facility of 110 beds for the detention of delinquent children awaiting court disposition. This estimate was based upon 10% of children being arrested requiring detention and averaging

14 days in length of stay. The District is presently planning to build a facility with 320 beds, instead of 110. The rationale for the expanded figure is found in the anticipated length of stay. Where we had recommended that cases be disposed of within 14 days, the District is planning a facility that will allow 60 to 90 days for case disposition. The physical plant is being built to accommodate unreasonable court delays. The difference in cost for the 110 bed facility and the 320 bed facility is approximately \$15 million.

**Training Schools:** Conditions in juvenile training schools in the U.S. may be likened to Dachau during World War II. They are massive maximum security facilities, overcrowded, located far from the homes of their inhabitants, have the primary goal of maintaining physical custody, and utilize physical repression as a means of control. However tragic these circumstances may seem, they are not nearly so sad as the public's response to these conditions. What has been our response? The same as it was at Dachau. We send delegations of public spirited citizens and sensitive statesmen to: 1) paint the walls bright cheery colors; 2) increase the food rations; 3) improve the sanitation; 4) provide recreational opportunity; 5) and to announce to the world how much progress is being made. We manifest such responses even while all rationality and morality screams "Get them out".

Instead of citing numerous examples of conditions in training schools, I'll take one example of a training school that is rated by some experts to be the second best such facility in the U.S. In April 1969, the Gatesville Texas Training School Complex housed 1,950 boys, 200 of this number were less than 12 years of age and the administration estimated that 18% of the total population was retarded and that a full 70% of the population could be better served by probation and other community based alternatives.

During 1969 the program at the facility at Gatesville was limited primarily to remedial and vocational education with some attempt to provide counselling. However, the counselling efforts were severely inhibited by the lack of qualified staff and the maximum security nature of the institution. The primary method of student management was physical repression (the complaints of physical brutality at Gatesville Institution are legend in the state of Texas). Interestingly enough, the institution has no bars, fences, or other trappings usually associated with maximum security. Security is maintained by a 24-hour horse patrol (the horses come replete with bull whips on the pommel of the saddle) 24-hour jeep patrol, and an eager kennel of mongrel dogs trained to chase children. The dogs are trained by teaching them to chase the younger children who pose no real runaway threat. In 1969 there were 1,669 "temporary absences" from the institution, but not one person made a complete escape. In that same year 93% of the child care staff had second jobs and the story goes on and on and on.

During the same period of 1969, the state of Texas had 2,400 children in training schools throughout the state, and the number was increasing daily. Dormitories were overcrowded. The public responded by authorizing the construction of another massive facility in Brownwood, Texas, which happens to be the geographic center of the state. It is also the one place in Texas that is most removed from all of the major population centers. It is also the home of the former speaker of the Texas House of Representatives and the present Lieutenant governor. The new facility gave some temporary relief from the overcrowding, but last year children began to stack up again. Now we are building another massive institution in Giddings, Texas, which happens to be the home of the present speaker of the House, and is remotely located in relation to population centers.

The foregoing material has touched on some of the problems and some of the immediate causes of the problems of children caught up in the juvenile justice system in the U.S. But little has been said about why the problems persist. This is a much more difficult phenomenon to analyze. We know that some of the lack of action is attributable to an uninformed public and an oft misinformed public. And we know that the advancement of political self-interest, differing value in different communities, and the lack of national leadership also contribute to our inertia where the welfare of our youth are concerned.

The experience of the NCCD in conducting studies throughout the U.S. over the past fifty years indicates that the absence of strong national leadership is a prime factor in maintaining the pathetic status quo of children in trouble. The Juvenile Delinquency Prevention Act is three years old, but at last count only five states had completed juvenile delinquency plans. We have yet to find a state or a community that meets minimum standards for visiting teachers or school social workers. Yet children are being committed daily to archaic jails and in-

stitutions for truancy. The purpose of the compulsory school attendance law is to protect children, but it is being used to destroy them. Probation is still viewed nationally as a leniency rather than as an alternative court disposition. Where community based resources do exist, they are often fragmented and uncoordinated. This condition is especially true for federal programs serving children such as Model Cities, LEAA, YDDPA, Education, Welfare and labor.

Sensational investigations, comprehensive studies, and flowing rhetoric from the federal government have not helped the plight of children. If we are truly concerned about our only investment in the future, our children, perhaps we should attempt strong National leadership. If not, let's strike up the band and play one more course of "ain't it awful".

Senator BAYH. Is Gatesville the institution that denied entry to a State senator?

Mr. HURST. In the testimony, I might just read the description.

Senator BAYH. I have read it, and it will be printed in the record.

Mr. HURST. The material on the Texas Training School was done for a Senate investigating committee of the State of Texas.

Senator BAYH. It must be a rather secure institution if it keeps a State senator out.

Mr. HURST. Well, it does do a good job.

Senator BAYH. Bull whip, and all?

Mr. HURST. That is the staff, they follow orders well, and they keep them locked up.

You asked about recidivism rates. An interesting fact is this school has a 28 percent recidivism rate, and this can be misleading, these recidivism rates. While it has a 28 percent recidivism rate, the average length of stay for the maximum security unit of that school at the time we gathered this information was 30 months, and the minimum age for admission to maximum security was 15 years. So, you can see that there was no opportunity to come back to the training school after you had stayed in there 30 months and got out. You were an adult.

Senator BAYH. But this is a 28-percent recidivism rate.

Mr. HURST. Recidivism is defined as a child that comes back to that school.

Senator BAYH. What is the total?

Mr. HURST. The first offender unit at Huntsville State Prison reports about 60 percent of the residents in the first offender unit of the adult institution, have been through the Gatesville School.

Senator BAYH. Sixty percent! This is good training?

Mr. HURST. Well, I do not know; I just do not know. We are not accomplishing anything, and I think this is true not only in Texas but throughout the country. You do not need facts and figures to know just from looking at the history of man that the more buildings you build to put people in the more you are going to have to build. California, I think demonstrates that better than any other State in the Union. They are beginning to realize it.

Senator BAYH. Have you developed any statistics on this program? Is it too early now to compare the effectiveness of the approach, say, of a place like Gatesville or Huntsville with that which has been done to try to rehabilitate the youngsters with the relatively new California approach?

Mr. HURST. We could probably generate some statistics. The problem would be definition. How are you going to equate success with non-commission for another offense, noncommission or conviction of an-

other offense, or noninstitutionalization, or how are you going to define it, and every State does it, unfortunately, differently. The administration of correctional services in every State is almost forced to define it in a way that will reflect favorably upon their institution, because they have to get funds from State legislators that are interested in how successful they will be.

It is very difficult to get anyone to really share with you what the so-called success rate is.

We could, I think, generate some information.

I would say, so far as California is concerned, that their recidivism rate is likely to be lower simply because they institutionalize so many more people, and if you institutionalize a person that really does not need correcting, and you do not destroy him in the process of that institutionalization, you can assume that he will be successful when he gets out because he was successful when he went in. These are other factors. I think the success rate for only people in institutions that needed to be there, would be very low.

Senator BAYH. Of course, California is a much larger State.

Mr. HURST. No. But proportionately. And once again in the juvenile field, the only State that might approach them proportionately is possibly North Carolina—and Texas. You have just heard about North Carolina, but what you did not hear this morning about North Carolina, I believe, was that at last count, they had some 2,600 children in training schools alone.

Senator BAYH. I hope you will send our staff statistics substantiating what you have said regarding original detention in California. Such information would assist us in our study of California's unique system.

Mr. HURST. There is reference to a study in this testimony which I certainly think would be of interest to you, and it is entitled: "Locking Them Up."

It is a small study of detaining practices in the State of California, which, I think, depicts the rationality for putting children in detention. For example, it does vary from almost zero to 100 percent in counties that are exactly comparable in crime rates, number of children, and all of the other things, and there is no rhyme or reason and sometime, just to watch over them they institutionalize them.

Senator BAYH. Well, thank you very much.

Mr. FREIMUND, do you wish to comment?

Mr. FREIMUND. No, sir, unless you have some particular questions you would like to ask in terms of the proposed legislation that I understand is being placed in the record.

Senator BAYH. I will withhold my questions until we have studied your proposal. All of the statements and the proposals will appear in the record.

We appreciate your taking the time to be with us. I know you will continue to communicate your ideas to the committee. I thank you all very much.

Mr. HURST. Thank you very much.

Senator BAYH. We will adjourn our hearings to reconvene on May 17.

(Whereupon, at 1:10 p.m., a recess was taken until Monday, May 17, 1971.)

## JUVENILE CONFINEMENT INSTITUTIONS AND CORRECTIONAL SYSTEMS

MONDAY, MAY 17, 1971

U.S. SENATE,  
SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY  
OF THE COMMITTEE ON THE JUDICIARY,  
Washington, D.C.

The subcommittee (composed of Senators Bayh, Hart, Burdick, Kennedy, Byrd, Cook, Hruska, Fong, and Mathias) met, pursuant to recess, at 10:15 a.m., in room 318, Old Senate Office Building, Hon. Birch Bayh (chairman of the subcommittee) presiding.

Present: Senators Bayh and Cook.

Also present: Lawrence Speiser, staff director and chief counsel; William C. Mooney, investigator; John M. Rector, deputy chief counsel; Mathea Falco, deputy chief counsel; Peter Freivalds, research director; Mary K. Jolly, chief clerk; Nancy L. Smith, research assistant; Eliabeth Marten, secretary; Cheryl Wolf, assistant chief clerk; Stanley Ebner, Esq., assistant to Senator Hruska, and Ronald Meredith, Esq., legislative assistant to Senator Cook.

Senator BAYH. This morning we resume our inquiry into the problem of juvenile justice in this country, particularly with regard to the conditions and programs for youth in juvenile detention and correctional institutions.

Several weeks ago, as some of you will recall, the subcommittee heard testimony on facilities in Texas, Indiana, Illinois, and North Carolina.

Conditions in several of these institutions have been explored in the excellent NBC white paper entitled "This Child Is Rated X," which was shown on national television the evening before the first day of these hearings.

All the witnesses before the subcommittee agreed that incarceration for most juveniles was harmful and unnecessary. In fact, many of the children held in correctional institutions have never been charged with committing a delinquent act but are merely the victims of societal and parental neglect.

So far, the testimony about the facilities themselves has shown that they are overcrowded, understaffed, and severely deficient in providing even the most basic services and programs. Physical abuse, homosexual attacks, and drug abuse are common occurrences in facilities that are supposed to rehabilitate the children that are kept there.

Today, we will hear testimony regarding juvenile detention and correctional facilities in New York, Maryland, and Kentucky. Our witnesses have had firsthand experiences at these institutions as members of investigatory commissions, as attorneys, or as inmates themselves. I am sure that their testimony will be a great help in showing

us what must be done to improve the juvenile justice system throughout the country.

Our first witness is Sister Mary Paul, director of social services for three programs for adolescent girls in New York City.

Sister, may I ask you to assume the responsibility of introducing the other panelists? I will put the biographical data of all four of you in the record.

Sister MARY PAUL. I am Sister Mary Paul, as has been mentioned; and this is Carolyn Norton beside me, who is presently in a study center program while deciding her plans for the future. Previously, she had been at juvenile center, and is coming here to discuss her experiences. Beside her is Jill Schaffer, and Jill had a brief experience also in juvenile center which she would like to describe as related to her subsequent understanding of what youngsters need. And Jill's mother, Mrs. Schaffer, is coming to relate her own reactions, having observed her daughter in juvenile center and also having come to understand and have a prospectus on the problems of youth and adolescents in the city.

Senator BAYH. Fine. We are very grateful that all of you have taken the time to be with us. We hope that you will feel that you can be perfectly frank with us. We are not trying to embarrass anybody or any institution. That is not the responsibility of this committee. Rather, our responsibility is to find out how we may improve juvenile institutions so that they can improve the ability of young people to cope with life and deal with the problems that confront them. Thus, society, as a whole, will improve.

Why don't you proceed, if you will?

(The biographical data of Sister Mary Paul Janchill, Carolyn Norton, juvenile detained at Euphrasian Residence, Jill Schaffer, juvenile detained at St. Helena's Residence, and Mrs. Marilyn Schaffer follow:)

SISTER MARY PAUL

Sister Mary Paul is Director of Social Services for three programs for adolescent girls in New York City: Euphrasian Residence (alternative to detention), Saint Helena's (city-based residence for delinquent girls), Project Outreach (day treatment for pre-delinquent children).

Sister Mary Paul is a psychiatric social worker, with 25 years experience working with troubled children. She is a member of the Board of Directors of the Citizens' Committee for Children of New York, a member of the board of Hillcrest Children's Center, and a member of New York City's Inter-agency Council on Child Welfare recently established by the Mayor.

CAROLYN NORTON

She is a 15 year old and presently a resident of Euphrasian. She came to the juvenile court as a runaway and has spent time at Spofford (juvenile center), and Manida, a detention facility for girls in New York City. She is still under the jurisdiction of the court, and is therefore using an assumed name.

JILL SCHAFFER

She is a 17 year old and a resident of St. Helena's. She came to the juvenile court on a PINS Petition (Person in Need of Supervision) brought by her mother. She has spent time at Spofford and Manida detention facilities. She is also using an assumed name.

MRS. SCHAFFER

She originally placed Jill in the court's jurisdiction because of problems at home. She greatly regrets having done so. She is using an assumed name to protect Jill's identity.

STATEMENT OF SISTER MARY PAUL JANCHILL, DIRECTOR, SOCIAL SERVICES, EUPHRASIAN RESIDENCE, ST. HELENA'S RESIDENCE, AND PROJECT OUTREACH, NEW YORK CITY; ACCOMPANIED BY CAROLYN NORTON, JUVENILE DETAINED AT EUPHRASIAN RESIDENCE; JILL SCHAFFER, JUVENILE DETAINED AT ST. HELENA'S RESIDENCE, AND MRS. MARILYN SCHAFFER, MOTHER OF JILL SCHAFFER

Sister MARY PAUL. As was mentioned, I am director of social services for three programs for adolescent girls in New York City, Euphrasian Residence, St. Helena's Residence, and Project Outreach. I may be able to go back to this service later.

Apart from my present position in relation to these three programs I have had 25 years of experience as a Sister of the Good Shepherd and as a psychiatric social worker, with troubled children and their families, in various kinds of programs. I have also been closely associated with agencies and groups who are involved in the provision of social services. I am a doctoral candidate at the Columbia University School of Social Work, a member of the Board of Directors of the Citizens' Committee for Children of New York, a member of the Board of Hillcrest Children's Center, and a member of New York City's Interagency Council on Child Welfare recently established by the Mayor.

This experience has brought me close knowledge of the operation of New York City's detention centers and public shelters, which I have found similar to those in other cities. Repeatedly I find that far from being a means of help to our most troubled children, they become a route to even more negative, rebellious, retaliative, and antisocial behavior for the children who enter their doors.

There have been numerous reports about New York City's detention centers. As examples, I cite and submit for the record the report of the Citizens' Committee for Children, as well as its subsequent publication, "A Dream Deferred," which recounts 25 years of scandals publicized and promises by political figures unfulfilled, as tragic incidents about children in detention centers reach the newspapers from time to time. It is my hope that this Senate subcommittee will use both fiscal controls and legislative remedies, as well as the pressure of its office, to remedy the situation whereby we allow juvenile jails to be our resource for children who have committed no crimes but who are rather victimized by intrafamilial problems, by poor school programs, by economic inequities, and other pressures that surface in symptomatic behavior. Jail-like detention homes are no answer for children who manifest distress by a runaway, truancy or the search for some kind of comfort from friends in activities or experiments which need perhaps redirection. Neither can the lonely, depressed children who are today turning to pills or drugs find a valid kind of help in a remand to such a detention center.

To be convinced of this requires only to witness, as I have, that:

(1) Consignment to a locked facility with other youngsters who are rejected by family and community creates a situation of maximum ambiguity, uncertainty, and fearfulness. This generates tension and anger, and leads youngsters to compensatory and defensive behavior

which is even more pathological than the acts which brought them to attention.

(2) Children banded together in settings which create new deprivations and which take away very basic human needs tend to become more alienated from the adult world, as retaliative feelings swell.

(3) Staff members in juvenile centers, as well as in the State training schools, learn to anticipate such retaliative and aggressive reactions by children. Their attention and energy goes into guarding and keeping custody. I have found that the very large majority of staff in these institutions, from administrators down, are highly suspicious of the potential of the youngsters and that their rules and procedures give an unrelenting, even if silent, message to children that they are "dangerous." For example, at mealtime they are either deprived of ordinary utensils such as forks and knives, or the latter are counted out. Many, many such procedures set the children at plots and schemes to outwit the staff and break out. There is also the terrible paradox that despite the guarded watchfulness of the staff, they most often act to protect themselves and to keep the children from running away, rather than helping or protecting the youngsters. I have found that with few exceptions they are apathetic or hostile to the requests of the children for the most basic kind of protection and they do not properly intervene in a helping way. In fact, nothing in the program of the juvenile centers or detention homes is geared to deal with the problems which brought a child there. Nothing is done to restore the youngster to his home and family, as the detention staff hold themselves outside this area and feel this is somebody else's job, back at the court or elsewhere.

(4) There is a total failure of the detention system in that it is separated from the study and evaluation of the human problems which brought the children there, and separated as well from humane planning on behalf of the children and their families. To the extent that study and planning are available at all, they are done by people outside the detention system, sometimes by people who have seen little or nothing of the individuals involved. The detention home is, then, clearly nothing but a jail.

I have not seen any children the better for an experience in juvenile center.

Senator BAYH. Excuse me, did you say you have not seen any children the better for their experience?

Sister MARY PAUL. That is right. I do not see that children are helped or feel better or locate their needs as a result of being in juvenile center.

And yet there are thousands of children in need of the community's help, and thousands of parents seeking assistance on behalf of their youngsters. Where do we go, and what may we look for?

My recommendations would be as follows:

(1) The use of secure detention centers should be strictly limited to those whose behavior would endanger or be of severe hazard to themselves, and should be strictly limited in time, with court hearings to review its use at no longer than 2-week intervals. Thus, its use would be monitored by court and law guardian frequently to allow for changing circumstances and the needs of each child.

(2) The use of secure detention should be prohibited entirely unless alternative facilities are provided for children who have not committed

criminal acts but who are merely manifesting personal or emotional problems with which they or their families are asking assistance. There is bound to be abuse unless a community provides alternatives to detention. I feel there should be no secure detention facilities at all, if that is to be our only system of taking care of children. A community which cannot afford to have proper facilities for troubled children should have none. Our children are not expendable.

(3) Children who are troubled about problems in their families and who run away or are truant or show other symptoms of their own distress should only come under the jurisdiction of the court if appropriate service, helpful service, can be offered. The court should have access to small, community-based facilities where staff and caretakers are involved in reconciling children with their families and resolving problems which stem from economic pressures, environmental hazards, or other situations which need remedy. Small reception centers which offer help on either outpatient or short-term residential bases should be used. Individualized study and planning should be offered to child and family, with the consultation of appropriate professional personnel (trained social workers, psychologists, and psychiatrists), along with community representatives such as educators, housing personnel, public assistance staff, and recreational center staff. It should be as important to mobilize community resources on behalf of a child and family as it is to protect from environmental risks.

(4) For those children who need to live temporarily in a group care setting and to receive professional help, these settings should be located sufficiently near to the family to be reached easily by public transportation. Settings like these should be so arranged and located that they do not isolate a child from family and community. They should insure that each child has a full range of opportunities to profit from normal friendships unless they are demonstrably unable to do so. Programs of small residences should insure that children are not further handicapped by institutionalization and isolation which will make them socially incompetent and reduce their parenting capacity in the future.

I would mention very briefly some examples of demonstrated alternatives to detention and State school care.

One such program is a study center program such as Euphrasian Residence in New York City which has kept hundreds of children each year out of detention homes. Following a crisis-intervention approach, children coming to the residence stay for 3 weeks during which social workers, psychologists, and psychiatrists work with them and their families, and teachers carefully study their academic needs. The 3-week period of residence results in a full understanding of the personal needs of each child which are interpreted to the youngster and her family. They also participate in specific plans which are recommended to them. Help is given to the child and family in reaching specific resources which may be helpful, such as a family counseling agency, a clinic, or a group care center.

(2) For girls with familial problems too difficult to resolve in a brief time, St. Helena's residence offers residential treatment. It is an open setting where girls go out to school, date, bring friends in and lead an entirely normal social life. They may have part-time jobs and they may make full use of recreational and social outlets according to their interest, ability, and preference. They see their families as

frequently as they wish, and they have both individual and group therapy in order to guide their interactions with the people who are most important to them.

A third possibility would be a program such as Project Outreach which offers day school and day treatment for youngsters who remain at home, has proved to be a most valuable alternative to placement of children. Here, adolescent girls come to a small school where teachers are highly responsive to their individual needs and can provide academic challenge in a more protected environment. Each child and her family has casework assistance as frequently as they need, even several times a week. The girls attend group therapy twice a week and return one evening weekly for family group therapy together with their parents and siblings. They are also helped to secure part-time jobs and have vocational counseling. There is planned exposure to cultural enrichment activities.

In summary, we strongly recommend immediate remedies for the economically and humanly wasteful and harmful practices of remanding children to detention centers and State training schools. In New York State, we are presently paying at least \$10 to \$15,000 annually for children who are provided only with a harmful experience in return. Even from the most pragmatic point of view, taxpayers should be concerned with the fact that an inordinate amount of money is being spent on programs which not only do not help but harm. Happily, the most human solutions for people are sometimes the most economic as well. For children who bear the burden of the cultural and societal problems of our own time no dollar can be the obstacle to providing suitable help. The community should be vitally concerned, however, that money which could go into human services for children is going to prison-like arrangements rather than the preventive and rehabilitative help which thousands of sorely needy children and families require.

Senator BAYH. Thank you very much, Sister.  
(The prepared statement of Sister Mary Paul follows:)

PREPARED STATEMENT OF SISTER MARY PAUL JANCHILL

I am Sister Mary Paul, director of social services for three programs for adolescent girls in New York City:

*Duphrasian Residence.*—A crisis-intervention program limited to three weeks of residence in which there is intensive study of the needs of child and family and appropriate planning for sustaining help to them according to their need.

*St. Helena's Residence.*—A small city-based residence where girls receive strong psychological services and casework help while they attend community schools and participate in all normal community activities.

*Project Outreach.*—A day school and day treatment center for pre-delinquent and drug-prone youngsters and their families: a short-term, intensive service designed to maintain children in their own homes and to sustain the family by supportive help and linking them with community resources.

Apart from my present position in relation to these three programs I have had twenty-five years of experience as a Sister of the Good Shepherd and as a psychiatric social worker, with troubled children and their families, in various kinds of programs. I have also been closely associated with agencies and groups who are involved in the provision of social services. I am a doctoral candidate at the Columbia University School of Social Work, a member of the Board of Directors of the Citizens' Committee for Children of New York, a member of the Board of Hillcrest Children's Center, and a member of New York City's Inter-agency Council on Child Welfare recently established by the Mayor.

This experience has brought me close knowledge of the operation of New York City's detention centers and public shelters, which I have found similar to those in other cities. Repeatedly I find that far from being a means of help to our most troubled children, they become a route to even more negative, rebellious, retaliative, and anti-social behavior for the children who enter their doors.

There have been numerous descriptive reports about New York City's detention centers. As examples, I cite and submit for the record the 1971 report of the Citizens' Committee for Children, as well as its subsequent publication, *A Dream Deferred*, which recounts twenty-five years of scandals publicized and promises by political figures unfulfilled, as tragic incidents about children in detention centers reach the newspapers from time to time. It is my hope that this Senate Subcommittee will use both fiscal controls and legislative remedies, as well as the pressure of its office, to remedy the situation whereby we allow juvenile jails to be our resource for children who have committed no crimes but who are rather victimized by intrafamilial problems, by poor school programs, by economic inequities, and other pressures that surface in symptomatic behavior. Jail-like detention homes are no answer for children who manifest distress by a runaway, truancy, or the search for some kind of comfort from friends in activities or experiments which need redirection. Neither can the lonely, depressed children who are today turning to "pills" or drugs find a valid kind of help in a remand to such a detention center.

To be convinced of this requires only to witness, as I have, that:

(1) Consignment to a locked facility with other youngsters who are rejected by family and community creates a situation of maximum ambiguity, uncertainty, and fearfulness. This generates tension and anger, and leads youngsters to compensatory and defensive behavior which is even more pathological than the acts which brought them to attention.

(2) Children banded together in settings which create new deprivations and which take away very basic human needs tend to become more alienated from the adult world, as retaliative feelings swell.

(3) Staff members in juvenile centers, as well as in the state training schools, learn to anticipate such retaliative and aggressive reactions by children. Their attention and energy goes into guarding and keeping custody. I have found that the very large majority of staff in these institutions, from administrators down, are highly suspicious of the "potential" of the youngsters and that their rules and procedures give an unrelenting, even if silent message to children that they are "dangerous." For example, at meal times they are either deprived of ordinary utensils such as forks and knives, or the latter are counted out. Many, many such procedures set the children at plots and schemes to outwit the staff and to break out. There is also the terrible paradox that despite the guarded watchfulness of the staff, they most often act to protect themselves and to keep the children from running away, rather than helping or protecting the youngsters. I have found that with few exceptions they are apathetic or hostile to the requests of the children for the most basic kind of protection and they do not properly intervene in a helping way. In fact, nothing in the program of the juvenile centers or detention homes is geared to deal with the problems which brought a child there. Nothing is done to restore the youngster to his home and family, as the detention staff hold themselves outside this area and feel this is somebody else's job, back at the court or elsewhere.

(4) There is a total failure of the detention system in that it is separated from the study and evaluation of the human problems which brought the children there, and separated as well from humane planning on behalf of the children and their families. To the extent that study and planning are available at all, they are done by people outside the detention system, sometimes by people who have seen little or nothing of the individuals involved. The detention home is, then, clearly nothing but a jail.

I have not seen any children the better for an experience in Juvenile Center. And yet there are thousands of children in need of the community's help, and thousands of parents seeking assistance on behalf of their youngsters. Where do we go, and what may we look for?

RECOMMENDATIONS

(1) The use of secure detention centers should be strictly limited to those whose behavior would endanger others or be of severe hazard to themselves, and should be strictly limited in time, with court hearings to review its use at no longer than two-week intervals. Thus, its use would be monitored by court

and law guardian frequently to allow for changing circumstances and the needs of each child.

(2) The use of secure detention should be prohibited entirely unless alternative facilities are provided for children who have not committed criminal acts but who are merely manifesting personal or emotional problems with which they or their families are asking assistance. There is bound to be abuse unless a community provides alternatives to detention. A community which cannot afford to have proper facilities for troubled children should have none. Our children are not expendable.

(3) Children who are troubled about problems in their families and who run away or truant or show other symptoms of their own distress should only come under the jurisdiction of the court if appropriate service, helpful service, can be offered. The court should have access to small, community-based facilities where staff and caretakers are involved in reconciling children with their families and resolving problems which stem from economic pressures, environmental hazards, or other situation which need remedy. Small reception centers which offer help on either outpatient or short-term residential bases should be used. Individualized study and planning should be offered to child and family, with the consultation of appropriate professional personnel (trained social workers, psychologists and psychiatrists), along with community representatives such as educators, housing personnel, public assistance staff, and recreational center staff. It should be as important to mobilize community resources on behalf of a child and family as it is to protect from environmental risks.

(4) For those children who need to live temporarily in a group care setting and to receive professional help, these settings should be located sufficiently near to the family to be reached easily by public transportation. Settings like these should be so arranged and located that they do not isolate a child from family and community. They should ensure that each child has a full range of opportunities to profit from normal social contacts and health-providing resources in the community. Children should be permitted to go to community schools and to enjoy normal friendships unless they are demonstrably unable to do so. Programs of small residences should ensure that children are not further handicapped by institutionalization and isolation which will make them socially incompetent and reduce their parenting capacity in the future.

*Examples of demonstrated alternatives to detention and State school care*

(1) A study center program such as Euphrasian Residence in New York City has kept hundreds of children each year out of detention homes. Following a crisis-intervention approach, children coming to the residence stay for three weeks during which social workers, psychologists and psychiatrists work with them and their families, and teachers carefully study their academic needs. The three weeks period of residence results in a full understanding of the personal needs of each child which are interpreted to the youngsters and her family. They also participate in specific plans which are recommended to them. Help is given to the child and family in reaching specific resources which may be helpful, such as a family counseling agency, a clinic, or a group care center.

(2) For girls with familial problems too difficult to resolve in a brief time, St. Helena's Residence offers residential treatment. It is an open setting where girls go out to school, date, bring friends in, and lead an entirely normal social life. They may have part-time jobs and they may make full use of recreational and social outlets according to their interest, ability and preference. They see their families as frequently as they wish, and they have both individual and group therapy in order to guide their interactions with the people who are most important to them.

(3) Project Outreach, which offers day school and day treatment for youngsters who remain at home, has proved to be a most valuable alternative to placement of children. Here, adolescent girls come to a small school where teachers are highly responsive to their individual needs and can provide academic challenge in a more protected environment. Each child and her family has casework assistance as frequently as they need, even several times a week. The girls attend group therapy twice a week and return one evening weekly for family group therapy together with their parents and siblings. They are also helped to secure part-time jobs and have vocational counseling. There is planned exposure to cultural enrichment activities.

In Summary, we strongly recommend immediate remedies for the economically and humanly wasteful and harmful practices of remanding children to detention centers and state training school. In New York State, we are presently paying

at least ten to fifteen thousand dollars annually for children who are provided only with a harmful experience in return. Even from the most pragmatic point of view, taxpayers should be concerned with the fact that an inordinate amount of money is being spent on programs which not only do not help but harm. Happily, the most human solutions for people are sometimes the most economic as well. For children who bear the burden of the cultural and societal problems of our own time no dollar can be the obstacle to providing suitable help. The community should be vitally concerned, however, that money which could go into human services for children is going to prison-like arrangements rather than the preventive and rehabilitative help which thousands of sorely needy children and families require.

Why don't we let all of the rest of the witnesses share their remarks before we have any questions.

Carolyn, you are next; and, Jill, you are after that. Right?

Are either one of you nervous?

Miss NORTON. I am.

Senator BAYH. Well, do you know something? So am I.

Go ahead. Just let us have your thoughts.

Miss NORTON. I am Carolyn Norton, and I am 15 years old. I come from New York City where I live with my mother, 16-year-old brother and 13-year-old sister. Just now I am separated from them, as I am staying at a study center, Euphrasian Residence. My social worker at Euphrasian Residence is helping me with my plans to go to a school in Peekskill, N.Y.

Senator, I am here to tell you and your committee about my experiences when I first had to leave home and was sent by the family court to the Spofford Avenue Juvenile Center in the Bronx.

My mother brought me to the court because I was truanting and because I ran away from home. The judge asked me my reasons and, at first, he thought I might go home again and try to do better. But my mother said she would not take me home because she thought I might run away again or get into trouble. Then the judge remanded me to the Spofford Avenue Juvenile Center overnight until I could be transferred to the Manida Avenue Juvenile Center.

I don't think that the juvenile centers give the kind of help people need. I had never heard about Spofford before I came there. I thought I would have some kind of help, the kind I hadn't had at home. Also the right kind of medical assistance. But a lot of the time we were locked up in front of a TV. If you didn't know how to do something people yelled at you. Some were beaten. If you were in the bathroom for too long you had a sex report written up about you. I think that kids that are taken there neither they nor their parents know what they are getting into.

The Manida Avenue Juvenile Center was just as bad. I was there for 2 weeks and the things that went on there were just unbelievable. You were mixed up with all types of girls. Some said they were "fems" and some "butches," girls who acted like boys, and they went out with each other. They used to use the shower room which was often vacant. Counselors really didn't take time out to correct that sort of thing. If girls didn't want to go out with them or bother with them, they would be beaten up. You had threatening remarks said to you. You told the counselors, but still nothing was done. You had "butches" crawling up to your bed at night. You could be drawn into a fight at night that you did not start at all. The counselors did not stop the girls, and when the fight was over someone not to blame would get

into trouble. When it was time for food, you would have girls of a dorm fighting and pushing to go up in front. The medical care was bad. You could have a spinning headache and ask for an aspirin, and they would tell you that you had to wait until the morning. They really couldn't care how badly you were feeling.

At night when you get into bed everyone is to be quiet. Instead, the girls and the night counselors are fooling around and laughing while others try to get some sleep. Schooling is very poor. They have art, cooking, and sewing, but I thought there would be at least some major school subjects. The teachers have no control and the kids curse and show them no respect whatsoever.

The whole juvenile center at Manida is in very poor condition, and the visiting area is very grimy and bad. It's a place where I would not have invited my dog. You have no one to help you with your problems at home and no one to hear your side of the story. I had to say to a couple of people there: "That's why more than half of the girls are in here—no one really wants to hear what they have to say." There was only one social worker who was really willing to help me, by getting me out of there. She was the only one, as I look back now.

All I can say is that I do not like the situation at the juvenile centers at all. Girls are not helped with the problems that make them unhappy. They are not helped to act better. There is no respect for them by the way they are treated. They are kept locked up in dirty quarters. They have no privacy. They can't even take a shower alone, as there are no separate showers. The girls have to bathe in one large shower together. They take advantage of one another and counselors don't give the discipline in a right way. Teachers there don't care and let the girls do as they please. They do not provide the right kind of schooling. Little boys, 7, 8, or 9 years of age shouldn't be kept locked up in places like Spofford Juvenile Center. Counselors shouldn't let "funny people" who say they are homosexuals do as they please. The juvenile centers are not a right environment for kids.

Senator BAYH. Thank you very much.

Miss NORTON. You are welcome.

(The prepared statement of Carolyn Norton follows:)

PREPARED STATEMENT OF CAROLYN NORTON

I am Carolyn Norton and I am 15 years old. I come from New York City where I live with my mother, 16-year-old brother and 13-year-old sister. Just now I am separated from them, as I am staying at a study center, Euphrasian Residence. My social worker at Euphrasian Residence is helping me with my plans to go to a school in Peekskill, New York.

Senator, I am coming here to tell you and your Committee about my experiences when I first had to leave home and was sent by the Family Court to the Spofford Avenue Juvenile Center in the Bronx.

My mother brought me to the Court because I was truanting and because I ran away from home. The judge asked me my reasons and at first he thought I might go home again and try to do better. But my mother said she would not take me home because she thought I might run away again or get into trouble. Then the judge remanded me to the Spofford Avenue Juvenile Center overnight until I could be transferred to the Manida Avenue Juvenile Center.

I don't think that the Juvenile Centers give the kind of help people need. I had never heard about Spofford before I came there. I thought I would have some kind of help, the kind I hadn't had at home. Also the right kind of medical assistance. But a lot of the time we were locked up in front of a T.V. If you didn't know how to do something people yelled at you. Some were beaten. If

you were in the bathroom for too long you had a sex report written up about you. I think that kids are taken there neither they nor their parents know what they would be getting into.

The Manida Avenue Juvenile Center was just as bad. I was there for two weeks and the things that went on there were just unbelievable. You were mixed up with all types of girls. Some said they were "fems" and some "butches"—girls who acted like boys, and they went out with each other. They used to use the shower room which was often vacant. Counselors really didn't take time out to correct that sort of thing. If girls didn't want to go out with them or bother with them they would be beaten up. You had threatening remarks said to you. You told the counselors but still nothing was done. You had "butches" crawling up to your bed at night. You could be drawn into a fight at night that you did not start at all. The counselors did not stop the girls, and when the fight was over, someone not to blame would get into trouble. When it was time for food, you would have girls of a dorm fighting and pushing to go in front. The medical care was bad. You could have a spinning headache and ask for an aspirin, and they would tell you you had to wait until the morning. They really couldn't care how badly you were feeling.

At night time when you get into bed everyone is to be quiet. Instead the girls and the night counselors are fooling around and laughing while others try to get some sleep. Schooling is very poor. They have art, cooking and sewing, but I thought there would be at least some major school subjects. The teachers have no control and the kids curse and show them no respect whatsoever.

The whole Juvenile Center at Manida is in very poor condition, and the visiting area is very grimy and bad. It's a place where I would not have invited my dog. You have no one to help you with your problems home and no one to hear your side of the story. I had to say to a couple of people there: "That's why more than half of the girls are in here—no one really wanted to hear really what they had to say." There was only one social worker who was really willing to help me by getting me out of there. She was the only one I would look back at now.

All I can say is that I don't like the situation at the Juvenile Centers at all. Girls are not helped with the problems that make them unhappy. They are not helped to act better. There is no respect for them by the way they are treated. They are kept locked up in dirty quarters. They have no privacy. They can't even take a shower alone, as there are no separate showers. The girls have to bathe in one large shower together. They take advantage of one another and counselors don't give the discipline in a right way. Teachers there don't care and let the girls do as they please. They don't provide the right kind of schooling. Little boys, 7, 8, or 9 years of age shouldn't be kept locked up in places like Spofford Juvenile Center. Counselors shouldn't let "funny people" who say they are homosexuals do as they please. The Juvenile Centers are not a right environment for kids.

Senator BAYH. Jill.

Miss SCHAFFER. My name is Jill Schaffer, and I am here to testify against the present use and condition of the juvenile centers of New York. I am 17 years of age, and I reside at St. Helena's residence in Manhattan, New York.

Over half of the youths in juvenile center did absolutely nothing but run away from home, including myself. A person who has a family or personal problems should not be put in places like this.

The counselors at juvenile center are not qualified to help problemed youths. To me, they are trained to be referees and referees only. If you have problems with any of the other girls, you have no one you can turn to for help. You are lucky if your social worker will call for you once while you are there.

It does not do any good to tell the counselors you are being bothered or threatened by other girls because they are really unable to provide any real control. They may reprimand the girl or even hit the girl, but after this happens, the girls will threaten you all the more.

In juvenile center you either live or die. When the girls start with their physical violence there is no way out and no one that you can tell. You go to sleep hoping you will wake up the next morning. I feel these youths would not be this way if someone cared enough about them to help them.

I am not here to have any campaign against lesbianism, but I object to its involving me. When you take showers girls are constantly looking you up and down. When you first arrive at juvenile center, the first thing the girls ask you is if you are straight, meaning do you perform in lesbian acts.

The youths in juvenile center are not in any way able to concentrate on their so-called educational program. It's useless to have this program anyway because a lot of the youths are ahead of what the program is teaching.

Just about everything you eat is powdered or looks like something that just came out of the garbage. If you have any intelligence, you will die of starvation. I am sure these programs receive enough funds to serve better food.

The living conditions in these places are horrifying. You are thrown together like a bunch of animals in a cage. We are human and do not deserve to live like this.

When the girls go outside for recreation they do the same thing outside the building as they do inside. They are either starting trouble or figuring out how they are going to escape.

Instead of supporting juvenile center, other types of settings should be started. For instance, if the youths have a drug problem they should be sent to a therapeutic drug program. If you cannot get along at home, more places like St. Helena's residence should be set up. In a residence like this, which is open and in the city, girls can go out freely to school and see their families and friends. Like any normal human being, a girl can work out her own problems and plan her own future, and there are people who care.

As much as I try, I cannot understand what juvenile centers are supposed to accomplish except for the fact that it keeps you off the streets. Once you are out of juvenile center, you will only start the same thing again. I have heard of youths being sent to youth houses because parents did not want their children at home and there was no other place for them. I think this is inhuman and uncalled for. Maybe it will have to happen to your child before you understand. I hope something will be done soon because these conditions are for untrained animals, not youths who are having enough trouble with themselves growing up.

I sincerely hope what I have said will reach you enough to start making changes as of now. I will do everything in my power to make that this immoral and insane way of treating youths is stopped. This is why I have come to speak.

Thank you.

Senator BAYH. Thank you.

Miss SCHAFFER. You are welcome.

(The prepared statement of Jill Schaffer follows:)

PREPARED STATEMENT OF JILL SCHAFFER

My name is Jill Schaffer and I am here to testify against the present use and condition of the Juvenile Centers of New York. I am 17 years of age and reside at St. Helena's Residence in Manhattan, New York.

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As much as I try, I cannot understand what Juvenile Centers are supposed to accomplish except for the fact that it keep you off the streets. Once you are out of Juvenile Center, you will only start the same thing again. I have heard of youths being sent to youth houses because parents did not want their children at home and there is no other place for them. I think this unhuman and uncalled for. Maybe, it will have to happen to your child before you understand. I hope something will be done soon because these conditions are for untrained animals, not youths who are having enough trouble with themselves growing up.

I sincerely hope what I have said will reach you enough to start making changes as of now. I will do everything in my power to see that this immoral and insane way of treating youths is stopped. That is why I have come to speak. Thank you.

Senator BAYH. Mrs. Schaffer.

Mrs. SCHAFFER. I am Mrs. Marilyn Schaffer, the mother of Jill. Jill is the oldest of three children. Jill, at the age of 16, had misbehavior problems which I did not know how to handle. Being a working mother, and alone, it became more difficult for me and for Jill. During a period of 6 months, Jill ran away from home, got involved with drugs, and hitchhiked across the country. I did not know what to do, so I went to the court for help. When Jill was apprehended, they told me the only place they had for her was youth house (juvenile center). The only reason I allowed her to be placed there was that I became very frightened and could not think rationally with Jill on the street alone and without help.

Being a mother, to this date, I lie awake nights feeling guilt for having my own child placed in such a youth house. She did not commit a crime, except the crime of running away. I went to visit Jill on a regular basis. The whole atmosphere of the detention home was a nightmare within itself. It was dirty and delapidated, and everything was badly kept. All the visitors came to a big room which was in the poorest condition. Matrons would bring down one girl at a time, with keys in hand.

Girls with whom I spoke at the detention home told me that Jill was being mistreated, abused, and taken advantage of. The girls seemed to fight with each other, and on one occasion when they thought she had stolen something they beat her up. Jill and the other girls were kept locked up and treated like criminals. Jill cried and begged me to get her out of there or she would go out of her mind. As a concerned mother, I became very distressed and angry. There did not seem to be anyone at the detention home that cared. No social worker there ever got in touch with me, and there seemed to be no channels there for help. The employees, even the maintenance men, had a hardened attitude, and on the way home from one visit I met a matron who coldly said she was working there only for the money. I went to see Jill's probation officer at the court and begged her to help me. She came to my rescue by phoning Euphrasian Residence where Jill was accepted for study and planning.

Jill was referred to a residential center upstate, but I am glad she did not need to go as I have heard disappointing things about the results of that institution also. I am glad that she is now at St. Helena's Residence in the city where she is receiving kindness and lots of love and understanding. We need other such small residences or retreats for girls like Jill. It is unfair to lock them up. Jill is making great progress and I feel I understand her much more and I love this child of mine very specially. I hope someday Jill finds it in her heart to forgive me for putting her in such an awful place as the detention center.

Senator BAYH. Thank you.

Mrs. SCHAFER. You are welcome.

(The prepared statement of Mrs. Marilyn Schaffer follows:)

PREPARED STATEMENT OF MRS. MARILYN SCHAFER

I am Mrs. Marilyn Schaffer, the mother of Jill. Jill is oldest of three children. Jill, at the age of 16, had behavior problems which I did not know how to handle. Being a working mother, and alone, it became more difficult for me and for Jill. During a period of six months Jill ran away from home, got involved with drugs, and hitchhiked across the country. I didn't know what to do, so I went to the court. When Jill was apprehended they told me the only place they had for her was Youth House (Juvenile Center). The only reason I allowed her to be placed there was that I became very frightened and could not think rationally with Jill on the street alone and without help.

Being a mother, to this date I lie awake nights still feeling guilty for having my own child placed in such a Youth House. She did not commit a crime, except the crime of running away. I went to visit Jill on a regular basis. The whole atmosphere of the detention home was a nightmare in itself. It was dirty and delapidated, and everything was badly kept. All the visitors came to a big room which was in the poorest condition. Matrons would bring down one girl at a time, with keys in hand.

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each other, and on one occasion when they thought she had stolen something they beat her up. Jill and the other girls were kept locked up and treated like criminals. Jill cried and begged me to get her out of there or she would go out of her mind. As a concerned mother, I became very distressed and angry. There did not seem to be anyone at the detention home that cared. No social worker there ever got in touch with me, and there seemed to be no channels there for help. The employees, even the maintenance men, had a hardened attitude, and on the way home from one visit I met a matron who coldly said she was working there only for the money. I went to see Jill's probation officer at the court and begged her to help me. She came to my rescue by phoning Euphrasian Residence where Jill was accepted for study and planning.

Jill was referred to a residential treatment center upstate but I am glad she did not need to go as I have heard disappointing things about the results of that institution also. I am glad that she is now at St. Helena's Residence in the city where she is receiving kindness and lots of love and understanding. We need other such small residences or retreats for girls like Jill. It is unfair to lock them up. Jill is making great progress and I feel I understand her much more and I love this child of mine very specially. I hope someday Jill finds it in her heart to forgive me for putting her in such an awful place as the detention center.

Senator BAYH. I want first to thank all four of you for coming. Sister, you are truly doing God's work.

Sister MARY PAUL. Thank you.

Senator BAYH. And I know it is not easy for the three of you, Jill, Carolyn, and Mrs. Schaffer, to come testify. Because the committee is anxious to have the benefit of the experiences of these three individuals, without jeopardizing their future, they are here under assumed names.

Let me just ask a broad range of questions.

How good are the Euphrasian, St. Helena, and Project Outreach programs, in treating the problems? That is question 1. Question 2: How typical are these programs of the way the large majority of girls are treated? Do we have any percentage figures as to how many of the young ladies are treated in this manner and what percentage are treated otherwise?

Last: Has this program been operating long enough to have any comparison with case histories as to how young ladies who do have this experience respond and what type of life they lead afterward?

Sister MARY PAUL. With regard to results, all these programs are less than 2 year old. It is difficult with programs so new to evaluate results. The Project Outreach was only opened last September, and, therefore, it is not even a year old. And Euphrasian residence and St. Helena will be 2 years in August.

The youngsters that come to our programs generally do very well. I think that demonstrates that there is a sort of self-fulfilling prophecy, that when you offer youngsters a dignified way of life they act in a dignified way. But if you believe in their potential and if you believe they can use the good things of life, they use them. If you treat them as criminals, they surely show you the difference. And often it is said to me that the girls at Euphrasian residence and at St. Helena's and at Project Outreach are, indeed, very different than the youngsters who are at juvenile center.

It is pointed out that the youngsters there are very much more aggressive, that their behavior is very different, and I really do find that it is a matter of the approach you choose. Children who enter one set of doors are sent out with a different set of behavior patterns. I have actually observed this. I know from observation and experi-

ence that once children are provoked, are treated badly, are locked up, they are going to respond in a different way.

The youngsters who have been at St. Helena's residence were all formerly considered for various other types of programs, and the same thing holds true in Project Outreach. Practically every girl who has been accepted at Project Outreach was formerly recommended either for the State training school or residence or treatment center upstate, or whatever. Yet, those youngsters are remaining in the community and sustaining themselves in the community and not having to be locked up.

With the girls in St. Helena's residence, I believe, even with the program being less than 2 years old, I can clearly say the results have been outstanding. We have one youngster in college. She was with us for her senior year and is now in the first year of college.

We have three others who have just been accepted for college in September.

We have four others who are graduating from high school this year who already have positions promised to them in excellent organizations. Socially, they are comparable to any other youngsters in the community of New York and would do any family proud, as I think Jill is doing her own mother proud.

Jill, herself, is at a community high school now, with an excellent grade average and entertaining the possibility of college either immediately after high school or perhaps even a short time later.

These youngsters are in no way separated from all of the wonderful things in the community. I think there is a great deal of emphasis on the risk in the community or the harmful influences in the community, and I think there is all too little emphasis on putting the youngsters in touch with all of the opportunities that lie in the city. So, I would say that, from our experience, there is so much concrete evidence of their social competence and their social performance, their reconciliation with their families, that I think, outside of normal research projects, the evidence is rather immediate and probably uncontrovertible.

With regard to how typical our facilities are, they really are atypical now.

First of all, the funding patterns generally support services for children outside of their own homes, and we, ourselves, are forced often to give help in residential care when we would prefer to do all kinds of things in reception center approaches where outpatient approaches could be as available or more available than the residential forms. They are far less expensive. Project Outreach has shown that.

We find, that of the existing facilities in New York, most of them are inaccessible to the families. All, virtually all, of the training schools in New York State, are located so distant that it would be impossible, I think, for a whole family to visit a child even once a month. It would be so prohibitive in expense that it could probably not be achieved. Sometimes a family at great expense could afford for a mother, one parent, or one member of the family to visit, but for a whole family to visit becomes something that would require an inordinate amount of money.

Senator BAYH. Let me ask you: Do you have any statistics to show the relative cost?

Sister MARY PAUL. Well, I know some of them. I have visited the State training schools.

Senator BAYH. Would it be too much to ask if you could get us some of the relative per capita cost figures for the three programs that you discuss?

Sister MARY PAUL. I will.

Senator BAYH. Comparative cost is not the most important matter to me, but it might be a fundamental part of thinking how we can put together a whole program.

Sister MARY PAUL. You might wish to know, as one example, that our most elaborate program, the Euphrasian residence where the service is intense, costs us \$24 a day whereas at the public shelter where there is no treatment it is \$64 a day.

Senator BAYH. Those are the kinds of figures I would like to have. How many girls are served by Euphrasian, St. Helena's and Project Outreach?

Sister MARY PAUL. There are 30 girls in Euphrasian residence at any one time, but because of the intensity of the service and the short term, we serve 400 a year. At St. Helena's residence, there are 20 girls that stay for more indefinite times, and at Project Outreach we have a capacity for 30.

Senator BAYH. Do St. Helena's and Project Outreach provide that type of service over a longer period of time and with less intensity?

Sister MARY PAUL. That is right, for a longer period of time but not many years. We try to make it as short as possible and to restore a child and family as soon as possible.

Project Outreach is even shorter term and is designed to be short-term and intensive for most girls not exceeding 6 months to a year. The maximum would be a year.

Senator BAYH. In looking at the girls that you have had experience with, is it possible to distinguish the need for detention between various types of girls?

For example, between those who have committed a serious crime, and those who have just run away from home?

Sister MARY PAUL. Yes.

Senator BAYH. I think we do have some young people that commit criminal acts by any standard.

Sister MARY PAUL. That is right.

Senator BAYH. The question is what to do with the young person to try to rehabilitate him. Is there a definite need as far as the type of security and the type of physical safety that might be needed for that type of individual?

Sister MARY PAUL. Yes, I do believe, and have experience, that there is a small group of girls, a smaller group of girls than there are boys, who resort to violence, but most of the girls before the courts are youngsters who have injured themselves more than they have injured anyone else. There is a small group that is capable of violence and/or needs more secure detention, but they are very small groups and unless alternatives are created, then you have an indiscriminate kind of placement as you know. I would say that possibly, through my own knowledge, about 10 percent of the children who are ever detained at all, at the most 10 percent. It is a very, very small percentage of those girls, those who reach the court.

Senator BAYH. Do you feel that the court system, as it is now functioning, is the proper institution to make this judgment, or should we have a different type of institution that is concerned solely with these problems of community-related institutions? Or is the court functioning properly, as you see it now, given the minimal number of different choices available to it?

Sister MARY PAUL. I believe that the court has overextended its scope and its function, and has become too often a social agency.

Senator BAYH. Is there any alternative to it now, under the way things are structured?

Sister MARY PAUL. I do believe there is an alternative, that the alternatives have to be in the way of services. If there is a deficit of services, the court acts really in default of the community itself to provide appropriate services for children. And, unfortunately, poor children become labeled and then assigned to services on the basis of labels.

Senator BAYH. Excuse me. Suppose I am Mrs. Schaffer, if I might indulge in a bit of fantasy here, and my child runs away and I am concerned but unable to handle the problem. What alternatives are available to me?

Sister MARY PAUL. I think there are a few now, but Mrs. Schaffer, herself, I think, would have some ideas about what she would like to see available and which really are far less costly in every way. I think Mrs. Schaffer has had an experience where, by now, she herself has talked to me about the kind of alternatives that really can easily become available.

Senator BAYH. I am going to ask her, but if you can tell me how we can revise the present institutional structure. It seems to me that you have the community here and you have the court up here (indicating) with no intermediary institutional structure to which Mrs. Schaffer, or somebody else, can go. So, the only alternative is that big jump to the court.

What would you institute in the community?

Sister MARY PAUL. There is, in each community that I know and in each city that I know, a public organization specifically charged with provision of services for children who need care, and that would be, in New York City, the Bureau of Child Welfare, and in other cities the name is slightly different. This agency is publicly charged with the responsibility for the provision of social services, and what is really very necessary in each of the cities, including New York, is services for children and their families, not splitting child care so that child care becomes the equivalent to child placement. In New York City, the Bureau of Child Welfare could provide services that would be appropriate.

For instance, reception centers where counseling, where crises-intervention kinds of help could be provided, and where even a crash program could be used to tide over a child who is having a problem.

Small community groups, where families and youngsters can be supported in their problems and their conflicts with one another, substitute homes, substitute group-family homes, day care and day treatment have large potential in taking care of the needs of adolescents, because adolescents do turn to one another.

Certain kinds of peer activity and peer group structures could easily be provided with leadership by the public sector in the sense that they would really reward by funding only those projects which deserve to be funded, that there be a plan of programmed budgeting in which a State and city asks for what kind of services will be given to the children and will pay only for those services which are valid and not pay for the others.

Senator BAYH. How are Euphrasian, St. Helena's, and Project Outreach funded?

Sister MARY PAUL. Euphrasian Residence and St. Helena's are both residential programs, and, fortunately or unfortunately, they can be funded because care away from home can be funded in New York.

Those other supportive services that I mentioned have no source of funding at the present time.

Senator BAYH. Is that State, city, or Federal tax dollars?

Sister MARY PAUL. All, practically; because in New York City, it is a whole service system. It depends upon matching funds from State and Federal Government, and child care has come to be as care away from home which is a tragedy in my opinion. Families could, if they had even a portion of the funds allowed to them for institutional care, really care for their own children at home.

I think that Project Outreach was launched by a very happy circumstance of Federal funding under the Safe Streets Act in which it allowed States and cities to develop plans of appropriate services.

In our own case, having heard of the legislation, we submitted a plan for a preventive program to prevent delinquency by means of a day-treatment and day-care program, and we were able to get a grant for the first year of its operation in that way.

I would like to mention just here, before you have a long list of statistics on costs, that the cost for Project Outreach which delivers a great deal of service to children and their families in a very personal way is one-third of what it costs us to conduct a residential treatment; and, as I mentioned, our cost is one-third, sometimes, the cost of other organizations.

Senator BAYH. So, we are talking about \$64 a day at the juvenile detention facility and \$24 a day for residential treatment the way you are functioning?

Sister MARY PAUL. And \$8 at Project Outreach, which not only includes the children but their whole families.

Senator BAYH. These are the figures I asked for earlier and they are most helpful. Do you have any problem getting trained personnel or the kind of people you need?

Sister MARY PAUL. No. We have a very highly competently, trained staff of all graduates in psychiatric social work, psychologists with doctorates, psychiatrists duly appointed. We have not had difficulty, because I think, if you have a program which really addresses itself to the need and to which they feel they are making a valid contribution, I think it is easier. It is also easier if you are located in the city, and I think that agencies and institutions located in very rural areas do have considerable difficulty recruiting trained staff.

Senator BAYH. Thank you very much.

I would like to ask a few other questions.

Carolyn, why did you run away, can you remember?

Miss NORTON. Me?

Senator BAYH. Can you remember why you ran away?

Miss NORTON. Because my mother and I were not getting along, and the other reason was a sort of a personal reason.

Senator BAYH. All right.

Does your mother get along with your brother?

Miss NORTON. Yes.

Senator BAYH. What is he doing?

Miss NORTON. Right now, he is going to school, but he is going to some kind of a center. It is VOI, and he went, he was put in there, through the court, because of his conduct in school, and his reactions toward my mother. So, he was put in this center here in order to better himself.

And in a little while, a couple of months, he is going to be put in there and live there.

Senator BAYH. Is he living at home now?

Miss NORTON. Yes.

Senator BAYH. I suppose those VOI's are vocational-type programs?

Miss NORTON. Yes.

Senator BAYH. How about your sister, is she living at home?

Miss NORTON. Yes.

Senator BAYH. Is she going to school, public school?

Miss NORTON. Yes.

Senator BAYH. How does your mother support herself? Does she work? Or how does she provide for the family?

Miss NORTON. Well, my mother and my father are divorced—I mean separated, and he gives her \$52 a week. My mother was working, but now she is on a disability, because she was in the hospital, and she has a disability and the support.

Senator BAYH. Now that you have had the experience at Euphrasian, are you back at home now?

Miss NORTON. No. For right now, I am happy with being at Euphrasian, because it has helped me a lot, and I believe it kind of, you know, helps my mother know where she was wrong and, what I thought I needed, you know, what she could give me or what I thought I wanted, and from there I figure that since Euphrasian has helped me so much that I am going to live in Peekskill, N.Y., for a year. That is a boarding school, and I am going there for a year to finish my training.

Senator BAYH. What year school will you be in at Peekskill?

Miss NORTON. Tenth year.

Senator BAYH. You will be in the 10th year there?

Miss NORTON. Yes.

Senator BAYH. What are your favorite kinds of study?

Miss NORTON. Math.

Senator BAYH. Math?

Miss NORTON. Yes.

Senator BAYH. What do you want to do when you get out of high school?

Miss NORTON. I want to go to school, again, for 2 years.

Senator BAYH. Have you talked to your mother, now? Does she come to see you? Do you have any relationship with her?

Miss NORTON. Yes, she comes to visit me every Sunday and sometimes during the week.

Senator BAYH. Jill, you referred to physical violence. What kind of physical violence?

Miss SCHAFFER. Hitting.

Senator BAYH. One girl hitting another?

Miss SCHAFFER. Yes. If you are not friendly with some of the girls, then they start threatening you, and then they start beating you up and everything.

Senator BAYH. Do any of the counselors or guards beat the girls?

Miss SCHAFFER. Yes, they do. A lot of times, the girls will tell the counselors that others girls are bothering them and the counselors will hit, you know, the girl.

Senator BAYH. Why did you run away?

Miss SCHAFFER. I guess I could not really say for sure.

Senator BAYH. Are you living at home now?

Miss SCHAFFER. Now, I am at St. Helena's Residence.

Senator BAYH. How long are you going to be there?

Miss SCHAFFER. Well, I figure I will stay there until I finish high school, and then start college, and then I will move back home.

Senator BAYH. How often do you see your mother while you are at St. Helena's?

Miss SCHAFFER. What?

Senator BAYH. How often do you see your mother while you are at St. Helena's?

Miss SCHAFFER. Whenever I want to. I usually go home every weekend or every two weekends, whenever I want to.

Senator BAYH. What do you want to do with your life?

Miss SCHAFFER. Well, right now I want to go to school, you know; and after I finish high school, I want to go to college, and go into psychology.

Senator BAYH. Mrs. Schaffer, how was Jill committed?

Did the court commit her, or did you ask the court to commit her?

Mrs. SCHAFFER. Well, it came about that I did not know how to keep Jill down on the farm, really, and I called the police station, and they told me the only thing I could do was to have her apprehended which was to get a warrant out for her arrest through the courts, and this is exactly what I did, not knowing what I was going to get myself into. And we got a warrant out for Jill to have her apprehended.

Senator BAYH. That is while she was away?

You did not know where she was?

Mrs. SCHAFFER. No; I did not know where she was. I had no idea where she was, and we did have her apprehended, and she came home, and the judge the first time said: "OK, go home, Jill," and Jill came home, and Jill ran away again, and it just did not work out, and I went back to the court, because I had nowhere else to go. This is where they put her, in Spofford.

Senator BAYH. The second time they committed her to the juvenile center?

Mrs. SCHAFFER. Yes, yes; and they recommended no other source.

Senator BAYH. Did you agree with that assessment at the time?

Mrs. SCHAFFER. No. I was very much against it.

Senator BAYH. At the time they committed her, you were against it?

Mrs. SCHAFFER. Yes; but I did not know what else to do. I did not know where to go.

Senator BAYH. Sometimes we have parents who are in favor of their children being committed and sometimes we do not, and I just wondered.

Mrs. SCHAFFER. I was just anxious to get Jill off the streets so I could think and have time to look for places and investigate situations where they could help me.

Senator BAYH. Did Jill have a lawyer at the time?

Mrs. SCHAFFER. Yes. They recommended an attorney. I saw the attorney exactly for 2 minutes, and he told me, just give your name and answer the questions, and that was it. I have never seen the attorney after that, and the court hearing was so quick that I really did not know what was happening. When we walked in, he just asked Jill why she ran away, and Jill said, "Well, I am not getting along at home." And he said, "Well, what do you want to do with Jill?" And I said that I did not know. I said, "I do not know where to go." And with that, he said, "Well, detention hall," and that was it; very quickly.

Senator BAYH. Do you feel that if Jill had had the opportunity to go to St. Helena's earlier, that this might have prevented the running away?

Mrs. SCHAFFER. Well, I think that Jill would have run away the first time, but thereafter I do not think she would have, because she did run away about four or five times thereafter, after that first court hearing when I had her apprehended.

I think the first time she ran away, if she were connected with St. Helena's or Euphrasian, I do not think she would have again after that.

Senator BAYH. You would have taken advantage of that type of care?

Mrs. SCHAFFER. Absolutely.

Senator BAYH. How did Jill get out of the juvenile detention center? Did you have her removed?

Mrs. SCHAFFER. Yes. I became very angry and upset, and everytime I saw Jill I could not stand the way she looked. She cried; she begged me, "Please"—to do something or she would just go out of her mind, and without an appointment, I just went up to the court where the probation officer was, and I did not even know who she was, but I inquired, and I said to her, "You must help me; you must do something, because I want Jill out of there, because it is no place for a girl who just ran away. She committed no crime except to run away."

She, in turn, called Sister Mary Paul, and then from there the ball started rolling and things started to happen, and she went to Euphrasian, and from Euphrasian to Project Outreach. She came home for a while, and we did not hit it off so great, and then Jill decided on her own, she was asked if she wanted to go to St. Helena's or back to Euphrasian, and she said "Yes," and this is where Jill has been functioning and staying.

Senator BAYH. Do you feel that that is an acceptable relationship the way she has an opportunity now to come home?

Mr. SCHAFFER. She is going to school, right.

Senator BAYH. Carolyn, how did you get out of juvenile center?

Miss NORTON. I complained to my social worker, I told her, you know, like it was, some funny girls in my dorm, and like they would always pick on me, because, like they knew that I was, you know, a straight girl. That was the term they used for a girl, you know, that did not indulge in such things, and like they knew, like I was scared of them, and one night they tried to take advantage of me. I had three girls trying to turn on me, and I went to my social worker, and I told her I wanted to leave. So, she moved my court date up, you know, before I was supposed to have went the 15th, and they moved it up a week and a half, in time, and I went there, and they told me that I would have to wait a couple of more days before I could be put in Euphrasian. So, I went back there for another week, and I just kept complaining and kept complaining, and I finally saw my probation officer and my lawyer, and I told them that, you know, if I stayed at juvenile center any longer, I told them, I said: "Well, if I do get the chance, I am going to run away," because I did not think that I belonged in there. So, they kept on working and they finally got me in Euphrasian.

Senator BAYH. Well, thank you very much.

I appreciate all of you taking your time to let us have your thoughts.

Sister, if we could have some idea of the atypicalness of the service that you render. In other words, what would be necessary to make the type of experience that is now available to these two young ladies available to all of those who might be able to profit from it?

Sister MARY PAUL. I will be glad to.

Senator BAYH. Thank you very much.

Thank all of you.

(The following documents submitted by Sister Mary Paul were marked "Exhibits Nos. 9 through 12" and are as follows:)

#### Exhibit No. 9

THE NEW YORK STATE TRAINING SCHOOL SYSTEM—FINDINGS AND RECOMMENDATIONS FROM CITIZENS' COMMITTEE FOR CHILDREN OF NEW YORK, INC.

#### INTRODUCTORY NOTE

The Citizens' Committee for Children has long been an advocate of better community and residential resources for children in trouble. Over the years we have watched what happens to children, and we have made many recommendations. We have worked constantly for a network of children's services, planned and executed to fulfill the needs of every child whose home and family have failed him.

We shall continue to work for that longer-range goal, but the failure to reach it does not excuse us from our duty to find out what is happening to children using the services that exist today.

The New York State Training Schools represent one of those services. The training school system under the New York State Department of Social Services is trying to help thousands of children. It is not succeeding. As a spokesman for children, we must say so.

#### ABOUT THE TASK FORCE ON TRAINING SCHOOLS

Because Citizens' Committee for Children heard many reports about the maltreatment of children in the training schools, and because of the mounting evidences that the State had failed to help children in trouble adequately, we established a Task Force on Training Schools early in 1969.

The Task Force included individuals with all kinds of backgrounds. Most of the members were already knowledgeable about state services, some were experts on training schools, others were completely free of earlier impressions.

Most of them were members of the Citizens' Committee for Children, some were not.

We asked them to take a look at the Training School System to find out what is happening to children in training schools, and to tell us the truth, as they saw it. Every training school, including those called "centers" and "schools" was visited. This short report is the result of our study. We thank the members of the Task Force on Training Schools for it:

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|---|--|
| *Mrs. Howland Davis, Chairman, Task Force on Training Schools, Board Member, Citizens' Committee for Children.  | tal.   |
| *Dr. James L. Outtis, Assistant Dean and Associate Professor of Psychiatry, Cornell University Medical College. | Miss Margaret A. Losty, Former Associate Director of Handicapped Children's Program in the New York City Department of Health. |
| *Dr. Adele Franklin, Director Emeritus of All Day Neighborhood Schools.   | *Dr. Abraham Lurie, Director, Department of Social Work, Hillside Hospital.  |
| *Mrs. Thomas B. Hess, Vice President of Citizens' Committee for Children.                                       | Sister Mary Paul, Director of Social Services, Euphrasian Residence.   |
| *Mr. Jacob L. Isaacs, Consultant, Judicial Conference.  | Dr. Esther Rothman, Principal of the Livingston School (public school for emotionally disturbed girls).                        |
| *Mr. Charles H. King, Associate Administrator, Community Mental Health Center, Metropolitan Hospi-              | *Mrs. John A. Willis, Director of Study of Non-Delinquent Children, Family Court, New York City.                               |
|   | Staff: Miss Leah Marks, Attorney.  |

#### I. GENERAL DESCRIPTION OF NEW YORK STATE TRAINING SCHOOLS

There are in New York State 14 residential institutions for children in trouble. The New York State Department of Social Services has full responsibility for the institutions, which are usually called New York State Training Schools. A list of the training schools is appended to this report.

##### A. How children are placed

Training schools care only for those youngsters who have been placed in them by the Family Court or by the State Narcotics Control Commission. Every child placed in a State Training School by a Family Court judge must be accepted by the New York State Training School System. Generally, the institutions are used as a placement of last resort—after the Family Court has attempted to place the child in voluntary institutions and "treatment centers," which are usually presumed to be but are not necessarily superior.

##### B. Age of children in training schools

Because the New York State Family Court has jurisdiction only over boys up to 16 years old and girls up to 18, most of the children in the training schools are young teenagers and many are younger. The youngest child in a training school at the time of our recent visits was seven years old.

##### C. Numbers of children in training schools

The institutions vary in the number of youngsters they care for at any one time, in the quality of staff and in the kind of programs attempted. There are four training schools with no more than 50 children in them, but most of them are larger. The largest number in any one school during our visits was 366, and a few were able to house more.

The trend in the Training School System is to recognize that the small training school is probably more likely to help the youngster, but to plan enlargement of many training schools.

It is estimated that 565 girls and 1,824 boys will have been in the New York State Training Schools during 1969. Almost all of them will stay for from six months to a year.

##### D. Location of the training schools

The training schools are most likely to be located in parts of the state where land happens to be available or where state-operated institutions are wanted for an economically depressed area.

They do not seem to be located in accordance with the needs of the youngsters who are sent to them or the needs of the institutions for qualified staff.

\*Denotes member of Citizens' Committee for Children.

#### II. FINDINGS ABOUT EVERY TRAINING SCHOOL

Each of the training schools is unique to some extent. The quality and attitudes of various staff members as well as the sizes of the individual institutions make a substantial difference in what happens to the children in them. As a result, a few of the facilities may be good for some of the children in them.

Nonetheless, despite the efforts of some staff members, the expression of a "treatment" philosophy, and the superiority of a few training schools to the others, the needed services are not available in any of them. We find the following facts, true of all training schools, of greatest importance in reaching our conclusions and recommendations.

##### A. General program

1. Care and funds are lavished on buildings, with too little remaining for the care of the children in those buildings.

2. Few staff members have either the background needed to work with children in trouble or adequate in-service training to enable them to do the job most of them would like to do.

3. Children are largely "doing time" in training schools in the sense that most do not have substantial educational or treatment experiences.

4. A large percentage of children in the training schools will get into trouble again and be returned either to the training school system or to correctional institutions for youths or adults.

5. Staff wants to increase the average length of stay in order to have more opportunity to rehabilitate the children. Longer stays in these same programs, however, could not be expected to produce better results.

6. A conservative estimate of the average cost of keeping a child in a training school is \$8,000 per year. Some spend as much as \$11,000 per year.

##### B. Effectiveness in helping prepare for return to the community

1. Although most of the children sent to training schools are from the state's largest cities, the schools are in lonely countryside physically and environmentally far from the communities to which the youngsters must return.

2. Many children are in training schools because of insufficient community services to identify and meet their needs. But liaison between the training schools and the community is weak.

3. Even though visits are permitted, most children are in training schools too far away from their families to receive visits.

4. After-care services are inadequate to prepare the child and his family for his return to the community and to help them after he returns.

##### C. Educational services

1. The child's right to an education is not observed by the training schools. Many children do not receive even the minimal educational services to which they are entitled by law.

2. Most children receiving required educational services do not receive an education adequate to their needs.

##### D. Health and mental health services

1. Health services are limited, and health records are poor.

2. Many children are on tranquilizers without appropriate medical care.

3. Although the drug problem is becoming greater all the time, there is no special capacity or plan to meet the problem.

4. There are only token mental health services, even in those training schools established to help the "most disturbed" children.

#### III. FINDINGS WHICH APPLY TO ALMOST ALL TRAINING SCHOOLS

The following findings, significant in deciding what action must be taken, are true of most of the training schools.

##### A. General program

1. Solitary confinement is used (under euphemisms, of course) in almost every training school. Children are often locked in a stripped room for days.

2. Few recreation programs exist, and watching television is a substitute for activities requiring more staff.

3. The staffs do not seem to have the kind of leadership in the individual training school or in the New York State Department of Social Services which encourages and enables development of good programs.

*B. Effectiveness in helping prepare for return to the community*

1. A child's behavior within the institution is of much greater concern, and receives more emphasis than does preparation of that child for his return to the community.
2. The training school is a confinement operation which assumes that children compelled to act properly through the control of their overt behavior will eventually become good citizens.

*C. Educational services*

1. The educational programs are token affairs of little use.
2. The educational programs are not coordinated with the schools to which the children should return, making return to them difficult.
3. A few children do go to regular public schools while in training schools, but many more are capable of attending regular schools than actually do.
4. Title I funds are often made available for special summer educational programs, but few attempt to relate these special programs to ones in operation during the regular school year.

IV. RECOMMENDATIONS FOR CHANGE

Although we were not able to allay our suspicions that training schools are worse than they seem, our recommendations are based only on what we know to be true, on a few recommendations Citizens' Committee for Children has made through its past experiences, and on some fundamental beliefs we have about children in trouble.

For example, we believe that New York State must be brave and imaginative enough to help children while they live within or very close to their own communities. We may use foster homes, day centers, small residences, community mental health services, or other means.

But the day must end when we ship children far away from their homes in the hope that time and distance will cure all ills. The theory has proved wrong, and children must not go on suffering because the theory was once developed. We know now that pulling a child out of his own environment is most likely to be harmful and destructive although there may often be good reason to have him live away from his own home.

Another of our beliefs is that every child in a training school desperately needs the best possible educational services obtainable. Every child has a right to an education. The failure of the training schools even to make much attempt is unforgivable.

We also believe that no child should be forced to be alone, banished to a locked room. Solitary confinement is simply not an acceptable means of learning to cope in society. It can be only an act of cruel punishment, never a help. A child may wish to be alone, and every child should have that opportunity. Solitary confinement is not that opportunity.

We also believe that any child in a large institution is condemned to be a faceless individual surrounded by a staff unable to help a faceless child, however real the desire. If children in trouble who are entrusted to the care of the State are to be helped to develop pride, an ability to make decisions, and started on a road to a more satisfying and lawful life, the programs of care must undergo immediate change.

*A. Action needed by the State department of social services to improve existing training schools*

1. General Program:
  - a. The larger training schools should be closed or converted to other uses, such as private boarding schools.
  - b. The remaining training schools must not be expanded.
  - c. Future planning should be for the establishment of residential and non-residential services only in the communities that they serve. These services should be established swiftly.
  - d. Orders should be given immediately to eliminate the use of solitary confinement, whatever the pretext for its use.
  - e. A placement reception center program should be planned to serve state and voluntary institutions so that children will not remain in detention after the Family Court has decided upon placement.
  - f. The placement reception center program should include all kinds of children and the right to use all institutions funded with public funds,

public or voluntary, so that children are finally placed in accordance with their needs.

2. Educational Services:

- a. Strong educational programs must be an integral part of every training school program.
- b. All youngsters who are capable of attending a regular public school in the community should be enrolled in that community school.

3. Coordination with Other Departments:

- a. The State Department of Social Services must develop plans with the State Departments of Education, Health and Mental Hygiene for integrating the services in the training schools into over-all community and state education, health, and mental health services.

*B. Action needed by the State legislature to improve training schools*

1. General Program:

- a. The State Legislature must not provide any more money for the physical expansion of any training schools.
- b. The State Legislature must not provide any more money for adding even small schools in isolated areas if the proposed schools are larger than needed for the use of their surrounding community.
- c. Every training school facility, whether it be called a "center" or a "school" or by some other term, should have an appointed inspection team of persons not connected with the State Department of Social Services. The team should be required to inspect the training school regularly, without advance warning, and to make public its findings, and its positive recommendations.
- d. The State Legislature must place upon the State Government complete financial responsibility for all new community services established by the State Department of Social Services throughout the state.
- e. The State Legislature should enable low-income families to receive funds for the purpose of visiting their children who are in training schools or who are in any other public or private residential facility in the State of New York.

2. Protecting the Legal Rights of Children in Training Schools:

- a. The State should guarantee the right to legal advisors for children in training schools. This could be done by assigning special staff to the court system, with the specific responsibility of visiting the training schools and determining the legal needs of those placed there by regular review of each child's records and regular discussion with each child.
- b. A child who has run away from any training school should be returned only on order of a judge after a Family Court hearing at which the reason for his running away is a subject for consideration.
- c. Training schools should be denied permission to suspend a child from the educational programs for more than five days during any placement period without a Family Court hearing.
- d. Permission to place children in training schools should be withdrawn from the State Narcotics Control Commission unless appropriate services for their care are established and maintained.

3. Directing Cooperation of Other State Departments:

- a. Regular public schools near the training schools should be required to accept children while they are in training school placement if the child can benefit from the regular educational program in the community.
- b. The State Legislature should direct the State Education Department to take responsibility for educational services in the training schools, directing that special programs be instituted which are designed to meet the educational needs of these children.
- c. The State Legislature should direct the State Department of Mental Hygiene to take responsibility for developing and implementing sound mental health services for children in the training schools, and be responsible for the programs, staffs, supervision and consultation.
- d. The State Legislature should direct the State Department of Health to take responsibility for developing and implementing sound health services for children in the training schools, and be responsible for the programs, staffs, supervision and consultation.

*C. Action needed by the Governor to improve training schools*

The Governor should appoint a task force of private citizens to oversee the implementation of this report's recommendations, and to provide an exact timetable under which they shall be carried out.

V. SUMMARY COMMENTS

For most of the boys and girls in training schools, the training school is an enclosure preventing their getting into trouble so long as they stay in it. There are a few exceptions, but they are not discussed in detail here because they do not excuse the picture as a whole, nor are those exceptions near perfection. However, it should be noted that a few training schools have developed programs which attempt to rehabilitate some children in trouble. At the very least, youngsters in those few will not be harmed by their experience.

Most children in the training schools are there because they do not seem to have a great respect for the law, for order, or for the people who have legal control over them. These children are not helped by being in training schools which do not grant them their legal right to an education or fulfill the State Department of Social Services' obligation to care for these children as though it were a good parent, not the kind of parent most of these children have had in the past.

We can expect these youngsters to emerge with respect for law and order only if we show them the respect and care that law and common sense require. This is not the case now, and what is the case now cannot be permitted to continue.

APPENDIX—LIST OF NEW YORK STATE TRAINING SCHOOLS

Name	Location	Capacity
State Agricultural & Industrial School.....	Industry (near Rochester).....	450
Warwick State Training School for Boys.....	Warwick (Orange County).....	400
Otisville State Training School for Boys.....	Otisville (Orange County).....	450
New Hampton State Training School for Boys.....	New Hampton (Orange County).....	326
Highland Training School for Children.....	Highland (near Poughkeepsie).....	250
Goshen Annex for Boys.....	Goshen (Orange County).....	100
Tryon School for Boys.....	Johnstown (foothills of the Adirondacks).....	150
South Kortright Branch of the Boys' Training Schools.....	South Kortright (Delaware County).....	50
Overbrook Center for Children.....	Red Hook (Dutchess County).....	22
New York State Training School for Girls.....	Hudson (Columbia County).....	305
Troy Branch of the Girls' Training School.....	Wynantskill (near Troy).....	80
Brookwood Annex.....	Claverack (near Hudson).....	60
South Lansing School for Girls.....	South Lansing (near Ithaca).....	50
Amenia Center for Girls.....	Amenia (Dutchess County).....	20

EXHIBIT No. 10

A DREAM DEFERRED—CHILD WELFARE IN NEW YORK CITY/CITIZENS' COMMITTEE FOR CHILDREN OF NEW YORK, INC. 1971

PART I—THE 25-YEAR CHILD WELFARE CRISIS IN NEW YORK CITY

July and August 1970 brought another in the almost endless parade of children's shelter crises to our City. This latest crisis did not arrive unannounced. The City and the State had been made fully aware of the steady deterioration of child care services by innumerable reports and recommendations, from both official and unofficial sources.

Citizens' Committee for Children has been in the midst of this continuing child care crisis since our beginning over twenty-five years ago. We have seen the inadequate public welfare system fail families, year after year. It provides neither the wide and intensive spectrum of services to the vulnerable, nor the cash grants necessary to support a sound family structure. As the City and State ignored the warning that the number of abused, abandoned and neglected children would thus inevitably increase, the population in the City's shelters rose to incredible peaks, only to explode into a crisis. Not just once. But again and yet again. The result has always been overcrowding, crisis, outcry, census brought down through emergency placement programs. Often the response has been the acquisition of still another deteriorating building to relieve overcrowding at Children's Center. Often this "new" facility becomes overcrowded the day it is opened. Inevitably when the glare of publicity and public outrage dims, an uneasy calm settles until the next time.

Citizens' Committee insists that it is time to end this cycle. As we re-examine New York's system of child care, we must concur that we have all been its victims, and must no longer be beguiled into handling problems without facing the problem. We are presenting here a brief chronological account of twenty-five years of child welfare crisis to show that another shelter or even ten more

shelters will not provide the vulnerable children of New York City with the child welfare services they need.

1946—819 children were awaiting placement. 203 were babies under two years of age, half of whom were vegetating on well-baby wards in hospitals. CCC insisted that continuation of this emergency measure destroyed these infants by depriving them of the possibility of normal development. The Commissioner of Welfare, noting that most of these babies were black, told the voluntary agencies that unless they recruited more foster homes, the City might be forced to open a congregate care shelter for babies.

The Mayor appointed a Commission on the Temporary Care of Children charged with central coordination and planning, and created the Mayor's Committee on Child Care with responsibility for blueprinting an adequate foster care program.

1947—The City took over operation of the Children's Center from the Association for the Temporary Care of Children, in a run-down old settlement house built by August Heckscher in 1921. This was the beginning of the predictable crises to follow as overcrowding and the need for repairs exhausted the building, and all who have worked and lived there.

1948—Citizens' Committee reported to the New York City Commission for the Temporary Care of Children that Children's Center was facing grave problems in budget, staff, intake and administration, that the immediate need for repairs to the building was crucial to its survival and the welfare of the children. 100 well babies were still living in hospitals.

1949—The Department of Welfare set up its own Division of Foster Home Care to find homes for babies whom voluntary agencies were failing to place. This was a major departure in facing public responsibility. A year later, follow-up by CCC in municipal hospitals finally showed a decrease in the number of well babies in pediatric wards.

1950—The Mayor's Committee on Child Care and the Commission on Temporary Care of Children were merged to form the Commission for the Foster Care of Children. In practice, this Commission became the instrument through which voluntary agencies have sought to increase reimbursement rates for their services. In times of crisis, it has always assumed a low profile.

1951—A survey by Citizens' Committee for Children disclosed that 10 of 14 Protestant and non-sectarian agencies accepting public funds had de-facto color quotas. We led the efforts to achieve passage of the Sharkey-Brown-Isaacs Bill which forbade discrimination in child-caring agencies receiving public funds.

1952—Sharkey-Brown-Isaacs Bill was passed by the City Council and Board of Estimate and signed by the Mayor.

1954—The number of children awaiting placement rose to 1,134. 289 were babies under two years. Daily census at the Children's Center reached 370, 56 over capacity. Renovations deemed crucial in 1947 were still not begun.

The Board of Estimate approved increased boarding rates for babies at the urging of the voluntary agencies working with the Foster Care Commission.

1955—Children awaiting placement reached 1,140. Of this number, 297 were babies. Daily census at Children's Center reached 421. CCC pressed for a long-term public facility to care for emotionally disturbed children who did not fit into existing group programs but were not so disturbed as to warrant placement in State psychiatric hospitals. Today, fifteen years later, such a facility does not exist.

1956—Children's Center daily census reached 435. Children awaiting placement totalled 1,322. 385 were babies. Hillcrest, in Bedford Hills, New York, was opened as an "interim care" facility to relieve overcrowding at Children's Center.

1957—The number of children awaiting placement reached 1,450. 357 were babies. Daily census at Children's Center reached 478. The number of well babies on pediatric wards continued over 100. The Department of Welfare started its own Adoption Service. Citizens' Committee began a survey of babies in hospitals on "well baby wards." We asked that emphasis be placed on keeping families together, that trained workers be placed in welfare centers to provide service to vulnerable families.

1958—1,614 children were awaiting placement. 380 were babies. Daily census at Children's Center reached 514. Renovations were not yet begun.

To relieve overcrowding at Children's Center, Callagy Hall was opened as a shelter for school age neglected and dependent girls. This was not a new facility but had served as a residence for young Irish immigrant girls. Overcrowding at Callagy quickly followed its opening; 170 girls were crammed into a facility with a capacity of 129. Girls slept month after month on canvas cots crowded into the auditorium.

1959—By the end of the fifties, the number of children awaiting placement reached and exceeded 2,000. Nearly 400 were babies. At the same time, the overcrowding in detention facilities and State Training School became critical. Children's Court was jammed, the Bureau of Child Guidance could handle only a small number of the referrals from schools for guidance and psychotherapy.

Citizens' Committee issued "*Planning and Coordination of Services for Children and Youth in New York City.*" We called for a cabinet composed of heads of all City departments dealing with children, to coordinate operations and service planning, and a planning commission, consisting of highly respected and qualified citizens, which would formulate basic policy, establish priorities and develop long range programs to solve the problems of New York's 2 million children.

That year, New York Founding Hospital, the only hospital providing emergency shelter care for infants in New York City became so crowded that for the first time in history it was forced to close intake. The Department of Welfare pulled out its old plans for a congregate care facility for infants and started negotiations with Staten Island Hospital. Citizens' Committee vigorously opposed this step on the grounds that it would be a further impediment to finding homes for the babies. No such facility was opened.

The Anderson-Passanante Bill was passed, liberalizing the definition of the permanently neglected child and making adoption a real possibility—we thought—for many children in long-term foster care whose parents had not visited them or otherwise demonstrated any tangible interest in their well-being. But, in the last 12 years, the permanent neglect provision has been used only sporadically.

Citizens' Committee persuaded the Housing Authority to permit suitable families who lived in projects to accept foster children. The Housing Authority agreed not to include foster care board rates in the family's income eligibility determination.

At the end of the 1950's, after 10 years of promises—and funds appropriated in annual budgets but never spent—the crucial repairs to Children's Center were still not begun. The Department of Public Works and the contractors were inextricably bound in red tape. The Department of Welfare was caught in the middle.

Citizens' Committee again recommended that special counseling units be established in the Bureau of Public Assistance to give immediate and intensive service to troubled families to keep them together and to slow down the flow of children into placement. It also recommended expansion of homemaker service by the Department of Welfare, to include development of emergency 24-hour homemaker service to prevent children from being dispersed to shelters even overnight. Citizens' Committee also called for publicly sponsored group homes for adolescents.

At the end of 1959, a building in Far Rockaway was bought to relieve overcrowding at Callagy Hall and serve as an annex for girls aged six to eighteen. Citizens' Committee was instrumental in getting the Board of Estimate to approve the purchase, just before Christmas. When it became clear that red tape would delay furniture and equipment for the Annex at least until spring, we obtained a foundation grant, bought the furniture and had it delivered between Christmas and New Years Day. Callagy Hall Annex opened in January 1960.

1960—Citizens' Committee published "Babies Who Wait," a report of our survey of well babies living on hospital pediatric wards. The survey triggered a temporary flurry of activity and the boarder-baby census in the hospitals dropped. But the report and its recommendations joined others in the archives.

1961—Children's Center's official capacity was increased from 323 to 379 by assigning classrooms for use as dormitories. In April, the daily census reached 556. There were 2,302 admissions to the Center—1,000 more than in 1950. The renovations deemed crucial in 1947 were still not begun.

As predicted, the number of boarder babies in municipal and voluntary hospitals climbed again and reached an all-time high of 162. The Department of Welfare launched a Foster Home Demonstration Project to place babies in temporary care in the homes of selected public assistance recipients. Citizens' Committee helped obtain foundation funds to start this project which eventually became part of the program of the BCW. Due to organizational changes within the Bureau, the momentum was not maintained. Nevertheless it can be said that this project helped establish a new concept of the "Welfare Mother." She emerged as not merely a recipient but as a potential contributor of services for vulnerable

children and families in such programs as Head Start, Family Day Care, Neighborhood Health Services and wherever paraprofessionals are now being trained and utilized.

CCC published "Protecting New York City's Children," which led to the 1964 State law establishing the Children's Protective Services project in the Department of Welfare.

1962—Citizens' Committee spearheaded a Department of Welfare crash homefinding campaign, recruiting volunteers to man telephones and to make initial home-screening visits. Trained volunteers were supplied by CCC and the Junior League. The result: The number of babies left waiting in hospitals was reduced to its lowest in sixteen years. This demonstration of the effective use of volunteers was reported but unfortunately, the reports were filed.

There were still over 2,000 children awaiting placement, 150 of them babies. Daily census at Children's Center peaked at 614. The renovations deemed crucial in 1947 were still not begun. A new approach was suggested: that renovations be done on half of the building at a time; keeping the nursery children (aged 2-6) in residence and moving the approximately 350 school-age boys to another temporary facility. In this way, it was argued, when and if such a facility were found, the renovation of Children's Center might be completed in two or three years. Architects' plans were completed and filed. The search for this substitute facility see-sawed erratically over the next six years.

1963—Citizens' Committee urged that child welfare services be decentralized and that an experimental unit at Kingsbridge Welfare Center include a variety of local services.

Demonstrating that as quickly as new shelters and institutions were opened, they became overcrowded, Citizens' Committee voiced strong opposition to the Department of Welfare's request for \$9 million in the 1963-64 capital budget for 2 cottage-type institutions for 200 children each. As alternatives to large institutions, Citizens' Committee proposed an expanded program for establishing small neighborhood-based group homes, small cottage-type facilities and expansion of preventive measures such as 24-hour homemaker service and greatly expanded and extended day care facilities.

1964—A group of Citizens' Committee visitors found that while the census at Children's Center stood at 608, Hillcrest had 13 vacancies. A quick survey revealed that there were several hundred empty beds in other institutions as well. Three Catholic institutions reported over 160 vacancies. The voluntary agencies complained that the referral process was bogged down in bureaucratic red tape. The Bureau of Child Welfare countered that the agencies had no openings for the children who needed placement. In any case: while there were hundreds of vacancies in voluntary institutions, the situation at Children's Center reached bizarre proportions during the summer, as children slept in the halls to avoid leaking ceilings in the dormitories. The Director of Children's Center showed Citizens' Committee visitors a sheaf of repair requests—44 in all by Summer, 1964—for leaks in the kitchen, holes in the 7th floor play roof, stoppage in a wall, stoppage in a bathroom, the gymnasium ceiling buckling because of leakage from roof tiles, the nursery ceiling and wall buckling; the basement flooded two to three feet whenever it rained because its drains were clogged with tar used to effect other repairs (it took over a year to define and remove even this one problem).

Citizens' Committee now published a newsletter, "Child Care in New York City—Or Who's In Charge Here." It declared that the Department of Welfare was accountable for the care of these children and demanded that it must not only set standards for the services to be purchased, but must determine which services are needed.

In December, 1964, Citizens' Committee's Child Care Sub-Committee met with the Commissioner of Welfare and the Mayor's Advisory Committee to the Department of Welfare and worked out a program designed to deal with the immediate crisis and provide a foundation for the correction of longstanding inadequacies. Among the agreements reached were: the placement of caseworkers in the shelters, so that a worker would know the child he must try to place and weekly reporting of all vacancies by voluntary agencies.

1965—Early in January, the Department of Welfare was crippled by a strike of most of its 8,500 caseworkers and counsellors. Because of the strike, voluntary agencies agreed to accept children from shelters without diagnostic study. Of 260 children who moved out on this basis, 166 remained with the agencies. Those who were returned "did not fit into the program," many of them only because their religion was different from the affiliation of the voluntary agency.

Citizens' Committee called for action by the State, successfully documented the need for creation of a Joint Legislative Committee on Child Care Needs to fix the State's responsibility, and worked intensively to mobilize support for such a resolution, which passed both houses of the Legislature. The Joint Legislative Committee was established, lived for two years, held hearings, introduced legislation, published a report, "A Comprehensive Blueprint for Child Welfare Services in New York State," but accomplished very little.

1966—A new City administration brought a new Welfare Commissioner who promised to make the building of a new Children's Center for 250 neglected or dependent children his first priority. This facility would be a congregate care facility for boys. Renovation of Children's Center was still not begun.

1967-1968—Under the leadership of Mrs. Richard Bernhard, a special committee of the Community Council of Greater New York published "Paths to Child Placement," the report of a study of family situations during the year preceding foster care placement. It was clear that in many of these cases, placement, and eventual family disintegration, could have been prevented if emergency services had been available. Mrs. Bernhard and her co-workers were instrumental in helping the BCW to establish the After-Hours, Emergency Homemaker Service which succeeded in keeping young children at home when a mother's sudden illness might otherwise have necessitated emergency shelter placement.

For the first time, there was a downward trend in the census at the shelters, due in part to a combination of the After-Hours, Emergency Homemaker program and the growth of neighborhood self-help services under War on Poverty. But renovations at Children's Center were not begun.

1969—The tragic death of Roxanne Felumero at the hands of her step-father brought the plight of the abused child to the attention of the public. The Family Court, at the recommendation of a voluntary agency had agreed that Roxanne be removed from her foster home and returned to her mother and stepfather. Her stepfather killed her. In the public outcry and investigation that followed, shocked judges and social agencies now referred every child to a shelter when there was the slightest suspicion of abuse. This caused the population of the shelters to swell to bursting.

The congregate care facility for boys, promised by the Welfare Commissioner in 1966, was budgeted for \$3,825,000 in the 1968-69 capital budget. For 1969-70 it was budgeted at \$4,313,000. Actual plans for such a facility did not even exist on paper. The renovation of Children's Center was on paper—and stayed there.

#### THE CRISIS OF 1970

The number of children awaiting long-term placement edged closer to the 3,000 mark, as the daily census at Children's Center again exceeded 600 over a period of several months. 56 boys were sleeping in the reception area. Since 1969, the center had lost half its casework staff due to a job freeze. Placements were taking longer and longer. In the Spring, employees of the BCW sent a telegram alerting interested agencies, such as Citizens' Committee, to the new crisis. In response to an emergency plea from the Commissioner of Social Services, ten voluntary agencies agreed to accept 60 children. The Council of Voluntary Child Care Agencies urgently requested the Commissioner to ask the State for space at the Bronx State Hospital to deal with the overcrowding. Citizens' Committee vigorously objected to placing the shelter children in a psychiatric hospital where space was urgently needed for mentally ill children, but was not being used because of a State job freeze.

By Summer, the daily census at Children's Center had reached 619, including 247, aged 2-6. About 30 of the 293 school age boys were teenage, court-referred PINS (Persons In Need of Supervision), a category of children who had not, heretofore, been placed in children's shelters.

Then, early in July, it was announced in the press that from now on the Department of Social Services would assume responsibility for long-term placement as well as shelter care of all abused and neglected children who come before the Family Court.

On July 8th, Citizens' Committee wrote to warn Mayor Lindsay that the City was ". . . in the midst of a child care crisis of the gravest proportions, yet so recurrent that officialdom and citizenry alike tend to shrug their shoulders hopelessly."

The crisis would worsen, we said, when "the Department of Social Services assumes—as it should assume—responsibility for the placement of abused and neglected children who come before the Family Court."

Citizens' Committee recommended several steps that, if taken immediately, would *not solve* the problem but would provide alleviation in days or weeks, not years. We urged that the following measures be adopted:

"The elected neighborhood Community Corporations and other local community action groups should be asked for their help in recruiting prospective foster parents.

"Relatives who can provide care should be encouraged to do so. Let us end the practice of paying relatives for child care at welfare rates, and pay them instead at the foster care rates now paid non-relatives.

"Bring the voluntary child care agencies into a joint effort to meet the current crisis immediately. Ask them to make room for more children sight unseen. If each agency went "over capacity" by ten percent at once (a tolerable rate of overcrowding), on an emergency basis, the public shelter horror would be eased.

"The hiring of more social work personnel should be authorized this week to facilitate home-finding through neighborhood groups, increased placement with relatives and speeded-up adoptions.

"Subsidized adoption can and should free many children from this system. A staff with a mission to make it pay off could accomplish much.

"The City must schedule on its top priority list, the construction and completion of additional group care facilities.

"Special administrative arrangements must be established in the Department of Social Services or the Human Resources Administration. The Bureau of Child Welfare is clearly unable to cope with a crisis of this dimension.

"This is not," we concluded, "a comprehensive program but it can be a start. It is predicated on public responsibility and commitment. It does not substitute for further planning and real accountability."

Our letter to Mayor Lindsay was released to the press and brought forth, largely from the political hustings, a rush of alarums and excursions to the shelters, and many pledges, promises and protestations. All bear reviewing in the clear light of Spring, 1971. Attention must be paid. But attention without results is meaningless to the children in the shelters. They have no vote, no power, only the need to be helped. This is what they were promised:

*Jack R. Goldberg, Social Services Commissioner (New York Times, July 22, 1970)*

"By September, a new shelter (Jennings Hall, opened July 27) in leased space at 85 Bushwick Avenue in Brooklyn will be ready to care for 122 boys. These will be relocated from the Children's Center to make room for extensive renovations there which will begin in November and December. (Renovations were begun mid-December.) Preliminary plans have been drawn for a new building at Dyckman Street and the Harlem River Drive.

"Mr. Goldberg said the new building would have a capacity of 200 and would be completed in about two years. The City allocated \$500,000 for its construction in 1964. Bids have not yet been let.

"In addition, the City is developing group homes, one-and-two family homes that will house about ten children and a counselor. The first one will open late this month (July) in the Richmond Hill section of Queens."

(A home for 12 teenage boys, was opened July 27 in the Richmond Hill section of Queens. Another, Laconia, for 12 teenage girls on Laconia Avenue in the Bronx, was opened on November 20. One additional group home for 8 boys will be opening in the Bronx late March.)

Mr. Goldberg said the City was also planning 35 group residences for 26 children each in either new buildings or lease space—the first within the next two years at Henry and Montgomery Streets. A cottage-type institution with a capacity of 150 will be built within the next five years on Staten Island, Mr. Goldberg said. Plans have not been drawn.

*City Councilmen Robert I. Postel, Monroe Cohen, Donald Manes, Barry Salzman, Kenneth Haber (Daily News, July 23, 1970)*

On Tuesday, July 22nd, "submitted legislation calling for the immediate appointment of an investigating committee to 'expose the barbaric conditions' at the children's shelters." (No report has yet been made public)

*Mrs. Bella Abzug (Daily News, July 22, 1970)*

a commissioner of children immediately . . . she should be a woman and a hell-raiser who will light a fire under the bureaucrats."

*Council of Voluntary Child Care Agencies (Press Release, July 22, 1970)*

"Morton L. Deitch urged a public investigation to be initiated by Mayor Lindsay or Governor Rockefeller as to the total child care picture in the City, particularly as it pertains to the scandalously overcrowded shelters maintained by the City of New York. This investigation should be expanded to consider reasons why so many children require foster care placement and why they cannot be more quickly returned to their own homes." (In late August the Policy Planning Council of the Office of the Mayor initiated a staff study of the problems involved in meeting the needs of children who must be cared for outside their own homes. The preliminary report of the study recommended that "an interagency Council on Child Welfare" be established on an "interim basis." Mayor Lindsay established the Council in December 1970 and named Mr. Jule Sugarman as Chairman.)

*Federation of Protestant Welfare Agencies (Press Release, July 23, 1970)*

Mr. John J. Keppler, after outlining the availability of already legislated funds from the Federal government for the City to establish preventive services stated, "... The need is for conviction and commitment on the part of the Mayor and the Governor. Leadership from them in agencies can solve the chronic problem of children who await care." The Federation of Protestant Welfare Agencies stands ready to cooperate in such an effort while it continues to support the City in developing adequate public social services. (The Federation, in cooperation with Catholic Charities and the Federation of Jewish Philanthropies, conducted an intensive pre-Christmas homefinding campaign in the Bronx.)

*State Assemblyman Andrew Stein (Daily News, July 26, 1970)*

On 7/25 "announced he will introduce legislation to establish a 'children's campus for needy youngsters.' Stein said the State should set aside several hundred acres of State-owned property in a non-urban setting and establish a campus-like setting for neglected and abandoned children of our State. He added that his plan would provide a 'healthy, controlled environment in which these children can be properly counselled and compassionately treated.'" (Assemblyman Stein is working with State budget officials to obtain the necessary funds to purchase Loyola Seminary on a 325 acre plot of land in Shrub Oak, New York on the Westchester-Putnam County Line.)

*Governor Rockefeller (Daily News, July 28, 1970)*

"Announced on July 23 that he would request an emergency \$10 million appropriation from the next session of the Legislature to speed construction of facilities to house foster children. (This appropriation is not mentioned in the Governor's budget message.) Governor Rockefeller also ordered the State Board of Social Welfare to investigate the City's administration of the children's shelters and demanded 'an immediate report as to how and why this current situation was allowed to develop in the City.'" (This report has not been released.)

"Governor Rockefeller also ordered State Budget Director T. Norman Hurd to make an inventory of all State buildings in the City to determine 'if any facilities or part of them could be made available to the children crowded in the shelters.' (This inventory has not been released.) Governor Rockefeller also stated that he will recommend to the Legislature that the State Health and Mental Hygiene Facilities Improvement Corp. be authorized to construct facilities for the foster care of children under the jurisdiction of the Welfare Department." (This is not mentioned in the Governor's message or in itemized construction plans for the corporation.)

*Mayor Lindsay (New York Times, July 29, 1970)*

On July 28 Mayor Lindsay asked Mr. Jack Goldberg, then Commissioner of Social Services, to discuss with the Attorney General State legislation for complete reform of all child care facilities.

Directed Mr. Goldberg to recommend revisions in State-mandated staffing standards with a view toward reorganization of the Social Service Department to assure prompt placement of the children in shelters. (A City job freeze went into effect in November.)

Urged Judge Joseph Stone, of Criminal Court who is chairman of the Court's committee on the child care problem, to complete an investigation of State operated facilities. Asked Mr. Goldberg and Deputy Timothy W. Costello to meet with representatives of Governor Rockefeller to discuss the placement of children

in under-utilized State facilities and to discuss with voluntary agencies the creation of a new placement system. (The Interagency Council on Child Welfare recently held a two-day conference at Andover, Mass. to discuss a new system.)

*State Senator Joseph Zaretzki (New York Times, July 29, 1970)*

Said, "he and Mr. Stanley Steingut intended to submit a major bill to the legislature this Fall concerning children's shelters. (As of 3/15/71, no such bill has been submitted.) The bill would provide \$50 million to municipal and voluntary agencies to build shelters and, in addition, contribute 50% of all operating costs for City-run centers." (The State now contributes 50% of child care costs.)

*U.S. Senator Birch Bayh, Assemblyman A. Stein (Daily News, July 29, 1970)*

"\* \* \* proposed yesterday that the Federal government turn over Ellis Island to the State for use as a 'Children's Campus' for the disadvantaged."

*Attorney-General Louis Lefkowitz (Daily News, July 30, 1970)*

"\* \* \* appealed to voluntary agencies to do all in their power to help the critical situation. He said that he would make it his business to visit the shelters again and, as soon as possible, make recommendations to Mayor Lindsay and Governor Rockefeller. 'Immediate relief of this situation has to be the top priority of City, State and voluntary agencies.'" (According to shelter personnel, there has been no return visit by any official since the Summer.)

*Msgr. R. Arpie, Director of the Department of Child Care, Catholic Charities, Archdiocese of New York (Daily News, July 30, 1970)*

"We are prepared to extend our capacity, given an emergency declaration by the City, but unless the City so declares, we are not going to try to develop ready answers to problems that are deep-rooted."

In the glare of publicity and the resulting political anxiety, the caseload in the City shelters dropped dramatically. Space was found for the children in voluntary institutions, and foster homes were found too. On March 10, the census at Children's Center was 91, Callagy Hall 115, Callagy Hall Annex 58, Jennings Hall 113. The now legendary renovation of Children's Center is actually under way. The new Callagy Hall plans are "in the process of being completed." The schedule now calls for ground-breaking ceremonies in August, 1971.

But our quarter-century of experience with crisis solutions in child welfare tells us that while interim measures must continue to be taken to protect even the small gains which have been made, more basic solutions must be sought. There is something wrong with a system, an approach, which generates crisis after crisis. Crisis solutions are not enough if the shelter population keep growing, if some children remain in our temporary shelters for months on end, if families and children suffer as much from our failures as from their own personal problems.

PART II--TOWARD FAMILY WELFARE

A NEW STRUCTURE WITH A NEW GOAL

The public welfare system has been organized around two major tasks in New York City, as in most American communities:

- (1) to provide financial assistance for those who are eligible
- (2) to arrange temporary, long-term, and permanent placement of children.

The latter task has been mis-labeled "child welfare." Efforts in recent years to expand the goal of "child welfare" to include prevention of the need for placement have been half-hearted, small-scale, and ineffective. The situation will not be remedied unless the City faces a fundamental organizational defect: an organization built around the process of child placement cannot be expected to create programs and policies which emphasize promoting the welfare of children while they live at home in their communities.

In calling for change we are not attacking those dedicated staff members who have worked against odds when needs exceed resources available. We are merely facing the inevitability of a fundamental redefinition of community goals. As goals change from providing substitute care to providing protection and enhancement of a child's development within his family, the consumers of the service become not just those whose families are considered temporarily or permanently jeopardized—but rather all families. Thus, the new goals will require new structures for their realization.

Such redefinition, we believe, will result in far more adequate attention to the interests of children who now enter into temporary, interim, or long-term care.

It will also make much-needed services available to the larger groups of children on the AFDC rolls, long the neglected responsibility of public assistance caseworkers. In theory such caseworkers combined financial eligibility study with the providing of social services. In practice, they are primarily investigators of financial eligibility. This investigative work often built up mutual alienation between client and worker. This, plus the workloads and paper work, has often made it impossible for caseworkers to provide social services and counseling. Hundreds of thousands of children living in high-risk situations, in poverty, were not helped at all.

On July 1, 1971, the Department of Social Services must begin to carry out a directive separating eligibility determination in public assistance from the providing of social services. The opportunity is presented to unify the previously fragmented social services—those reserved for welfare recipients, and those for many "others"—into the most efficient and effective system which can be designed, within the limits of resources and statutory requirements.

Inevitably, since some public services are provided by voluntary agencies through the purchase of care (especially foster care and residential treatment of children), this public redefinition and restructuring requires some reexamination of public-voluntary agency relationships. Community needs are great and public treasuries are in difficulty. Public funds must be spent efficiently and assigned to tasks consistent with overall public goals. Such goals also must guide those public and semi-public social service programs, outside the traditional Department of Social Services structure. We refer, especially, to the family and child service programs which exist in or might be developed by local community anti-poverty corporations and other emerging groups.

*Thus, we seek a system of services incorporating many components which in the past have not been related to one another adequately, if at all.*

*Thus, we propose that the basic social service system in New York be organized around the mission of helping families do their job and cope with emergencies.*

The primary goal is to help families, not to find substitute care for children. Child placement services should be redesigned as specialized resources called upon when a family service staff finds they are needed.

#### A FAMILY SERVICE

We begin with some premises:

1. We know that families cannot function without money, food, housing, jobs or medical care. These are the fundamentals of family life. The community must not offer counseling, guidance, placement or treatment as substitutes for basic protection. Social Services are misused unless they are part of a complete social program.

2. Although we wish to contrast child placement services and those services which enhance family life and reinforce community functioning, and to urge new relationships between such services, our proposals also include services to persons living alone, services to the handicapped, services to childless couples, services to the aged. Of course, most services will be provided to homes with children living with one or more adults, and for them the focus must be on supporting the family unit if at all possible.

3. The service must of course be voluntary, not coercive. If the State implements the mandatory separation of the machinery for determining eligibility for funds from that required for provision of social service, people will no longer have to accept what might be inappropriate guidance. The exceptions are: (a) the "protective" case, where the alleged or adjudicated instance of child abuse or neglect imposes a legal obligation to review the situation and remain with it; and (b) cases where federal legislation mandates employment placement or job training.

Family-oriented services may be of several kinds, from simple, or short-term to complex and long-term, from basic and general to specialized: homemakers and homemehelpers; meals-on-wheels; referral or intervention to assist in improving emergency housing, arranging for day care or other day-time child development services, getting medical care, registering for job-training, arranging for a summer vacation placement, coping with problems of eligibility for financial aid; casework or group treatment to help people cope with handicaps or life-crises, etc., courses and/or individual help relating to consumer issues, apartment furnishing, nutrition, budgeting, family life adjustments, drug abuse.

We believe that the City's basic social service network should be organized to assure family service to all who need it. There are several ways to organize to achieve this goal. The objective in any case should be the assignment of primary responsibility (in cases where people need help, support, guidance, counseling, substitute care, treatment) to *locally-based general family service social workers. They will work from the neighborhood offices of a reorganized Department of Social Services. And they will be outposted by that Department in schools, settlement houses, health stations, hospitals, housing projects, etc.* This staff will work closely with new locally-based services in community corporations and other local groups, with the traditional voluntary sector and new voluntary agency programs, and with more-specialized public programs.

This plan is directed especially to the problem of people needing personal and family help. The general family social service worker is here shown as the case accountable professional who will draw upon and inter-relate the efforts of many services on behalf of such clients/patients. Obviously, this is only part of the social services picture. The total network should involve many public social utilities available to people at their wish (community centers) or by their status (day care for young children), which do not imply personal problem or disability. Thus the total social service network needs access points (information centers or services, case finding programs, case advocacy services) which inform people of their rights, give advice, tell what is available and lead them directly to concrete service programs or to the general family social service, the entry point to helping services.

The objective should be easy accessibility and a continuing relationship between each family and its social worker. Any organizational plan must insure small enough units, a receptive atmosphere, and continuity. One might think of the family social worker as having the same relationship to families served as does the traditional general practitioner in medicine, as a useful but not perfect analogy. The general family social worker would give personally all the service he was qualified for and that did not require the knowledge or prerogatives of a specialist. He would also be the center of case *accountability* and service *integration*, two concepts we shall elaborate further.

As problems arise, the general family social worker would respond to the needs of the family and its members. He would maintain a continuing relationship with them until no further service was needed. As specialized help was required, it would be drawn as available within the general family service unit (child placement or adoptions, for example, or protective services), or by referral to another agency (physical rehabilitation, job training, a therapeutic group, for example). When a specialized program was used, the general family social worker would link the person receiving specialized service to his family. The general family social worker would thus reinforce the gains of specialized service by this constant pattern of concern for a family. We assume that, in the instance of public assistance recipients, long "required" to have caseworkers, the route to voluntary use of counseling help, when and if needed, may be through concrete practical services.

*Here is where the change would be most apparent in what is now called child welfare:* People with the problems which now lead to the Bureau of Child Welfare of the City's Department of Social Services, or to the foster care divisions of various voluntary agencies, would instead be guided to general family social workers. Because most contacts would be made earlier, the emphasis would be on striving to sustain the family through community-based help. Only if such effort showed that child placement was essential for any period of time would the contact with a child placement specialist be made. However, *the general family social worker would retain responsibility* for dealing with the original problem, preparing the way for the child's home—as appropriate—while always having the whole family's problems in perspective.

To state this in organizational terms: the system would be organized to emphasize community-based service to families. The system would count and accredit such services. The client served would have access to child placement specialists as needed. But child placement would be assumed to be avoidable, or brief, unless there were proof to the contrary. Child placement would always be considered *one of the possible services within the broader system.* The lesson of the past is clear: *child placement as a first resort for troubled families vitiates any attempt to cope with family and child problems; organizational autonomy for child placement services throws a service system off balance.*

In the language of social service programming, the above proposals mean that the general family social worker would be assigned responsibility for case accountability and service integration.

*Case accountability* means continuing responsibility for service to a family or individual until the case is closed because service is complete or a decision is made on some other grounds. The buck stops with the general family social worker. If the family is lost in the system, the responsibility is his. Where initiative must be taken, reaching out attempted, it depends on him. Where there are danger signs, hazardous situations, early manifestations of problems, he launches actions, or at least tries—since his role is not coercive. Because of his case accountability the general social worker must be based at, or outposted to relatively small, decentralized units close to where his clients live.

*Service integration* involves the coordination of simultaneous efforts by staff members within one agency or several agencies and the meshing of sequential services. For example: the family social worker works with a child in a foster home and with the family. A probation officer works with a family member and with his family—as does the family social worker. Specialized service in a residential treatment center is followed up by the family social worker at home. The general family social worker does not necessarily do everything, but he takes on responsibility for assuring that the efforts of several agencies, of different practitioners, are inter-related and thus really effective.

Staff members of foster care agencies who now attempt to give good care to a child but find themselves working in a vacuum, not knowing the state of the family at home, will appreciate the importance of this assignment of case integration responsibility. Under this plan, initiating the termination of parental differing rights and making the child available for adoption would not be lost in the differing responsibilities of the several agencies which may be involved with the family. Nor would several agencies find themselves concentrating on the welfare of one child, while several other children in the family, living under desperate circumstances, go unnoticed.

Delegation of responsibility for service integration to the family social worker would also protect gains made by children in institutions and treatment centers when they return to the community. A locally-based general social worker, already in a relationship with the family and key agency figures in the community, aware of the child's problems and needs, would seek consistency of treatment and necessary support. Currently, much is lost through the failure of schools, correctional authorities, health agencies and others to follow through and reinforce a child's progress.

The City did not achieve significant preventive services, service integration, case accountability when, under State mandate, it offered contracts to voluntary agencies to provide comprehensive services. It must do its future planning on the premise that agencies which are expert in child placement and related services should be used for that specific service—acknowledging that it is not a comprehensive service. Child placement, as a specialty, should be drawn upon and integrated with other services, taking its leads from a general family service system. The general family service system must be based in the public sector to assure coverage and adequate sanction, even though much of the direct service might be provided by traditional and new voluntary agencies. The public sector agency with statutory responsibility is the Department of Social Services.

*Conclusion:* A. The task before the City is reorganization to create a service system focused on sustaining the family.

B. The system must be built on recognition of public responsibility.

#### USE OF STAFF

We recognize that New York is a large city and has diverse neighborhoods. We know that general family social service can be built from the public assistance casework staff, soon to be fully relieved of its investigatory responsibility. The staff can be supplemented by existing Bureau of Child Welfare expertise. We know the public assistance staff varies in levels of competence, degree of professional training, amount of experience. All of this may be seen as an advantage. It will be possible to experiment with multiple forms of staffing and organization for the general family social service in different areas. Patterns can involve assignment of caseloads either to qualified individual practitioners or to teams of general social workers, aides, and specialists. The particular staffing pattern, staff qualifications, and support from in-service training and supervision, in turn, will define the point at which the general social work

service actually delivers services itself or connects users with such services. In the long haul, maximization of the first alternative will assure more appropriate definition and use of specialists.

Should our proposals be adopted, we assume that there would be:

(a) Active staff collaboration in development of the training plans which would permit these new patterns of personnel deployment and would support experiment with the several service models.

(b) A system of incentives to staff, through educational leaves, so that the most qualified would become fully prepared for leadership and innovation in the work.

#### CREATING A SYSTEM

Social services in New York are now offered by many agencies. The Department of Social Services is in fact a virtual newcomer in its non-monetary programs, especially in the protective services, adoption, foster home care, institutional care and shelter of children. It would hardly be possible or desirable, in seeking basic reforms to end periodic crises and continuous service failures, to forgo the major potential contribution to existing groups. Voluntary agencies account for over 80 percent of what is now defined as child welfare service. Their diversity can increase the options available, as a service system tries to offer accessible programs to meet people's circumstances and preferences.

We propose the curtailment or decline of the voluntary sector. We do propose a clearly defined relationship to a publicly accountable, family centered service system. Responsibility for case accountability and service integration will be located in the public department. The voluntary sector will thus be free to update its service approaches, to enrich and expand what it offers, to share its expertise and strengthen the whole. Local services in New York, particularly services for people in extreme difficulty, have in general not kept pace sufficiently with the changing nature, circumstances and needs of our population. Creativity and professional innovations can now provide a new opportunity for voluntary agencies to enhance their contributions.

Existing services are provided by publicly operated agencies, voluntary non-profit organizations, private profit-making groups, locally based community corporations or related publicly funded, semi-autonomous groups. Some of these agencies offer city-wide services (some public programs, most voluntary child care or family service agencies, etc.) and some are in limited geographic areas (settlements, neighborhood clinics). Some offer basic counseling and referral, while others are quite specialized (residential treatment, family planning). Some have brief client relationships (information services, referral centers) while some specialize in intensive, long-term help (family service agencies).

We have moved, in our illustrations, beyond traditional child welfare, because we are convinced that a network of services, supporting and enhancing family life through community-based solutions to people's problems, must be as comprehensive as people's needs and circumstances. The planning task, therefore, is to convert unrelated and independent programs into a coordinated system offering coverage as needed, and organized in relation to a clear goal and available resources.

If the City itself operates the core general family social services in neighborhoods and outposts, it will be in a position to:

Make general services the base from which to call upon more specialized programs.

Accumulate data about met and unmet need, successful and unsuccessful service. This will assure the most effective use of the voluntary sector, the development of new public services, and program reform.

Indeed, unless the City operates the general family social service, and accepts the planning responsibility we shall outline, the 70 separate voluntary agency units and the several public programs now constituting the City's child welfare services will not, we believe, become any more successful in achieving public objectives than they have been in the past.

Child placement and other services related to family crises affecting children will illustrate our proposals. It has been suggested that a child welfare (child placement) specialist be attached to the general social service unit or team. Occasionally such units or teams will be called upon because:

One or both parents is away from the home for an extended or a brief period because of physical or emotional illness, imprisonment, etc.—and the other is not able to manage the care of the children at home.

An only-parent must be out of the home for a period and there is no substitute.

The child is endangered physically by a family or neighborhood circumstance.

One of these circumstances has permanently destroyed the family and the child needs a new family.

The general family social worker team will explore all possibilities in such instances. If emergency resources, medical care, help with housing, availability of day care or baby sitting, or the cooperation of a relative will keep the family intact, efforts and resources will be expanded to accomplish this. If temporary separation of parent and child are necessary, the temporary arrangement will be as close to home as possible and in a program which "feels like" one's community. In the meantime, the general family social worker will do all that is possible to keep the separation brief.

When long-term expert residential treatment, permanent termination of parental rights and the arrangement of adoption, long-term foster home or institutional care is needed, the specific choice will be made by an expert child welfare worker. The placement should be arranged rapidly. The worker should be able to draw upon all the resources being funded by the City. He should provide information which would contribute to the planning of new resources when he encounters a need for them.

A plan like this cannot come alive unless the City understands that (a) it is statutorily responsible for the well-being of dependent, neglected, and abused children; (b) it funds the bulk of the operating costs of most of the voluntary non-profit agencies serving children in New York.

Legal sanction and funds must be translated into public planning with significant local community and voluntary agency collaboration. Public planning, in turn, involves:

Agreement about the services to be provided by various public and voluntary agencies and the service to be purchased from profit-making institutions.

Agreement about how purchased service is inventoried, constantly "visible", and drawn upon as needed—without ad hoc or hidden agency criteria or discretion.

Agreement about how cooperating programs will support and help implement the case accountability and service integration responsibilities of the general family social service.

Planning for such a system requires cost-effectiveness studies and cost accounting methods because both the public and voluntary agencies share responsibility for achieving a reasonable degree of efficiency and economy and for eliminating programs which are too costly. Parallel devices are needed to assure quality control. (See "Monitoring"). Means must be developed to assure that agencies deliver the contracted service, when and as specified, i.e., honor their contracts.

When new programs are needed, competitive bidding might be encouraged, to clarify whether voluntary or commercial agencies, profit-making or non-profit, can deliver a program more efficiently for less cost than a direct City operation. In child care, local access is a major factor and community compatibility often important. Planning might at times specify that, if possible, the contract be written with a community corporation or a newly created local social agency. Stand-by emergency local shelter space in neighborhood homes, homemaker services, day care are examples of such services.

We consider a *commitment to new locally based services* to be as important to this new system as are reorganization for a family focus and centralized public responsibility. Family protection is achieved in communities, whether the community is a geographic one, or a community of mutual interests or background. There must be community institutions to give reality to this, at the same time that one would continue to call upon city-wide public and voluntary resources.

Planning requires citizen participation on city-wide and local levels, to assure communication of relevant experiences, ideas, choices. However, even the most elaborate participation process does not relieve the executive branch of government of the responsibility for planning and for achieving goals. Nor can we assume that organizations and groups providing services through City contracts, using public funds, are the only ones protecting public or consumer interests. Contract agencies should not serve on committees planning how the City wishes to deal with such agencies—or at least should not dominate such committees.

Since the emphasis is to be on family protection in community context, the social service system generally will need to be decentralized. The needed diversity,

responsiveness, local involvement will all require this. Decentralization will also lead to the provision of specific specialized services by locally based community corporations and social service agencies.

There will be problems in such an approach and progress will need to be sought in stages. Many of the voluntary foster care resources now providing the bulk of foster care in New York City are administered by city-wide voluntary agencies. Public placement is handled through a centralized allocation section in the Bureau of Child Welfare. Observers are agreed that the large, centralized allocation process, while inevitable with today's "givens," is a horror of depersonalization and typifies what is wrong with the present system. While a central clearing house will always be needed, the local staff member who knows a child should be involved in arranging needed placement and in protecting his return from placement. Consideration might be given to interrelating the voluntary agency child placement resources with specific local social services, a complex matter which would require time to implement. The eventual exceptions should only be the very highly specialized treatment and care facilities serving city-wide constituencies of limited size.

#### MONITORING THE FAMILY SERVICE SYSTEM

The story of the 25-year crisis has many components. Assessment of services by the several statutorily responsible bodies, by actual or potential users, by watchdog civic groups has never been a regular, continuing practice. The whistle has been blown periodically and useful improvements launched. But monitoring has not been sufficiently consistent, routine, and many sided to protect the children and families whose lives have been at stake.

A substantially better monitoring system should follow from the City's acceptance of responsibility for planning. The system will be based on the City's power to distribute the vast majority of the funds spent for substitute care of children. The kind of planning, contract enforcement, record keeping, bidding for new services we have outlined would lead to vast improvements.

But more is needed. New York State, through its Department of Social Services, has a statutory responsibility to supervise City operations. It inspects and licenses facilities. The State record of accountability has been practically non-existent. State D.S.S. in the past has been a most ineffective monitor. Even mandatory seven-year agency reviews are frequently long-delayed. Assessments are often perfunctory. If major questions arise from such reviews, there is lack of vigorous follow-through. A major opportunity to protect consumers and to keep services oriented to their assigned tasks is often lost at the State level.

In candor, another point must be added. At certain periods in this 25-year history, when the City was unable to act, the State's power might have been employed to speed reform, in the interests of children. But the State's social service leadership reneged entirely, preferring to avoid complex public-voluntary and sectarian political issues affecting social service funding and programming. Furthermore, there have been occasions when the City, moving towards planning initiative and the necessary, related redefinition of public-voluntary prerogatives in child welfare, has found State power interposed and merely complicating the process. There is, too, a strong tendency in the State social service bureaucracy to protect the uniqueness and separateness of child welfare and to resist creation of a family service system as we see it. Here, too, the State has not been helpful.

Thus, as part of the redirection and renewal proposed, City-State social service relations will require major renegotiation. The eventual pattern will depend, in part, on the outcome of revenue sharing proposals and suggestions from some sources that the State assume full public assistance costs, and from others that this is a Federal responsibility. In the interests of families and children, it is urgent that the State take its monitoring responsibility seriously, with an emphasis on true quality control. The State must assist as New York moves towards social service restructuring—or decide to give the City full responsibility and not complicate the effort to achieve this goal.

The most valuable monitoring, virtually non-existent now, could and should derive from the communities and neighborhoods from which most of the children in placement now come. Inevitably, neighborhoods whose children are in placement in large numbers are neighborhoods so dominated by deprivation and disorganization that their valuable knowledge of the experiences of families and children is not often assembled, conveyed, made to work for reform. The recent trends for organization of community corporations, local self-help groups, in-

igenous agencies and associations is most encouraging. While parents in severe trouble and the parents of children in placement may not often contribute to social service monitoring and planning, their neighborhoods or their larger communities include people who can make significant contributions. The help of such individuals must be sought.

We believe that local leadership, if told the story of child care crises and what they do to children, would respond—and we intend to tell the story. We trust others will join us. Responsible City officials must respond to proposals coming from deprived communities. City officials must be prepared to assure representatives of such communities equal status on the advisory or policy boards connected with public social service planning. They must be allowed to join with representatives of the City-wide civic groups and of voluntary agencies who have always been the major spokesmen for the public interest.

Finally, for daily operational purposes, the City itself will need reporting and information systems to (a) identify readily where space contracted for by the City is available so that its use may be assured; (b) inventory the children who wait and why, daily, so that steps may be taken to end the waiting list; (c) identify low quality agency performance so that contracts may be cancelled, as appropriate; (d) avoid loss of children in the system.

Planning, we have argued, is essential—but planning without reporting and monitoring is blindfolded. Monitoring which does not include those who use services and their neighbors is hardly satisfactory.

#### ADMINISTRATION

Our focus is on the welfare of families and their children. We have not attempted to design the City's overall administrative structures for planning, monitoring, service delivery, and encouragement of community initiatives. The total human resource network has many components beyond our present scope.

However, because the lessons of the past are that structure may be critical here, several guidelines are suggested: We propose that families and children should meet specialists in child placement, and in the development of resources for substitute care, only through the family social worker. Similarly, the administrative unit which guides and supports such work must be placed under and given leadership through a social service administrative unit with a broader mission. The Bureau of Child Welfare within New York City's Department of Social Services would obviously need reorganization or replacement to prepare for new tasks.

There must be an administrative unit created in City government capable of organizing the broad-gauged family services described. New York's Human Resources Administration (HRA) has committed itself to an Agency for Child Development (ACD), an administrative sub-unit to bring together a diversity of child care programs ranging from group day care, to Head Start, to family day care, to after-school programs. A unit which organizes the local general social services will also be needed. Under such unit or separate from it there may need to be units concentrating on foster care and adoption, practical services such as homemakers, special services for the aged, etc. Options exist. The important thing is the hierarchy for administration and planning. It is crucial that the HRA administrative structure provide needed leadership for the evolution of a social service system which avoids fragmentation, assures accountability, guarantees service and permits planning.

This is not the vehicle for discussion of the educational and in-service training implication of our proposals. Social work personnel are not often prepared for the service integration and case accountability roles we deem so important. The continuing family emphasis we propose is often lost among specialized interests. Child welfare personnel often emerge from their preparation dedicated to their narrower, specialized system. Yet nothing in these proposals poses overwhelming obstacles to educators and training directors. As agency missions are clarified, staff members in the new enterprise, joined by public assistance staff, can be helped to redefine themselves as pioneers in a reformation of the social service system from within. As resource developers, advocates, guides, collaborators—and sources of personal help—they can be allies and supportive of services that encourage the full development of children. The staff must be augmented by people trained in community organization and planning and prepared to work at the neighborhood level and city-wide.

#### SERVICE INNOVATION

The needed changes will not occur if limited to planning, administration and monitoring—although we have already underscored these as vital. We have placed even greater emphasis on outlook: focus on families, on prevention. Another component belongs in the picture—service innovation.

Better use of what is now available and known will not be enough. Today's social services must invent programs, approaches, resources which are appropriate to today's City. Social services are likely to be most successful if they respond to community cues. Programs developed by neighborhood people will often show the way.

Special attention needs to be given to locally-based family-supportive and emergency aid programs. To illustrate what we mean (not a priority list): neighborhood centers for an evening meal; stand-by shelter beds for children in local homes; after-school homework, tutoring, and recreation centers.

Our emphasis is on social invention because we believe that today's urban families, in their diversity and special needs, could survive more adequately and do more for their children if the social service system were truly responsive to them. If children do require placement away from home, the likelihood of an eventual return to a family is increased when there are more, appropriate, supportive social services in the community.

We recognize that needed invention is not likely, nor is direct-service activity likely to improve, unless professional workers in this field undertake a serious reexamination of their beliefs and practices. Over the years, certain rigid ideas and practices have developed around qualifications for foster homes and for foster parents, the distinctions between foster care and adoption, the effects of group care facilities on young children, physical standards for foster homes and group care, none of which are necessarily valid. Assumptions, which may be false, have developed about the appropriateness of rural or suburban environments for any or all inner-city children, that treatment is possible away from one's cultural-ethnic community. The considerable research and evidence from innovative child welfare approaches has not been absorbed into typical practice. We of Citizens' Committee for Children intend to clarify and publish the discrepancy between "fact" and "professional myth." (We recognize that the discrepancy is not unique to children's services!) We know that official and professional groups have a major role to play in assuring that New York provides the best possible help for families and children needing service. We urge that experienced agencies in the voluntary sector turn more of their resources and staff expertise toward these matters.

There are some boards of trustees in the group of some 70 agencies now contracting with the City for child care services which accept the challenge of service innovation eagerly. They would be prepared to respond to new needs. They would not object in principle to updating agency practice and collaborating in a new, more general, social service system. However, for lack of resources and information, they are not sure what directions to pursue. The HRA unit with planning responsibility, or others, might undertake a program of technical assistance to such boards. We believe that potential results would more than justify the effort.

#### PRACTICABILITY

The concerned citizen asks, legitimately, "Is this practicable?" What of costs, legal problems, workability of the proposed model of service, potential coverage?

Unknowns and contingencies are present, yet there are no insurmountable obstacles. The present situation is not practicable. The past twenty-five years have been a destructive failure. Even partial, staged progress toward carrying out these principles would promise improvement.

On the issue of practicability, we note the following:

There is a mandatory public welfare reorganization set to begin July 1, 1971. Our proposals would offer a strategy for such reorganization. Given incentives to staff and given training resources, the service patterns we propose could be launched.

The public welfare system will be in turmoil unless federal and state legislation assure the City the funds to meet basic needs of welfare clients and to pay for both concrete services and casework-counseling-guidance help. This crisis would overwhelm the present system if there were no reorganization planned. It would also block the basic reorganization we propose. Federal and state wel-

fare legislative and appropriation issues now being debated are of decisive importance for New York City, whatever view one takes of child welfare service structures.

The service pattern we favor does not exist anywhere in our country on the scale and in the form we propose. We, therefore, cannot claim to offer a perfected model. We urge, instead, flexibility and experimentation within the policy outlined. However, no element in the proposal is new. Each component exists and is demonstrated in some public or voluntary service in the U.S. We have packaged them to meet our current needs. We do not propose experiments or demonstrations in only one or a few places because these would delay reorganization. Such reorganization cannot be deferred now. The issue is whether it will be sufficiently far-reaching.

Elements of the basic public-voluntary pattern have long been demonstrated in Great Britain. As a result of a basic social services reform, Scotland has already reorganized its local social services to operate on a pattern much like this proposal. The rest of Great Britain is in the process of carrying out such a plan. Furthermore, although the general social service role is not now taught as such in social work schools, it has emerged in response to people's needs in many anti-poverty social service programs. Training in many graduate social work schools could readily be refocused to meet this new need.

The question is raised as to whether it will be possible to provide general social service for all potential cases at current funding levels. We do not know the answer. This proposal is a two-level system, with people needing specialized service remaining in focus in the general social service. Given a good access service (information, advice, referral, case advocacy, legal services, etc.), we assume that people who do not require personal guidance and help will either go directly or be referred to concrete service programs. Only those in need of continuing support and attention (and want it—or are in "protective" cases where there is an allegation of neglect, abuse, incompetence, etc.) will use the general social service. We propose beginning with the level of staffing now available to the DSS social services. This will surely meet initial demand, since some public assistance clients in need of help will stay away to test the "voluntary" nature of the contact. Whether non-relief recipients can be served and have the costs met by public welfare funds must depend on the next round of federal legislation. In any case, people who are not public assistance clients will need time to learn that this is a program suitable for all citizens.

Once the new pattern has demonstrated its success, consumer demand will set the level of need for which support must be sought. By that time, we believe, public support will also assure the local and state supplementary funds, and the reasonable fee scales for those able to pay, to permit expansion on the scale required.

#### SHORT-RANGE SPECIFICS

We cannot and do not wish to ignore the importance of short-range steps which will improve the daily experience and prospects of some of the children now in shelter, interim care, and long-term care. As the 25-year history shows, such steps, taken alone, decrease the pressure—but also divert attention from more fundamental problems. However, while basic steps are taken to stem the flow into care and to restore children to families, it is also urgent to deal with the needs of children now in care or awaiting placement and to do everything possible to make urgent improvements. In this spirit, we intend from time to time, as we have in the past, to call attention to those measures which are most promising and which will not divert the community from the essential basic reform.

#### CITIZENS' COMMITTEE FOR CHILDREN TASK FORCE ON CHILD WELFARE

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**JUVENILE  
DETENTION  
PROBLEMS  
IN NEW YORK CITY**

DECEMBER 21, 1970

citizens' committee for children of new york, inc.  
112 EAST 12th STREET NEW YORK, N. Y. 10002

## Introduction

During the summer and fall of 1970, there was rioting by adult prisoners held awaiting trial. There was public outcry for reform of institutions for adults.

Citizens' Committee for Children of New York supports the efforts which have been undertaken to achieve that reform. However, it believes that the plight of children held pending a court hearing or final decision is also deplorable, and there is a critical need to look at conditions which prevail in children's detention institutions in New York City.

Citizens' Committee has investigated thoroughly and has been appalled by what it has found. Our general, inescapable conclusion is that present juvenile detention facilities are wholly inappropriate and are often destructive of the children for whom they are maintained. Most boys and girls now in juvenile detention facilities should live in other kinds of residences such as special boarding programs or foster care, and none should live in the present juvenile detention facilities.

This report deals with the factors which led us to these conclusions and with a multitude of other aspects which give a picture of juvenile detention in New York City today and what

must be done about it.

Unfortunately, different public departments and agencies are responsible for the care of different categories of children. The lack of coordinated programs and joint planning has been and continues to be a major cause of the inadequacy of all child care programs. Citizens' Committee for Children continues to dedicate itself to the elimination of such fragmentation by demanding that all city and state agencies responsible for children in need of placement or other services join to develop a coordinated, comprehensive child care program.

At the core of this demand is the recognition that the problems of children in detention are part of a total picture which also encompasses the neglected child, children in shelters, and children in training schools. However, we cannot ignore the needs of particular children who may be helped even without solving the over-all need for long-range, coordinated, comprehensive planning and service for all child care needs. Although the juvenile detention picture in New York City is only part of what is wrong in our system of child care, we want you to know about these children who wait.

## Some History of the Problem in New York City

The recent history of this problem in New York City is repeated here in order to help prevent people new to the problem from falling into old traps.

### Making More Beds Available

In the early 1950's there was much debate about the advisability of building what was known for years as "Youth House for Boys" and is known as Spofford Juvenile Center now.

Those concerned about building such a large plant, since that time the subject of many scandals, warned that the size of the plant would prevent the individual and small group handling which is essential to proper care. It was predicted that the many corridors and the need to move children constantly through the building would necessitate undestorable regimentation. The New York City Commission for the Foster Care of Children summarized the view in support of the building when it said that "it seemed necessary to adapt the planning to the land available and to the money appropriated to cover construction." Citizens' Committee for Children opposed such short-sighted planning, but the Spofford Juvenile Center was opened in 1957.

### Juvenile Detention from 1959 through the early 1960's

By 1959, overcrowding in juvenile detention had led to rioting and continually tense relations between youngsters and staff. The private Youth House Board appointed by the Mayor, which was fully in charge of juvenile detention for New York City, concerned itself with alleviating the crises. City officials worked to eliminate publicized trouble rather than to solve the problems for the children. Citizens' Committee for Children once again cautioned against piecemeal remedies and stressed the need for revising practices and developing long-range programs.

Although many realized the need for small detention residences in the youngsters' neighborhood, with public responsibility for child care rather than continued private responsibility, the work went into temporarily alleviating the numbers in the large facilities. Since no one official and no public department was clearly responsible for reforming detention policies and providing the desirable, diversified facilities, the pressure for long-term change dissipated without action.

While all talked, detention facilities continued to be planned on the basis of guesses rather than a careful projection of needs. No one analyzed in detail, or at least made public the basis on which facilities were planned.

In 1961, \$780,000 was spent for a temporary 75-bed annex to Youth House for Girls consisting of a series of quonset huts now known as Zerega Juvenile Center. That was the last time any buildings were added. Thus, pressure against any new facilities for large groups of children met success, but the old large ones remained. The fight for better programs, services, and small facilities had to continue.

### Attempted Solutions to Avoid Further Unnecessary Building

In 1962, there was a court reorganization in the state which produced a Family Court Act. It was hoped that this reorganization might help solve the detention problem by limiting the power of judges to detain children.

The new law eliminated detention in Juvenile Center for the purpose of psychiatric study or to teach the child a lesson. Detention in Juvenile Center was to be used legally only for youngsters who seemed likely to commit a crime or who seemed unlikely to return to court for the scheduled hearing.

While the Family Court Act was responsible for immediate decreases in the numbers of children detained, the effect did not last. Detention figures increased again, and detention practices reflected a lack of child care services more than a legal need to detain children who appear before the Family Court.

### The Office of Probation and the Youth House Board Work Together

On February 28, 1964, Mayor Wagner issued an Executive Order assigning the Office of Probation "to represent the City of New York in its relationship to Youth House, Inc." The order directed the Office of Probation to accept some responsibility for supervising detention care, but neither the public officials nor the private Board delineated the responsibilities carefully and things went on much as before.

The Youth House Board did attempt some reforms during this period. For example, it separated the children from one another in accordance with their ages and ability to live in unlocked facilities without danger to themselves or others. However, scandals and dissatisfaction at all levels made it clear to everyone that nothing substantial had changed.

### A New Administration

In the summer of 1967, the Office of Probation was given a clear mandate of responsibility for juvenile detention problems. The Youth House Board was dissolved. Although nothing substantial has been achieved since the last days of the Youth House Board, a fair appraisal of the situation shows some reform:

- There is an intake service at the detention centers so that youngsters brought in by the police or others on weekends may be released to their parents or other relatives.
- Some youngsters who might have been detained but who can remain in their homes with close supervision have been placed in special caseloads with probation officers who have the time and ability to supervise these children carefully.
- Children are no longer kept out of school to do chores.

## Juvenile Detention Now

Only a Family Court Judge, or a policeman who picks up a child out of court hours, can have a child placed in Juvenile Center. When the newspapers watch the detention facilities and remind the Family Court of the potentially destructive atmosphere, of the influence that overcrowding will have in further destroying the youngster, the Family Court manages to decrease the number of children detained. Nonetheless, although children are intended to stay in detention for only a few days while the court makes a final decision, many children are there for long periods of time. On September 30, 1970, 83 children had been in Juvenile Center for more than 30 days; 82 of those children had been there more than 50 days, and 8 of those children had been there more than 100 days.

If the court so orders, or the police bring a child to detention until the next court day, the child goes to one of these:

- Spofford Juvenile Center, the large white building often shown on television and visited by many public officials whose negative reactions receive momentary publicity, is the largest of the detention centers and has the greatest number of locked doors and corridors. Boys, whether 7 years old or 17, stay there. In addition, every child goes through a "reception center" in Spofford before being placed in another building or in a room within Spofford Juvenile Center. 280 children is the maximum number Spofford is supposed to hold.
- Manida Juvenile Center, which houses older or allegedly more difficult girls, is a fire trap, tumbling down before one's eyes, where the girls are kept locked in dormitories. 95 girls is the maximum number Manida is supposed to hold.
- Zerega Juvenile Center is composed of a series of quonset huts usually used for girls who are younger or less difficult, but there are lots of locks and keys. 88 girls is the maximum number Zerega is supposed to hold.

In discussing these Juvenile Centers, all of which are in the Bronx, it is easy to see them collectively because the faults are largely the same. There is little reason for our consciences to be less disturbed about the girls in Zerega than the boys in Spofford. Although life is somewhat better when fewer children are there, generally the children suffer these conditions despite more than \$32 per day spent to take care of each child.

### The Physical Plants

- The buildings have no relationship to the needs of the children, and the layout often creates situations which invite brutality from youngsters or staff.

- A contract with Montefiore Hospital has provided an infirmary service responsible for the short-term health needs of the children which will include full dental services when present infirmary renovations are completed.
- Abusive, sadistic staff have been fired.
- The "most difficult" girls who were formerly living without any program of activity, segregated by themselves, are integrated into the Manida Juvenile Center program.
- Small facilities and foster homes have been accepted as a goal.

Of course, these achievements are little enough for the three years since the Office of Probation took over. Both public officials and private citizens have been dismayed by the failure of the Office of Probation to care for the children in detention properly and to integrate the detention services needs into the general probation services.

- The buildings are all in the Bronx, so far away from most of the children's homes that their families find it difficult to visit.
- All the children are surrounded by locked doors, although many have been detained only because there is no family willing to accept responsibility for the child.
- Most children are locked either alone in rooms or in dormitories with others at night.
- Boys are sometimes locked with other boys in a small sleeping room at night, a situation encouraging the physical attacks about which the children and newsmen sometimes complain.
- The child's living quarters are generally unattractive, barren, and dilapidated.
- Sometimes the individual child does not get the clean sheet and mattress to which he is entitled.

### Staff

- Few staff members have either the background needed to work with these children or adequate in-service training.
- The evening supervisory staff is small, generally too small to cope with problems even if they were properly trained.
- Staff members often seem afraid of the children.
- Staff members seldom speak to members of the child's family even when they visit the child at a Juvenile Center.
- Although a probation officer was assigned full time in late 1968 to develop in-service training, and there was an assistant to develop a manual of procedures, no substantial results are apparent yet.
- The starting salary for counselors of \$7,500 for a high school graduate would be adequate to attract the numbers needed for a regular responsible staff if more opportunities for increases and advancement existed.
- The detention staff union fights for better working conditions including a duty-free lunch period for each of three shifts, but does not fight for reforms needed to improve life for the children.
- Teacher union requirements such as those preventing teachers from teaching more than 22 periods each week, and those preventing an assistant principal from ever teaching, and special arrangements limiting older boys' classes to 10 students and younger boys' classes to 12 students, are more likely to deny some children an adequate school program than to improve the quality of the educational services.

### Health Services

- The Juvenile Centers' social service staff members provide little real service.
- Even though many pregnant girls are cared for, some of them returning to Juvenile Center a few days after giving birth, no provision is made for babies, for counseling or for adoption services where desired.
- Where examinations indicate the need for health services in the future, after the child is released from Juvenile Center, no adequate provision exists to ensure those services for the child.
- The diagnosis and treatment of drug users continues to be a problem.
- The infirmary has neither medical nor recreational space nor sufficient dental services to take care of the children adequately, but renovations now underway should solve this problem.

### Educational Services

- The educational program is not sufficiently individualized to fulfill the needs of children in detention.
- Fewer hours are spent in school each day than would be spent in a regular school program.
- The Board of Education's plan to improve the program under a special foundation grant needs greater participation and control by persons who have not been closely connected with the present inadequate programs.

### Reception Program

- The present "reception center" at Spafford now used for deciding where all the children belong seems of little use, probably merely forcing the child into still another living situation with different staff for a short period of time before being assigned regular living quarters on the basis of age, size and sex.
- When the Juvenile Centers are overcrowded, a child is often in the "reception center" program for many days before being placed in regular living quarters.
- There is no activity program for children in the "reception center."

### Programs Generally

- Generally poor programming leaves the youngsters with long periods of inactivity.
- When school is not in session, little exists in terms of programs for the child in the Juvenile Centers.
- Children who have been in the Juvenile Centers for more than a few weeks and are likely to remain for a long time are not separated from others, physically or in terms of program.

## Recommendations

Since the Office of Probation took over juvenile detention in the summer of 1967, the greatest change seems to have been the change in name from Youth House to Juvenile Center. We do not recommend any additional changes in name, but we do recommend a great deal of change in what is happening to children. Some of our recommendations are not new, some are already planned by officials, but all are needed swiftly.

### Improvements in Present Detention Facilities

- The recent increase in state reimbursement for secure detention facilities must be considered additional money available to help improve detention services rather than substitute money for city funds regularly appropriated.

- The control of drug abuse is a problem.
- Every time a child is scheduled for a court appearance, he is sent back to court with all his belongings although, in a large number of cases, the child will be returned to juvenile detention that very evening.
- "Solitary confinement" or "isolation" or "quiet room" exists, although the extent of the use is unknown and probably changes as crowding increases.

### Coordination of Services

- Staff members in the Juvenile Centers seem to feel no responsibility to help the child through probation officers or law guardians, but treat the child as though his life in detention were completely separate from the rest of the court system.
- Probation officers rarely visit a child at Juvenile Center although the main reason for placing detention under the Office of Probation was to establish coordinated service and planning for the children.
- Juvenile Center sometimes provides psychiatric and psychological evaluations and "adjustment" reports requested by the court, and the probation officer outside detention sometimes provides a home investigation; but there is seldom integration of work, information or findings despite the fact that all are employed by the Office of Probation.
- The need for future medical care may be found by the Juvenile Center medical program, but no adequate provision exists for follow-up after the child is released from Juvenile Center.
- Although the medical service is one of the few real services available to the children, probation officers do not seem very interested in obtaining medical records, which often include information which should be available for future court planning.
- Detention staff members (under the Office of Probation) and education staff members (under the Board of Education) seem to be feuding with one another to the detriment of the children who are in dire need of cooperation and understanding among staff.
- Social services are not coordinated with the medical services.
- The present system under which detention staff members take children to the infirmary or hospital when the need arises fails to ensure children health services when they need it.
- Although children may be in the Juvenile Center school programs for long periods of time, the child's school records and class credit are not used for the child's benefit.
- Sometimes lawyers of record are denied the right to visit their clients in a Juvenile Center.

- Adequate educational services must be guaranteed for every child in detention, with separate programs for the children detained 30 days or more, while work continues to determine the best kinds of educational programs for all the children.
- Children who have been detained for 30 days should be in special programs devised for their needs.
- Health services should be more closely coordinated with the work of other detention personnel so all are educated to the health needs of the children, and a child's health problem is brought swiftly to the attention of the health personnel in the infirmary.

- Appropriate social services, including competent, dependable studies of the children detained for any length of time, must be established.
- There should be an emergency psychiatric service available through the infirmary program which should help train the social service personnel in the detention institution as well as help the children through more direct service.
- All health services, including the full dental program beginning after present infirmary renovations are complete, should include adequate provision for after-care when the children are released from detention.
- Although the need to keep addictive drugs from youngsters and staff in detention institutions is real, this need should not take priority over the necessity of treating the children in these facilities as young people who need special care and compassion. The regular stripped searches suggested by many publicized visitors cannot be permitted in a child care institution.
- The present "reception center" program should either be eliminated with each child assigned to regular living quarters the day that child is sent to detention or be changed to suit the child's needs rather than administrative convenience.
- Sometimes locking a child in a single bedroom can be considered a safety device for the benefit of the child, but no child should be locked in a room as a regular matter; that can never be deemed for the protection of the child.
- Arrangements should be made to replace the system whereby a child takes all belongings when going to a court hearing although the child may be returned to detention.
- Solitary confinement must be eliminated, whatever the pretext for its use.

### Plans for Changed Physical Plants

- All the buildings now used for detention purposes should be closed or converted to other uses with reasonable speed. The relatively few children found to be a potential danger to the community or themselves should be placed in small, secure detention residences reasonably close to the courts. (Such closeness to the courthouse as well as closeness to the probation officers should help ensure the use of secure detention simply as a temporary holding operation from which the child should be released swiftly as well as making visits from families more convenient and probable.)
- The secure detention residences should remain the responsibility of the court system, probably through the Office of Probation, but other kinds of services should be the responsibility of the New York City Department of Social Services so that the court children are not segregated from all other children who need the services.
- Other children should be placed in very small residential and non-residential services in the neighborhoods, including foster homes and day centers.
- All planning must be done on the basis of the numbers and needs of children who really need a place to stay, rather than on the basis simply of the numbers being detained now by the Family Court.

### Some Changes to be Instituted by the Office of Probation

The Office of Probation must be accountable for moving the individual child through the court system swiftly, for secure detention facilities, and for some emergency services which prevent the need for detention. In exercising these responsibilities:

- Probation officers must receive training to enable them to give the necessary special consideration to the question of whether a child should be detained and to make them more aware of the seriousness of such a decision in the life of a child.
- Probation must increase the number of probation officers assigned to special high-risk caseloads of children who might otherwise have to be detained.
- The Office of Probation must not permit the probation officer's work to be completely separate from detention. The probation officer assigned to investigate the case must consider the child's experience in detention as part of his responsibility.
- Regular, ongoing in-service training must be instituted for all those working with detained children, including social service, education and health personnel. To help staff eliminate present problems in working together for the benefit of the individual child, such training should often take place with different kinds of staff together.
- Top priority must be given to recruiting personnel for detention facilities through the colleges and through community groups in order to obtain people with interest and the greatest possibility not only of filling the many vacant jobs but of doing so with greater consideration of the child's needs.
- A complete manual of procedures for staff must be available for all staff and should be a public document.

### Some Changes to be Instituted by Top Court Administrators

The Presiding Justices of the First and Second Judicial Departments have some responsibility for court services within New York City. In recent years the Presiding Justices, now the Honorable Harold Stevens in the First Department and the Honorable Marcus G. Christ in the Second Department, have expressed a great interest in the Family Court and what happens to children before that court. This interest has led to many changes, including an ongoing reorganization of Family Court. The Presiding Justices have also appointed special committees to investigate and make recommendations regarding juvenile detention. All represent hopeful steps, but we believe the Presiding Justices can and must undertake action to bring about these results without delay:

- A 24-hour daily screening intake service for Family Court cases must be instituted, thus ensuring not only that youngsters have their cases heard as swiftly as possible but that unnecessary use of detention ceases.
- There must be special training programs regarding detention decisions and practices for all kinds of personnel, not only to enlighten the individuals involved but to help increase cooperation among them.
- There must be uniform standards of behavior for all detention personnel, and a swift but fair system of releasing from employment those who violate the standards.
- A judge should not be permitted to detain a child in Juvenile Center in order to obtain a psychological study, although appropriate mental health services must be made available for Family Court use.
- A judge should not be permitted to use detention as a punitive measure.
- A judge should not be permitted to make a detention decision until a lawyer has been appointed to speak for the child.
- There must be special, swift means of appealing the question of detention.
- There must be procedures whereby the case of any child in detention as long as 30 days is given top priority in all phases of the court system.

- There must be adequate implementation of the right of any lawyer of record to enter a Juvenile Center at any time to interview his client.
- Time spent in detention must be subtracted from time spent in placement after the court decides the child needs residential placement.

Unfortunately, different public departments and agencies are responsible for the various phases of care and for different categories of court children. The Presiding Justices should bring together all those individuals responsible for these phases of care, thereby instigating the necessary joint planning and ending the isolation in which each carries out a part of the task. However, in the meantime, the Presiding Justices should bring together the officials from the New York City Board of Education and the Office of Probation who have the greatest responsibility for the programs in detention residences to help

case tensions between them, to help build mutual trust and a working relationship that works for the benefit of the children, and to end the destructive antagonism which presently seems to hinder the development of the best possible programs for detained children.

#### Some Changes to Be Instituted by the Mayor

The Mayor should appoint an inspection team of persons unconnected with the court system to inspect detention facilities regularly, without advance warning, and to make public its findings and recommendations, members of the team to be rotated frequently so personal relationships cannot hinder action.

The Mayor should appoint a special group of private citizens to oversee the implementation of this report's recommendations and to provide an exact timetable under which they shall be carried out.

### Summary of Statement

Secure detention in its present form serves little purpose for the children or society, and takes a tremendous toll in intangible costs for the child and society.

Most boys and girls now in juvenile detention facilities should live in other kinds of residences or special boarding programs or foster care. Most children are detained because they do not have homes to which to go. The present program under which each detained child is treated as a massive security risk, forced into a very regimented and uncomfortably structured existence, locked in constantly, is not only a miserable situation for the child but one that is turning the child into a real security risk for society.

These children must have good living conditions and programs which help them to see themselves as decent human beings. Most of the children who find themselves in detention already have little reason to respect law, order, or the people who have legal control over them. Whether these children or the rest of us are helped by their being in our Juvenile Centers, denied the respect and care that the law and our common sense indicate are needed.

We get what we give in this world. And if we do not improve conditions for these children, we will get compassionless, alienated, brutal adults who are the logical end of our own work.

#### Members of Citizens' Committee for Children of New York's Task Force on Probation, which prepared this report:

Mrs. John A. Willis, Chairman	Mrs. Thomas B. Hess	Dr. Stephen Nordlicht	Mrs. Robert S. Siffert
Dr. James L. Curtis	Mrs. Nora P. Johnson	Mrs. Roswell B. Perkins	Sister Mary Paul
Mrs. Howland Davis	Mrs. Stanley Lapolla	Dr. Esther Rothman	Mrs. Alfred R. Stern
Mrs. John Ellis	Mrs. Walter Maynard Jr.	Mrs. Steven Schlossstein	
Elizabeth Granville, Esq.	Mrs. Barnett Newman	Mrs. Eugene A. Schnell	Staff, Leah Marks, Esq.

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#### EXHIBIT No. 12

#### MEMORANDUM

Re Definition of Objectives Regarding the Care of Children Placed Away from Home.

To: Interagency Council on Child Welfare.

From: Sister Mary Paul, member of the "Specifications Committee" on the above subject.

The following proposal is based on several principles:

(1) That differential study and individualized planning must precede the placement of any child outside his home, and that the selection of resources must be individually determined.

(2) Therefore, the placement agency cannot fulfill its obligation to a child and his family unless there is a prior and valid knowledge of the services they will need.

(3) That the placement agency's commitment to serve the child and his family includes the responsibility to involve them as fully as possible in the planning and service.

(4) That the foster care agency enhances its service to child and community by its own active interchange with other community groups and resources, and also by promoting the child and family's use of appropriate resources in their environment. That is, it is at least as important to make use of potential environmental supports as it is to guard against environmental hazards.

(5) That the goal of the foster care agency is to promote the human and social development of the child and his family and that this will always require more than adjustment to the agency and/or its regulations.

(6) That the existential reality of present child placement practices shows that the particular way a youngster is referred and planned for—the door to which he first comes, e.g., the court or another agency—sometimes has major consequences for the service he is offered, and even for the agency reviewing him.

Accordingly, I believe the objectives in the placement and care of children must begin with the decision-making involved and the path to the foster care agency:—

#### OBJECTIVES REGARDING THE CARE OF CHILDREN AWAY FROM HOME

##### A. Determination of the Need for Placement

1. Should be made in a community-based (but not necessarily neighborhood based) reception center whose services would include both outpatient and residential arrangements. The reception center would offer counseling and crisis-intervention services in response to applications for placement. The staff would be a multi-disciplinary team including community representatives from supportive agencies, to insure knowledge of alternatives and resources within the community.

2. Team would have independence in its work while it would have recourse to the Allocation Division of the Bureau of Child Welfare for (a) consultation in the location of specialized or city-wide services; and (b) authorization for care in the instance where a suitable resource or foster care agency is located and the reception center's referral is accepted by that agency. (The reception center team would make the referral and interpret the needs of the child and family known to it.)

3. The team would be free to make referrals for any community-based service or to proceed to a more specialized agency, by planning together with the family in question. It would have the services of consultants such as psychologists and psychiatrists, and could provide clinical and medical evaluations wherever needed in the exploration of need and for referral.

4. The team should have the resource of some residential space in the reception center to handle emergencies where children might need immediate removal from the home, while free to avail itself of first line aid from relatives or neighbors. Nevertheless, a group care arrangement for a few weeks is sometimes helpful, especially in the neutralization of conflicts involving acting-out behavior by an older child, an adolescent, for example.

5. The team should gather data on referrals made and responses received so that knowledge of needs and resources becomes part of a larger information management system in the city.

6. The team should receive periodic reports from the receiving child care agencies and should have the privilege of calling or attending conferences with those agencies (a) for the setting of appropriate treatment goals involving the child and family; and (b) for the review of ongoing implementation or revision of those goals moving toward the discharge plan projected from the beginning.

7. There should be several such reception centers in each borough. They would largely supplant the present congregate shelters and detention centers, although the city could maintain one or two small detention units for adolescents so disturbed as to require a secure arrangement.

8. The city could directly operate these reception centers or contract with voluntary agencies for their operation. In the latter case, child placement agencies (foster care or group care) would submit their progress reports and discharge plans to the Bureau of Child Welfare as well as to the reception center.

Rationale: Although the public agencies must retain responsibility for the review of need and for discharge planning, effective service requires continuity of contact with the local community and open exchange with its agencies.

#### B. Objectives of the Foster Care Agency

1. To provide substitute parenting and care of children for a temporary period until parents or relatives can resume this responsibility, or until an adoptive home is provided in those cases where a family cannot be reconstituted.

2. To provide a comprehensive range of services designed to meet the emotional, social, religious and health needs of the child, educational and vocational preparation as individually required, and any remedial help which may be necessary toward the primary goal of promoting his highest potential for maturation and social competence.

3. To provide a broad range of direct services to families aimed at removing obstacles to the reconstitution of the family and at the growth of family members as self-sustaining and competent people; also to give indirect services by linking family members with appropriate economic, health, counseling and vocational resources, legal aid, or other social action supports.

4. To monitor the services given through other institutional systems to members of the family, e.g., the kind of help given a mother who is psychiatrically hospitalized, so that she will be equipped to return to her family. In other instances, to participate in any appropriate interventions with other systems which are in the best interests of the child and family.

#### C. Implementation of Objectives and of Standards of Service

1. The foster care agency should give immediate attention to requests for help and study material received from the reception center, and be obliged to respond within a week whether the child can be considered for admission, even if a follow-up interview is required for final determination.

2. The agency should explain fully the reasons for rejection wherever this occurs, either before or after an interview.

3. Where an interview is required this should take place within two weeks of the time a referral is accepted, either at the agency or by having an agency staff member see the child and family elsewhere. (Receiving agencies must be required to respond quickly; long screening processes can be hazardous for child and family, and agencies must review practices to make them responsive to need.)

4. An agency without current openings, on accepting a child for care, should assume responsibility for pre-placement supportive help to the child and family until the admission date occurs. (In some instances intensive help given during this time may obviate the need for placement.)

5. The agency should provide for the reimbursing public agency as well as for other referral sources and reception centers a summary of its intake policies, criteria for admission, and a delineation of its services to child and family.

6. At the time a child is accepted for admission, it should also provide to the referring organization or reception center a specific plan for that child and his family, including which services are to be offered for their individual needs. The name of the caseworker and/or therapists assigned should also be given at that time in order to provide channels of communication from the beginning. The initial plan of treatment would serve as the basis of periodic review and revisions according to the need of the child and family. The plan should include not only the kinds of direct service offered by the agency, but the specific community resources which would be sought and employed in the particular case.

7. The foster agency should encompass a range of modalities and functions appropriate to its client group and designed to ensure continuity of service until the family is reconstituted and aftercare findings permit a discharge plan to be complete; or continuity of service which ends in an adoptive and permanent home. For example, an institutional setting should embrace small group homes, foster homes, and any other modalities needed for transitional movement and continuity of service.

8. The funding to foster agencies should include not only residential services but direct services given to child and family at home, and also reimbursement for foster day care, family day care, day treatment, and other outpatient counseling as well as family life education programs and family therapy undertaken by agency staff.

(The present system of reimbursement should make it possible for an agency in the Charitable Institutions Budget to do more than give residential care which is more expensive, and at certain points less appropriate, than the kinds of programs named above. An agency on that Budget list should be able to make claims for a total range of services designed to reconstitute the family as early as possible and to promote the best potential of each member.)

Senator BAYH. Our next witnesses are Sue Ann Shay, assistant general counsel of Community Action for Legal Services, and Paul Kelley who is willing to share with us the experiences that he has had.

#### STATEMENT OF SUE ANN SHAY, ASSISTANT GENERAL COUNSEL, COMMUNITY ACTION FOR LEGAL SERVICES, INC., NEW YORK, N.Y., ACCOMPANIED BY PAUL KELLEY

Miss SHAY. If it is agreeable with you, I would like to introduce Paul and just let him speak.

Senator BAYH. Fine.

Miss SHAY. I would like for you to know that in New York City and throughout the State we divide our children into three categories when they come before the court: One is the juvenile delinquent who is a youngster who is accused of and convicted of committing an act which, if committed as an adult, would have been a real crime, either a felony or a misdemeanor. The second category is a child who personally needs supervision, the incorrigible child who runs away, plays hooky and so on and so forth; and the third category child is the neglected child. Sister Mary Paul's children are clearly PINS and Paul Kelley is also one of the PINS children. A PINS child is a person in need of supervision.

Senator BAYH. That would be in category 2 or 3?

Miss SHAY. That is category 2, so that Sister Mary Paul's children and Paul have never been picked up by the police for allegedly committing an act which would be a crime.

I think, having said that, that I will let Paul give you his statement, himself.

Paul's name is his own; he is off parole now, and he is over 18, so he wishes to be identified by his correct name.

Senator BAYH. Paul, we appreciate you being with us.

Mr. KELLEY. Good morning, Senator Bayh, and ladies and gentlemen.

As Miss Sue Ann Shay has said, I have gone through different changes.

Well, to start off I had got in trouble in school. I went to parochial school most of my life, and I was transferred from parochial to public schools.

I really had a very good, high average, like 85 or 90, but I could not get along with my people, and, so, one day my mother told me that I had to go to court, and I said, you know, I asked her why did I have to go to court, and she said that we could not get along.

So, I go down to the court, and they tell me, you know, I see a legal aid lawyer, I see the judge, and the probation department, and they tell me that you have to excel, you have to listen to your mother, you have to do the positive things, the things that she said, and I did not go along with it, because, you know, it is just problems, and we could not work it out.

So, the following day I got in court, I came back, and my mother told the judge and everybody else that I still could not make it.

Senator BAYH. As we go along, may I, if you do not mind, interrupt?

You may read your entire statement if you wish, or you may summarize it. We will put your entire statement in the record, as if it had been read. What we want to know is what your experiences have been and what you really think now.

You said that you got in trouble, that you could not get along. What kind of trouble, what kind of not getting along are we talking about here?

Mr. KELLEY. Like me and my mother. My parents were separated, and like I got two younger brothers, at the time I was 12 years old and they were young, one was in an asthma camp at Chippewa, N.Y., and my mother was paying the bill there. My mother was paying the rent, and she has asthma, you know, and she had a lot of financial difficulties. She had asthma, and she was actually paying for me to go to the Catholic school, and this was a burden, too, but, she always felt that she wanted her children to have the best.

Now, like I could not get along with the teachers, because I felt that they were not giving me what I wanted. I mean, like it was parochial school, and I mean, like I am Catholic, I mean, but I feel this way, you know: if you stress too much religion in everything you cannot always, you know, get your thing together in terms of books. You know, you cannot relate numbers to God. You understand?

But, anyway, after I had went through the changes with my parents, they sent me to the youth house.

Senator BAYH. Your parents sent you there?

Mr. KELLEY. Right, my parents sent me there.

Senator BAYH. Did they go to court and ask the court to have you sent there?

Mr. KELLEY. Yes, they did so, and afterward, once I got there, you know, I went through a number of changes; like people search you, like, you know, you see these old movies where they frisk you, you know, and make you take off your clothes, and then you are taken into this reception dorm, and when they take you upstairs, like, you know, I am 12 years old and I am exposed to kids 16, 17, and 18 years, and, you know, I did not know what was going on. I was playing hooky from school, and maybe smoking a cigarette, but I was not exposed to this.

So, I was put in B-2 with the younger children, and the supervision organization there was soliciting narcotics, there were homosexuals within the dormitories, and I would relate to the workers that were

there to supervise us, you know, like this cat, you know, is hassling me, like he wants to have sex with me, and it ain't going to happen, and I ain't going to agree with this.

Senator BAYH. This was another one of the boys or was this one of the counselors?

Mr. KELLEY. No, this is one of the boys, and I kept on telling them. At the time when I was there, I did not actually see nobody. My parents came every Sunday, and I could not see what I had done wrong. I mean, I just played hooky from school. And I went back to court, and this was during the summer, and they sent me home for a couple of weeks.

At that time, I was referred to one of the private institutions, the Children's Village, and after I had came back from the interview in Children's Village, they told me they did not want me.

So, I was sent back to court, and I was sent to Highland State Training School for Boys.

When I went before the judge the second time he told me I would be up there at least 18 months, and then I would be remanded back home.

So, they took me to Highland.

When I got there, you know, it is a beautiful, picturesque place, but that has nothing to do with the teachers who supervise you or are involved. Like you come into the place, your clothes are taken from you, you know, you wear State clothes, you go through all kinds of changes with doctors and nurses, and, like, they took blood from me, and the lady tried to rip my vein out of my arm, you know. And I went to see a psychiatrist there, and he labelled me something, you know, and whatever it was I stayed there longer. He felt I should have stayed, so I stayed in the reception for 2 weeks, and they finally sent me to my cottage.

I was also bigger than most of the kids, so I went with the bigger boys, and I was put in B-1, and while I was there, I was in B-1, and from the time I hit the dorm until the day I left that place I had nothing but fights, arguments, and so forth. The school there, I do not believe there is a qualified teacher that works there.

I mean, all day long in some of the classes all you did was math, mathematics, and one class all day, one class, that drew maps, and this is enough to drive anybody crazy. You understand?

And, then, the social worker. You go to see him once in a blue moon, and he will tell you: "Well, we do not see you progressing, and you will be here a little bit longer. Try harder. Goodby."

That is all we got from the people there.

Then, like the supervisors, well, to me, in my cottage, Mr. Beseiko was a regular, and he was beautiful people; he dealt with the kids that were in there. He sat down and he talked to them, and he would talk about your personal problems, and talk about your parents, what the boys were doing on the wing to other boys, and so forth, and he dealt with it accordingly. He treated us like we were his children and he was our father and I believe in the whole time I was there in Highland that this is the only man that I really had faith and confidence in.

Senator BAYH. How often did you get to see him?

Mr. KELLEY. He was the regular, so he was there from 4 to 12, 5 days a week.

Senator BAYH. So, you saw him every day?

Mr. KELLEY. Right, except on his days off.

Senator BAYH. You seem to feel that you did not learn much while you were there. Couldn't you relate to the teachers?

Do you think you should have been taught so you could have related?

Mr. KELLEY. Well, I feel first of all that the teachers, the classes, should have been, you know, geared to helping kids improve their English, their math and, you know, history, and so forth and so on, but I feel that, you know, if the teacher cannot get, you know, all of this in his head, the teacher should travel from class to class, just like they do in high school. It is the reverse, and the children travel from class to class. They do not want to move us, have the teachers move, you see. And I feel that most of the kids there, they did not learn anything.

In fact, there was only one class that I went to, and I would sneak out of my class to go to this teacher, Mr. Jackson, who was one of the few teachers there, and one of the few people there, that were black and that were working there, you see, and he taught basically everything, English, math, science, social studies, and while I was in his classes in the afternoon I got something out of it, I got something. You know. It helped my English which is, you know, not up to par. But I got something out of it.

And, as far as the supervisors are concerned, like I feel that the State should have trained people working there, because these people are migrant farmworkers, shoeshine boys; they got everything in the book working there. They do not know. All they do not know. All they do, they come there and they work for money. Money runs this country, but money does not help the child if he has a problem, you see. I feel that the workers, the people that work there to supervise these kids should have some kind of book learning, and psychology and sociology, or something, you know, because they are predominantly black and Puerto Rican kids in these training schools.

Senator BAYH. What was the breakdown in percentage of black and Puerto Rican?

Mr. KELLEY. Fifty-fifty, just about.

Senator BAYH. What percentage of white, then?

Mr. KELLEY. One percent or two percent, from the city.

Senator BAYH. The great majority there at Highland were either black or Puerto Rican?

Mr. KELLEY. Right.

Senator BAYH. What percentage of the supervisors, not the teachers, but the supervisors, were black and Puerto Rican?

Mr. KELLEY. Well, in Highland let me explain to you.

We have six cottages, four wings, and the cottages have cottage parents. Now, I think it was approximately, maybe six to 10 supervisors were black and the rest were white.

Senator BAYH. How many of the rest?

Mr. KELLEY. I mean, like you have a 4 to 12 man, a 12 to 8 man, and an 8 to 4—in other words, you had three workers, you know, and you had two alternates for the direct supervisors which were off; so, like the only time we had a black worker or supervisor at Highland was when somebody was sick at our particular wing. So, then, other than that, we had all white supervisors.

Senator BAYH. I think you said a moment ago that you were really able to communicate with your supervisor. You liked him?

Mr. KELLEY. Yes.

Senator BAYH. Was he black or white?

Mr. KELLEY. He was white.

Senator BAYH. But you really still could associate with him and you felt he cared about you?

Mr. KELLEY. He did. He cared about all of us. He did, I think, more than anybody there. He took us on bus rides, you know, and we had fun while he was there. Originally, this was a summer camp, and in the summer was the only time we had fun. Like we would go on bus rides, and we would go fishing, and we caught turtles and we would catch turtles and sell them to the supervisors, and fish, and we had big fun. But so far as rehabilitating the so-called juvenile delinquent—and I do not like the word; I believe it should be stricken from the book, but they did not do nothing to help him, you see, because you very rarely saw anybody there, and when you saw him it was one of these, you know—he was always under fire for something you did wrong, you know. I mean, maybe once in a blue moon you got your coat pulled for something you did good, and I feel it should not be that way.

So, after I stayed there, I went and I made visits, and this is where the training school was that you made visits, and I went on further to Hampton which makes no visits whatsoever to the home. I went home for Christmas, and I had to go to the hospital, and, aside from the operation, when I came back I had did something. I do not know; I cannot today figure out what I did, but for that I cannot go home for Easter, and I miss my first visit for fighting, and, then, on my second visit home, I was told I would be up for parole. So, all of this time, you know, we played basketball. That was another outlet; if you played ball, then, you got off the campus. We went to the movies maybe once a month. We did not go to dances like the other training schools, because the kids were too young, I guess that is what they felt, we were too young. So, we did not see no young ladies while we were there unless your sister or cousin came to visit you.

So, after I came home, back in the city, I was put on parole, and I was paroled to Mr. Fike. He was one of the workers that was down there. Now, when I first got there I was asked what school would I like to go to, and I told them I wanted to go to public school, so I was shipped off to Catholic school. My mother did this. I am back home, and I can't make any decisions you see. I was also told to stay in a child's place; I had no voice, no nothing, you know.

Senator BAYH. How old were you then?

Mr. KELLEY. Thirteen when I came back, and I felt that, I mean like, you know, I could say what school I wanted to go to. I did not want to go back to the Catholic school because I could not make it and I knew I would not make it, and, like I said, I lasted 18 months. I lasted one whole school term and I got kicked out in the middle of the next, and, then, I went to the public school, and all this time I was working with this Mr. Fike, social worker for the State, and we were not doing nothing. We had nothing going with each other. He was as dumb as I was, in terms of helping me. I had no outlets. Me and my mother could not get along. I tried to tell the cat, you know, that I wanted to

go to a residence or to a foster home, or anything, you know. I wanted anything but my mother's house, because I was not getting along.

So, eventually, I started getting into more things, fighting in school, playing hooky, and I was what they considered, generally, you know, I was just nothing, period.

So, finally it came that I got transferred to William Howard Tatt High School in the Bronx. I lasted a month there, and under the pressure of my mother and a lot of other things I was going through, you know, I told Mr. Fike I wanted to go back upstate. I wanted to get someplace, you know, to get me off of the streets before I do something to myself or somebody else.

Now, I never, I mean I never seen myself doing anything bad. I mean, I got a good head on my shoulders. I like to read; I like everything. You know, I am a very adventurous person, but I needed some help, sometimes someone to sit down to get my thing together.

So, one day he called me, and we had been talking that whole week about another facility which is called South Kortwright. This is a private facility. It is run by the State, but like they picked the boys that they have there. So, he called me one Friday, and he told me he was coming by my house and not to go anyplace, and had I known what he was going to do I would have run away, I would have split the city. He comes to the house with a warrant for my arrest, and I did not dig this, because I felt, you know, why bring a warrant. If you have got to do something, just do it, and you do not need no warrant for my arrest. I am not a criminal, I have not committed any crime.

So, they take me to the Youth House, and, like I tried to delay it as much as possible, I made them stop and I was looking for a paper with my picture that was in there for a basketball tournament, and I made them stop; but eventually, I got back to the Youth House.

This is what they referred me to, this place called Spofford, and once I got back there I went through the same things I went through there previously when I had been there 3 years ago. This was in 1968, and they told me when I got there to go to reception, and they put me in D-4, and when I got there, as soon as I hit the door, I was asked, you know: Do you use drugs? Do you smoke reefers? And I mean it was nothing with either of them. And heroin and marihuana? So, the supervisor, the one supervisor who worked there, he was selling drugs across the table, you know, like you would buy from him in front of somebody, another supervisor, and he would turn his head like he did not see it, and this went on from that Friday until that Monday.

So, that Monday they called my name for the New Hampton State Training School. I told them, "You have got the wrong person. I am supposed to go to South Kortwright."

So, I raised hell all of that day, and they did not send me no place, but they locked me up and they put me in one of the rooms until I could see a worker, and I was totally isolated, like I was run out of the room when I got ready to go, you know, to eat my breakfast, lunch, and supper.

So, then, my mother had come that week of that Monday to talk to the worker, so they tried to put me into CSU, which is community service unit. This is where the boys stay 5 days a week and go home on the weekend. I could not get on CSU. They tried to put me in a foster home, and they could not get me in a foster home. They tried to put

me in a residence, and I could not get into a residence, and I had no alternative but to go upstate, because I think I could not stay in Youth House much longer.

So, the following Monday, I went up to Hampton to the State training school for boys.

When I got there, when the bus emptied, my first experience there was with a jail, you know, and Hampton used to be a State penitentiary like Elmira, and they had bars all over the windows, you see, and when you come in they have the gate, and like a person who has never been upstate before, he can just imagine at night that a cat is up in one of those gun towers, you know, with a carbine, waiting for you to run across the lawn so you get shot, you know, and that is the way it was pictured. It was just like that, you know, and when you got there you were taken directly to the reception, where we were searched, you know, like from head to toe.

Senator BAYH. You were 15 at that time?

Mr. KELLEY. Sixteen: 16 years old.

Miss SHAY. And if I could interject, still never arrested for any act which, if he had committed as an adult, would have been a crime. He is still a person in need of supervision.

Mr. KELLEY. So, afterward, I stayed in reception, and they had a faggot for a supervisor, and he was running around mingling with the boys, and so he asked me, he said: "Do you indulge?" And I said, "No, man, I don't indulge. I like women. Men ain't my fancy. Friend, play ball, but that's it." For that 2-week time, you know, I went in to talk to different people, the priest, the social workers, the leadership, and so forth and so on, and so finally they sent me to Kennedy Hall. This is one of the wings that has rooms, but they do not have no doors on the rooms. So, I stayed in Kennedy, and at the present time I was not in school, I had a job, so I worked on the farm, which was a farm where you picked potatoes, corn, tomatoes, carrots. You do like farm-work, and like all we did was this all day unless something else came up. You did pick corn, and then at the end of the year like at the end of the summer you bale hay with a pitchfork, and they did not have any machinery. I figured it this way, you know, with all the money the State had how come they did not have any machinery for us to get the hay, and why do we have to use the pitchfork.

Senator BAYH. Paul, may I interrupt?

We are having a real time problem, and you have given us a good perspective of the thoughts that went through your mind, so I think we do not need a lot more detail. We will insert your entire statement in the record.

(The prepared statement of Paul Kelley follows:)

#### PREPARED STATEMENT OF PAUL KELLEY

My name is Paul Kelley. I am 18 years old and live on the lower east side of New York. I am going to school at Mid-Manhattan Training Center run by the Manpower Development Training Corps. in order to get my high school equivalency diploma. I am also a graduate of Youth House for Boys, Highland State Training School, Middletown State Hospital and New Hampton State Training School, all in New York State. I was first brought to court by my mother when I was 12 because I was playing hooky and having fights with her.

Let me tell you about the court system first. My mother had taken out a PINS on me. When I got to the courthouse I got to the judge who sent me home first, and gave me a parole worker. After I made my second trip to the court I was

sent to the Youth House. When I got there they had all kinds of weird goings on. Like the supervisor would throw big keys at you. [Deleted.] There was this supervisor who beat the kids up all the time.

The only time there was any free activity was when it was nice outside and they took you in the yard. You couldn't go anyplace in Youth House unless someone had the keys. Some supervisors would lock you in your room at night. School was crummy and kids were running in and out of the classrooms. There were drugs here brought in by the supervisors who were pushing them.

But you get boys who are in good with one of the Kings on the dorm. If this is it, you play a game with your life. You may have to submit to homosexuality, or drugs, or else you get money, clothes, food, etc. . . . taken from you. Nine out of ten times you have to fight no matter what choice you make.

#### MY FIRST TRAINING SCHOOL

After I stayed in the Youth House I finally was sent up state to Highland State School for Boys. This is for the young boys 11-13½. When you come in you go through [deleted] changes; that's not needed. The House Keepers are a pain in the [delete]. You don't really need them but there they are.

Let me tell you about the classes. In all the days of my life I have never seen a school so disorganized. The teachers were as dumb as the boys. In one class all they did was math all day, in another class all they did was draw maps and so on. The only class you learned something in was Mr. Jackson's. He was one of the few Black teachers who tried to help the children. The rest said "the hell with you." So after I got back from the hospital I messed up somewhere, I really don't know where but I missed my Easter visit. I also got into the church cause I thought they could help me keep out of trouble. I know when I was bad and I was not God, but some of those boys were up there for rape, stealing cars, etc. . . . All I did was play hooky from school. I stayed in reception for three weeks. While I was there I seen a Social Worker, Psychiatrist, Doctor, etc. . . . after they finish running you through hell they send you to your cottage.

As soon as you ain't got to go through any more changes here comes somebody saying they going to take your manhood; in other words they are going to sock it to you. I've seen it happen in fact. They tried it with me but to no avail. I went crazy one day; after that people said very little to me.

I came home for Christmas and when I got home I had to have an operation. I was happy when I left. When I got back I couldn't play basketball with the boys and they needed me badly. So that summer I also missed my first visit home but I went on the others.

Finally when I came back from my last summer visit I was told I was up for parole. Then one very nice day I was called to the office. I thought I had done something wrong again but they told me I was going home September 29th two weeks away.

I must have gotten into nine or ten fights before I left there. You see, the boys had this thing that if you were going home they tried very hard to stop you, anyway possible. But I fooled them; I kissed a little [deleted] and I was let go.

When I got home I met parole officer Fike. He seemed to be a nice person at first but as time went on he was just as dumb as I was in terms of what to do to get my thing together. I was put in a Catholic school. First I was asked and I said "no" but who was I to say. But I was asked.

I lasted about 18 months. Within that time I beat up two teachers who were white for calling me a nigger so I was transferred to a school across the street from my house. All this time I was seeing my social worker. He was doing as much as a lamp with no bulb. But I made ends meet. After I go in the ninth grade I was put out because they said I was causing too much trouble. So I went to this man at the Board of Education and they knew I could play basketball so they put me in Taft High School. Well me and my mother was going at each other's heads again so I talked to Mr. Fike and he told me he would put me in a school named South Kortright Center for Boys. By the way, I wanted to go back. I was a good boy as far as they knew, and they knew very little.

So one Thursday he called me at home and told me he'd "try to see me and don't go no place." So I stayed home (like a fool). When he got there he had a warrant for me. I asked "what the hell, did he see me as a hoodlum?" Then I asked if he had a cop with him. He said "no;" I said "are you going to handcuff me?" He said "no" so I said "O.K. let go."

Well, we stopped at a newsstand across the street from the Youth House to see if they had a black newspaper because my picture was in it for a basketball

game. They didn't have it so we went in. Soon as I hit the gate things went [deleted] backwards. First the guy at the gate looked at me as if to say "another to teach?" So I was taken to intake the next morning and put on D4, where all the nuts were. I stayed all that weekend looking for the day I would be going to South Kortright. My mother came to see me on Sunday and she had some clothes. "Good old mom."

Well here on Monday, they read off my name and it says New Hampton. I said "you got the wrong Paul Kelley. I'm going to South Kortright." He said "I'll beat your [deleted] if you don't come on." I raised so much hell they called downtown and I stayed in the city another week. I should have gone on 'cause that's what happened. My mother came in that week and talked to a worker at the Youth House. First they tried to put me on Community Service Unit. This when you stay all week at Youth House and go home on week ends. No good. Then they try to put me in a foster home. No good. I was too bad. So the following Monday I went to Hampton on the promise I would be transferred to South Kortright. When I got up there I said "how can a guy stay here with bars on the windows?" I found out later it was a jail. I stay in intake for two weeks. Then I was sent to Kennedy Hall. I talked to my worker about the transfer. She said nothing was happening. So I said [deleted] it, make the best of it."

Well I was exposed to one of the worst farms in the world. My wing was on the farm side in the black dirt and it's black. Pick potatoes, corn, tomatoes etc. . . . Then at the end of the summer we had to go get the hay for the cows. With all the money the state has, we did it all by hand.

So I finally got a job working in the dining hall. But, all summer long if you were needed you worked with the hay, potatoes, all kind of vegetables. So I could not take it any longer. One Sunday night I went into the bathroom and put my hand through a window. They took me to the hospital. When I got back I wanted to go to bed. But in the morning I started talking crazy about killing myself, so after that I was put under lock and key. I didn't go nowhere without somebody with me. So on Tuesday they told me to go to Social Services. I talk to my worker until lunch; when I left I could feel something was up; they were being too nice to me after all the trouble I caused.

So in the afternoon I was told to put on my own clothes, I was going for a ride. Well, I knew it could only be two places. The Goshen Center for boys or the nut house; the latter was right. When I got there I seen a big sign saying "Welcome to Middletown State Hospital." When I got in I seen a doctor there. He asked me did I want to kill myself. I said "yes; by no means was I going back to Hampton." So the people left me there. I was taken to a ward with a lot of drug addicts from Woodburn. Its a state jail. Well, they gave me some red water, told me to drink. I thought I was high enough to get out the window. So finally I went to bed. When I got up, there was a guy next to me getting electric shock. He had cords running all over his head. So the attendant told me "you're next" and I told him he would have to kill me first. So later on that morning I was called into the office. This big man came in and told me we were leaving this ward. Well, anything was better than this.

So they took me upstairs and as soon as he opened the door I knew that I was not out of my mind. Well the first thing they do is dope you up and, baby, ain't too many people can say they cut loose a high. I was so high that I didn't know who my mother and father were, and when my worker from Hampton came I didn't know who she was.

Well, one day one of the boys told me how to beat the pills. If you take them, run around, keep yourself going. So I did. Then I seen there were the same things going on here as in Hampton. When a boy was found having sex with another boy he was drugged, beaten, and then took all his clothes from him, put cold water on the floor and made him sleep in it. Well, after I found out there were girls in there and you got out on visits, I could wait. Not that I did it, but I didn't have to think about it so much.

Well I got my wish. I went home for Christmas and I had big fun. When I got back I had new clothes. I sold a pair of Playboy shoes to a kid for 5 dollars 'cause the people wouldn't give him shoes.

Well finally I was sent back to Hampton. I missed the hospital. At least they let you walk about without big-brother watching you.

Well when they got me back they asked me if I wanted to go back to my old wing. I told them NO. So I was put on Truman Hall. It was a better wing. Only thing it was open dorms and when I was in Kennedy I had my own room. But it would do for now. Then I was told I was coming up for a review and I might be going home. The day my case came up after lunch, I was told I was going home in

three weeks. O Happy Days! I stayed with the boys having big fun, getting high on pills, heroin, smoke, for the next three weeks. So when I left on the Sunday March 17, 1969, I was free at last.

When I left that Sunday I said good-bye to the training schools forever. Well my new worker's name was Mr. Winkler. He was a funny little man. I told him I wanted to start back to High School, but he told me he wouldn't get me in, so I was put into a street academy. I lasted four days. That Friday I was picked up for stealing a car. Right then Mr. Winkler wanted to drop my case, but a special service unit worker picked it up. SSU is a special unit for "crazy kids," and they all thought I was crazy. That's when I met Miss Greenberg. Most of the summer of that year I stayed in the south. When I got back in September my mother kicked me out of the house. Miss Greenberg put me in what is now a Community Service Bureau residence. At that time it was in the Harlem Y.M.C.A. on 135th Street. Well they had homos on the floor with us. And one of the men working on the floor with the boys was selling dope and smoke. I lasted two weeks. Then I went back to my mother's place. In the meantime Miss Greenberg had gotten me into a residence on 27th Street, down town. I moved in there and I worked with Miss Greenberg. Well I had to go get me a job, so I was working up the street from Miss Greenberg. The job lasted two months and I started in this training program at Harlem Teams for Self Help. In all this time I worked with Miss Greenberg. Well I got kicked out of the residence because of some pills. But anyway I moved to a Y.M.C.A. on 34th Street and I stayed there until I finished my program at Harlem Teams. This past summer I went to New Orleans. When I came back to New York, I went back to staying at the Y.M.C.A., until November 7th. I had to move because C.S.B. was paying the bill and only if you wanted your time extended could you have it done. But I didn't, so I went down to Welfare and I started getting money from them. Me and my mother were back on good terms so I stayed with her. In January I went back to Harlem Teams to see if they could get me into a new program and they told me I had to wait until the people in the one now finished and they would see what they could do. Well I was still seeing Miss Greenberg even though I was off probation. So I had nothing but time to keep myself off the street. I would stay in Miss Greenberg's office for hours. Well the people were telling her to cut me loose but she told them NO. And I was happy about that, 'cause the rest of them were only there for the money. Money is good; everybody needs it; but going through all that schooling and getting nothing out of it. . . O.K., you work with some children but what about the rest. First of all they needed a drug program. After they got it, it fell apart because of all of the state cuts. Plus they have almost no good workers. They don't give a damn about the kids, all they want is that money.

Well that to me shows that somebody don't know how to hire and fire people. Well Miss Greenberg asked me if I wanted to go to Warwick State Training School to talk to boys who are coming home.

Well I said "yes I don't mind." So we went up there and I told them the parole workers are not all like Miss Greenberg. You see people can fool you if you don't know their game. Some are real and some are [deleted].

Well after I got back I was still working with Miss Greenberg. I went on one other trip to speak at a Nurses Conference on Drug Abuse. In order to get a kid together he has to work with people who have feeling for their fellow man. Well Miss Greenberg was very sympathetic to my cause and understanding.

It started off very slow. At times I felt she would let me go like all the rest of those half brain people who work for C.S.B. We got a lot of things done I feel would not have been possible if I was working with the other workers I had. And to conclude this, I feel you must start with the parent, the court, the probation department etc. . . And after you start looking at what you hire and everybody who worked with me, I feel I have not enough schooling to make some of the decisions which will make the difference between being a together person and a person who never comes to terms with his problems.

What all those places and all those people mean to me was *nothing* except for a few like Miss Greenberg but it cost a lot to lock me up for hookey and fighting with my mother. Now all I want is to finish with my English so I can go to college and finish getting my thing together.

Senator BAYH. Could you tell us what you are going to do now?

Mr. KELLEY. Well, I am going to get some English tutoring lessons and I want to major either in social work or I want to go to the College

for Criminal Justice. I want to be a lawyer, either a lawyer or a social worker.

Senator BAYH. Fine. Well, I appreciate your sharing your thoughts with us, and I hope and expect you to realize one or the other of those goals.

Miss SHAY, what are your views on what we need to learn from Paul's experience?

Miss SHAY. Well, I have been to most of the institutions, both public and private, throughout the State, and I have been to all of the temporary detention facilities in New York. I just would like to give you a brief comparison of them, and, then, going back to some other questions you asked Sister Mary Paul, I have some facts and figures for you.

Youth House, unlike Euphrasian is a totally locked facility; each corridor is locked; all the rooms are locked, their doors, and there are some rooms with bars on the windows. The children's clothes are taken from them and they are all dressed in Youth House uniforms, and there is no individualism. The schooling is very poor; in fact, it is often voluntary. The front gate is locked. There is very little recreation. The children are seldom taken outdoors, even on nice days.

At Euphrasian, which I have also visited many times over the years, there is also a lock on the front door and you go in and out through a buzzer system. Once inside, however, it is a very attractively furnished, open setting where the social workers and the Sisters, and the psychologists and psychiatrists go to work with the girls and others to make a plan to help them.

A similar contrast can be made between the State facilities, State training schools such as Paul described, and some of the private facilities which are operated by organizations like the Sisters.

Again, in the boys schools their clothes are taken from them in the State institutions, and there is a great depersonalization of the children.

Over the years I have learned from people like Paul and from people like the girls you have heard from this morning, the very same tales of open drug sales, open drug use, rampant homosexuality, and in one training school I visited one of the social workers told me quite frankly and openly that the girls in that training school divided themselves into families with all of the relatives; and homosexuality was not only tolerated it was the system that was used to essentially control the population. The only time that any interference was made by staff with that system was when, if you will pardon the expression, the father in the family got out of hand, at which point they were sent on to Brookwood, which was a maximum security institution for girls.

It might interest you to know that more than half of the children in these institutions are persons in need of supervision, and the hooky players, the incorrigibles, the runaways, they are the children who are not getting along with their parents and their schoolteachers. Originally, of course, these institutions were supposed to be for juvenile delinquents who committed a crime and, in fact, New York made an attempt in 1962 to limit the population of these institutions to those children who had been found to be juvenile delinquents after a trial where rules of evidence, and so forth and so on, would apply. In fact, however, there are no facilities for the persons in need of supervision,

so the legislature turned around and changed its original determination so that now the PINS can go there.

I did a little research on some costs for you, and I would just read from my prepared statement which I have given to you, the following:

In March 1971, the latest period for which figures were available, there were 231 boys and 137 girls in Youth House at a cost of \$32 a day per child. This is the Spofford or the juvenile center that we have all been talking about. You might want to know that the name is different, because everytime there is a scandal in New York they change the name of the institution but not the characteristics of it. There have been 17 investigations of the Youth House, and it is the same as the first time I ever saw it in 1963.

Senator BAYH. Changing the name does not change the treatment. Miss SHAY. A rose by any other name, or something like that.

The cost for these children is \$32 a day per child, and on an annual basis this projects to 4,416 children awaiting court appearances at a cost of \$11,680 a year per child. The total would therefore be \$51,578,880 annually. I submit that this is a disgrace, since it reflects custody alone and nothing more.

The Board of Education, by the way, runs the school there, so that no education courses are included in those figures, which I obtained from the Citizens Committee for Children in New York and the State Department of Social Services.

In the State training school system on March 31, 1971, there were 1,639 boys and 396 girls placed by the family courts at a per diem cost of \$30.98 per child. This projects to \$11,300 annually for each child. The total annual cost of the training school system is, therefore, approximately \$275,946,000.

There are no taxes on this land; this is State property. There is no treatment available for these children, and 82 percent of that figure goes for custodial costs. That figure was given to me by the State Department of Social Services and the assistant commissioner in charge of operating the training schools.

I would like to tell you that I think, from anybody's point of view, it is an obscenity to treat our children like this. If one-tenth of what Paul and these girls have told you is true, then I think we are throwing this money down the drain helter-skelter.

Senator BAYH. What are PINS?

Miss SHAY. These are persons who are in need of supervision, incorrigible children, children who play hooky from school, children who run away from home, children who have difficulty with their parents or their teachers.

One of the things that Paul did not tell you about is a trip to a State mental hospital. We have another little insidious trick we play upon our children in New York. There is an interstate compact which allows the commissioner of social services who operates the training schools to transfer children from straight State training schools to mental hospitals when they act out in such a way that they are no longer controllable, and when he does, when a child does not adjust to a system in a State training school, he is often, without having even been examined by a psychiatrist or not having even seen a social worker, taken to whatever State or county hospital is available and kept in a mental institution until he "adjusts" at which time he is returned to the training school.

Such a thing happened to Paul, again without him ever having committed a crime, without having a trial as to whether or not he was insane or mentally incompetent. He was just whipped down the road to the State hospital.

Senator BAYH. What did they do to you while you were there?

Was there any therapy, or what?

Mr. KELLEY. Yeah, it was therapy all right. They kept me doped up on pills 24 hours a day until the day I left just about. That is the therapy they gave me, isolation. In fact, let me tell you one incident.

A boy was caught having a homosexual act with another boy. They kicked him in his head with steel-toed boots, took all his clothes from him, and in the middle of the winter, and it gets like 2 or 3 or 4 below zero, they poured cold water on the floor, took all of the furniture out of the room, locked the room and made him sleep in the floor and the water with the window open.

Senator BAYH. All night?

Mr. KELLEY. For a week. This is just little stuff, you know.

Senator BAYH. That was at a mental institution?

Mr. KELLEY. This was at the Middletown State Hospital.

Senator BAYH. I suppose that is what you call shock therapy?

Mr. KELLEY. I will tell you about the shock. One morning when I first got there I woke up to turn around, and this cat, you know, has this thing sticking in his head, and he was shaking like a leaf, and these people are telling me I am next, and I said it is not going to happen, I said "You are not going to put this in my head," and this dude, he was out of his mind. They took these lines out of him, and he was talking dumb, and he was incoherent; he could not do anything. He was just like a zombie, you know, and they walked him around. And then they had this cat in there from Woodburn State Penitentiary, which is half drugs and half—you know, if the guy gets busted for armed robbery or something like that, and when he went in there that night after they put me in the adolescent ward, that night it was something else, and I am sitting in here with all of these dope fiends, hardcore addicts, and they are all high, and I am high, too, because of the medication they gave me, and I am running around, and I see dudes and they have bibs on them, and they are drooling from their mouth, and they tied dudes up and beat them with leather straps and took them in showers and beat them, and like they did, they kept you high all the time.

Senator BAYH. Paul, are you taking narcotics now?

Mr. KELLEY. No; I never had a habit.

Senator BAYH. Miss Shay, do you have further points you want to make?

We will put all of your statement in the record.

(The prepared statement of Miss Shay follows:)

PREPARED STATEMENT OF SUE ANN SHAY

My name is Sue Ann Shay and I am the Assistant General Counsel of Community Action for Legal Services, Inc., in New York City. Previously I spent seven years with Mobilization for Youth Legal Services and the Legal Aid Society, Family Court Branch, in New York City. The majority of my law practice has been representation of young people like Paul Kelley and the girls you have heard this morning.

Not all of New York's children have turned out as well as these, after the "treatment and care" our state system has accorded them, and I dare say only

those who innately knew in the beginning how to get "their thing together" with the help of Sister Mary Pauls and Miss Greenbergs can survive at all in the state training school and detention systems of my state.

In support of that not surprising conclusion I shall describe for you the system as it has operated since 1962, the year of "law reform" in New York. I shall also describe to you, from the point of view of a lawyer for children, what happens to the boys and girls who enter the system. What I tell you about Paul Kelley in this presentation, by the way, is with his permission, and supplied by him and his social worker Miss Carol Greenberg, a remarkable woman whom Paul credits with saving his life between his sixteenth and eighteenth years.

We divide children who appear in Juvenile Court in New York into the categories of Juvenile Delinquents (JDs), Persons in Need of Supervision (PINS), and Neglected Children (NCs). The JD allegedly has committed an act which, if committed by an adult would be a crime under our penal law, namely, a felony or misdemeanor. The PINS is the common incorrigible child who is beyond the control of a parent, guardian, teacher, etc. because of acting out behavior. The NC is a child neglected (or abused) by a parent in physical, emotional, or educational matters. I refer the subcommittee to McKinney's, *The Judiciary Court Acts of the State of New York, Family Court Act, Articles Seven and Ten*, for the legislative definition of these and other terms I shall use today.

The majority of children in placement either in the public or private systems in New York State today are PINS or NCs. This is so because of the ease of decision on the part of Bureau of Child Welfare Workers, Board of Education personnel, etc. in labelling a child a PINS or NC. Paul Kelley is a PINS because someone told his mother that she would get "help" for her troublesome son by bringing him to Family Court as a PINS. The definitions are easier, from a legal point of view, to prove, and most adults would rather believe a child to be incorrigible or neglected rather than delinquent anyhow. This is the point where the system begins to break down in a serious manner, because delinquent children are now provided with certain constitutional guarantees (see *Gault, Winship, In re Gregory W*, etc., copies of which are submitted herewith).

A child goes to a Juvenile court in New York via an "intake system." Unless the problem is not serious, or the child admits his guilt, or an extremely minor difficulty, exacerbated by family problems, has led to the intake section, a petition is forthwith drawn and referred to court. I cannot emphasize too strongly that while the Family Court Act appears to safeguard "the best interests of the child" in fact there is scant "due process" for the neglected or PINS child from this point on.

After the petition and referral to court have been made, the rate of dismissal on PINS and NCs is almost zero because, while the JD, as previously mentioned, has certain constitutional safeguards, the others do not. One serious area of criticism I have is the lack of zealous work by the New York bar in raising such constitutional questions on appeal for NCs and PINS (again because we would rather label children in trouble as incorrigible or neglected rather than delinquent).

After the "hearing" (often an "admission" that the child is incorrigible or the parent neglectful) most children are paroled (a term adapted from criminal court) to their parents, and here the trouble begins, in serious human terms, to fester.

Paul Kelley, and his mother, were promised a parole or probation officer. Reading between the lines, I would say none came to their home. This was the second promise broken to them by the system (the first being of "help" from the system). And Paul obviously "messed up" either in school or at home. On his second trip to Juvenile court, he landed in Youth House.

Temporary detention in New York City is divided into facilities for delinquent, PINS and neglected children. The facilities are also divided into public and private ones. A brief comparison between Youth House and Euphrasian would be appropriate. Both receive children on remand from the courts and both are security facilities. There the similarity ends.

Juvenile Center (formerly known as Youth House until a series of scandals drove New York City to change its name) is divided into several buildings, all totally locked. Spofford, which Paul describes as Youth House, is white brick, and every corridor and door is secured by lock. Each dormitory is sealed from the rest of the building and each child is in a separate room. At the entrance to each dormitory is a room with straight backed chairs and a television set. Most of the time not spent at meals, scanty schooling or in the rooms is occupied

with regimented TV watching overseen by a counselor. On a recent day at Youth House, when the weather was good one group of boys was being prepared to go outside to the playground, a cement court enclosed by wire fences. All the rest of the children were inside.

Each room is stripped of bedding and blankets during the day; no boy wears his own clothes. At the end of each corridor are one or two single rooms with bars on the windows; although the explanations for them differ, it is apparent that they are used for more secure detention. The gray walls, the boys dressed in dungarees and T-shirts marked "Youth House", the institutional screening on the windows (each screen with a lock), and the constant clang of keys from corridor to corridor, all tell a child irrevocably that he is bad and in jail.

At Euphrasian Residence the front door is electronically locked, and one must be "buzzed" in and out by the person on the desk. The Residence is located on a quiet street in mid-Manhattan across from a hospital. After one passes through the reception area there is a large comfortable living room where girls and their families may visit. Upstairs on the dormitories girls have their own rooms, too—but these are attractively furnished and there are no bars or institutional screening on the windows. Although the state partially reimburses Euphrasian most of the cost is borne by the sisters. No girl is in any way confined and all have their own individual clothing. Besides a cheerful roof garden, each floor has its own recreation area colorfully furnished in a casual way. The girls go out from time to time on recreational or education trips. While at ER a complete diagnostic study is performed including psychiatric, psychological and social study. A plan is formulated for the girl and then staff at ER attempt to carry it out either in the community or through placement.

The contrast between these two New York City remand facilities for children is so visually startling in part because of the presence of color at ER and the lack of it at YH. However, the real difference is in the way the children are treated. No locks separate the corridors and rooms at ER; the living conditions are much like that in a good college dorm; the sisters and staff acknowledge the humanity of the girls individually and a real attempt is made to formulate a helpful plan for children in trouble.

I must emphasize that the Family Court remands children to ER in the exact same way, legally, that it remands to YH. A child is just as much "in" in each place and each is "secure." Additionally, YH contains children even younger than those at Euphrasian which limits its intake because of its size. The point to be taken here is that security of the prison type is much more expensive than diagnosis and treatment.

Euphrasian completes its work-up in about three weeks, Youth House takes the time it needs depending on under- or over-population and court calendars. Children receive regular schooling at ER; children tell me over and over that YH makes attendance voluntary (one can sit and watch TV if so inclined). The purpose of ER is to formulate a plan for the child. The existence of YH is to receive and hold children for the Court's convenience. No diagnostic examinations are administered at YH unless specifically ordered by the court; the child seems physically ill to an adult staff member; the child acts in such a bizarre way that a psychiatrist is called.

Back at Court, probation is overworked, understaffed and ill-trained to make plans for the child (the minimum requirement for a probation officer is a bachelor's degree in any subject). The common complaint of children, parents and lawyers in court is that probation is never ready. For a child in detention this only means "more time." When a parent of a PINS child refuses to take him home and no private facility or relative is available detention or the State training school system are often the only alternative.

In March 1971 (the latest period for which figures were available), there were 241 boys and 137 girls in Youth House at a cost of \$32 a day per child. On an annual basis this projects to 4,416 children awaiting court appearances at a cost of \$11,630 a year per child. The total would therefore be \$51,578,880 annually. I submit that this is a disgrace, since it reflects custody alone and nothing more. The Board of Education, by the way, runs the school so no education costs are included in those figures which I obtained from the Citizens' Committee for Children in New York.

In the State Training School System on March 31, 1971, there were 1,639 boys and 396 girls placed by the Family Courts of the State at a per diem cost of \$30.98 per child. This projects to \$11,309 annually for each child. The total annual cost of the Training School System is therefore approximately \$275,946,000. If one-tenth of what Paul Kelley has told you is true I submit that this too is a

disgrace, and a cruel joke on our children. Parenthetically you should know that as of March 31, 1967, the total cost of the Training School System was \$15,951,350, 82% of which went to personnel. Then as now more than 50% of the children in these institutions were PINS.

I have visited almost all of the state and private facilities in New York. The same contrasts are true there as in the temporary detention facilities. Boys are not allowed to wear their own clothes; they are garbed in the same drab dungarees and T-shirts. There is grave difficulty in all the training schools in recruiting good staff because of low salary scales and the distance of the schools from metropolitan areas. The long distances parents have to travel to see children make it impossible for many because the State Department of Social Services which administers both the training schools and the welfare system has decided that travel to and from institutions is a non-reimbursable expense. Most state institutional directors candidly acknowledge that solitary confinement is used as a method of punishment although many justify it as a control method by calling it a "cooling off room."

At the Brookwood State Training School for Girls there are two stripped cells in the infirmary containing only a matress. Girls who are disruptive can be confined there by any member of the staff, professional or otherwise, for days. There are no toilet facilities in the cell and from 12 PM to 8 AM no nurse or other person is on duty in the infirmary.

Paul's tales of homosexuality have been told to me hundreds of times over the years by children who have been in different institutions who have never met each other. At Hudson State Training School one social worker told me that homosexual activity is tolerated as long as it is not too aggressive. The girls form into "families" with all the appropriate members (including collateral relatives). The same worker told me that when the Lesbian activity becomes too aggressive they send the "fathers" to Brookwood, which is the security institution.

In all the training schools when the teaching staff is not up to full strength, new arrivals are not admitted to school until other children are paroled home. Needless to say the private institutions because of limited enrollments select those children whose reading and IQs, as well as adjustment, are highest, so the training school student needs the most remedial help possible. In almost every instance it is not available.

Paul told you about his trip to Middletown State Hospital. New York has an intra-state compact to allow the State Commissioner of Social Services (who is responsible for state schools) to transfer children to State Hospitals under the jurisdiction of the State Commissioner of Mental Hygiene. When youngsters become so disruptive that the school cannot tolerate them, such transfers are made.

Physically some training schools are quite nicely constructed and pleasantly situated, others are not. New Hampton, where Paul was, is a converted men's prison, with the bars still on the windows. Brookwood for girls is a maximum security institution. Each girl has her "own room" which is locked each night and opened in the morning. Each corridor is locked and a matron sits behind a glass enclosure watching. Misbehavior results in the furniture being removed and lock-up for indefinite periods. The last time I was there almost half the girls were confined 24 hours a day to their rooms because of a fight which had broken out in the gym two days before. More than half the children in these institutions are PINS also and all are under the age of 18. Some girls at Brookwood are as young as 11.

All of these things make childrens' experience inhuman at best and dehumanizing at worst, and I could go on at length concerning other horror stories I have heard.

When asked about recidivism statistics, officials say there are none. This is because when a child is returned to training school he is not returned to the same one. No follow-up studies are made on training school graduates to see who are later arrested as adults. However, I examined my card files on youngsters we were unsuccessful in keeping out of the state system. 60% of the boys were arrested as adults. Only 12% of the girls were. However, almost half of the young women we represented last year as respondents on neglect petitions had been in state training schools. Without being qualified in the social sciences or psychology, I would suggest that the boys learn much of their later criminal behavior, and the girls are submitted to a defeminizing experience rendering them incapable of caring for their own children in the system I have described above.

If it is humanly possible for this committee to find a way to prevent these abuses it will have given thousands of children back their lives. Paul Keller

has somehow survived; others have not. We spent, I estimate \$50,000 on his "education," which was a tragic waste. No preparatory school in the country costs the present \$11,800 a year we are currently spending on state schools, but the Paul Kelleys are being wasted and destroyed by that sum as clearly as if we condemned them to die. Children are worth more than that.

Senator BAYH. Let me ask you one question before we conclude. Do you feel that the types of services that were described by Sister Paul are sufficient to deal with most of the children that are presently subjected to other types of institutionalization?

Miss SHAY. I certainly do think that the type of services Sister is providing is what most, if not all, of the children need. I must emphasize that the way Sister receives children from the court is the very same way in which Youth House receives children from the court; namely, on remand.

I would say that places like Youth House not only should have the alternative Sister would like them to have, but Youth House and the State training school ought to be reserved solely for children who commit serious crimes which are of harm to others in the community. I do not think we have any business putting hooky players in some of these places that Paul and Sister's girls have described. I am not trained in the same way she is or the same way Dr. Rothman is, but I have been running around in the family courts in the State of New York since 1965. I, too, have never seen a child benefit from the system the State runs. Enormous amounts of Federal and State moneys are going into these programs, I might add, and I would say such money is mostly being misused within the State system.

Senator BAYH. Do you think that the type of experience girls have at places like St. Helena's is really going to solve the problems that the girls had before they were given this new type of experience?

Miss SHAY. I do not know if it is going to solve their problems, but it is going to enable them to lead a reasonable kind of healthy life. I am not so convinced that any institution is able to solve everybody's problems, but I think Sister's girls are not going to be getting into further difficulty.

I think people like Paul are just remarkably strong people to be able to survive what he went through. Many of the boys and girls do not. The State system, interestingly enough, keeps no recidivism figures, because when you return to an institution you do not go back to the place you came from, you go to another State institution; so, therefore, on the book at least Paul was a success from the point of view of Highland State Training School, because he was never returned to it. But he went to Hampton.

However, I have been keeping some card files over the years on children I have handled. Most, if not all, of the graduates in the State training school system are in serious danger of being rearrested as adults, and some 60 percent of the boys we have followed have been rearrested as adults and incarcerated in the criminal system. The figures are much lower for girls. However, one of our social workers has some statistics on the girls who have been in State training schools, but they are not accurate statistics. They are only reflective of the following thing: Most, if not all, of the young women we have represented on neglect petitions in family court for children who were in the State training school system who are unable to provide for the kind of mothering that their children need, get into difficulty and get

back before the family court not as people in need of supervision but as neglectful parents. I think that is one of the completely dehumanizing things that the girls training school has done for the inmates.

Senator BAYH. Thank you very much.

I really appreciate your both taking time to let us have the benefit of your experience. Hopefully, we will be able to profit from the experience which you have shared with us.

Mr. KELLEY. I wanted to ask one question, sir. I wanted to know, after all of these hearings, what is going to be done?

Senator BAYH. That is the question I have asked myself, and I do not know. I cannot be totally honest with you and say that I do; but, hopefully, these hearings will make it possible for us to share your experience with others. People with commonsense then will be able to see that we are not dealing with the problem as it is, that we are making it worse instead of better. I cannot honestly say we are going to succeed, but I can say we are not going to succeed unless we try. You are helping us try; all of you.

Thank you.

Our next witnesses are Dr. Esther Rothman, principal of the Livingston School of New York and Mr. Morton Cohen, who has practiced in the juvenile courts in New York for several years. We will put your biographical data in the record so you will be appropriately introduced. We are glad to have you with us.

#### BIOGRAPHICAL SKETCH OF DR. ESTHER ROTHMAN

Dr. Rothman is Principal of the Livingston School in New York City which handles adolescent girls unable to adjust in regular public schools. She was a member of the Task Force to Investigate New York State Training Schools and is presently a member of the Citizens Committee for Children.

She is the author of the recently published book, "The Angel Inside Went Sour," which describes her experiences dealing with aggressive, anti-social girls.

#### BIOGRAPHICAL SKETCH OF MORTON P. COHEN, ESQ.

Morton Cohen practiced in the juvenile courts of New York for several years while he was employed by Community Action for Legal Services, an OEO poverty law program serving New York City.

For the past year he has been a clinical teaching fellow at Harvard Law School.

He has been counsel in a number of significant juvenile cases, many of which focus on the right of an incarcerated juvenile to treatment.

#### STATEMENT OF DR. ESTHER ROTHMAN, PRINCIPAL, LIVINGSTON SCHOOL, NEW YORK, N. Y., ACCOMPANIED BY MORTON P. COHEN, ESQ.

Dr. ROTHMAN. I am not going to read a prepared statement because I could not possibly be as eloquent as the young people who were here. I just want to make a few points:

One, I think the training schools as they exist now should be absolutely closed down, as of now.

Two, I do not think there is such a thing needed as a high maximum security, strict attention facility, even for children who have been judged delinquent.

I deal with children who have been primarily judged delinquent. They are the most aggressive, angry, the most hostile, most volatile adolescent girls in New York City. At my school we deal with those girls who have been suspended from regular classes because of extreme

aggressiveness in schools and in their communities. The feeling I picked up here before is that you believe most of these girls would need this high protective facility. I would strongly disagree with that belief because girls who commit explosive acts do so most often in reaction to treatment they have received at training schools or in their communities. They react with explosiveness to adult behavior that is very punitive, authoritarian, oppressive and restrictive. When adults deal with children in this oppressive way the children become severely frustrated and the only outlet to frustration is explosion or insanity. So, I think the kids at the training schools who are fighting back, who are running away, who do land in solitary confinement because they have been explosive are the healthiest children there because they are fighting back. The sickest children are the ones most in need of help, they are the ones who have learned to conform; they have submitted; they have subjected themselves to all kinds of sexual deviation; they become the drug addicts; they have said "yes," and they have suffered at extreme emotional cost to themselves. At either end, whether they explode when they are in the training schools or whether they conform when they are in the training schools, when they come out of the training schools and very often I see them at that point, they are the most damaged human beings I have ever seen. They are consumed with hate and they have a right to hate. They can trust nobody. Certainly they can trust no adult, and certainly not adults in authority who are the ones who are the most punitive and the most treacherous, and so it would seem to me, the ones who have committed the most illegal acts.

So, in the training schools where supposedly they are being rehabilitated, they are actually learning many forms of illegality. Who then can they trust? Who then can they believe in, and when they come out they are then most dangerous to the community because they have been consumed with hatred, and they have no way of expressing it except in retaliation against the community.

Therefore, I would feel that the training schools really have no justification for their being, and for this I blame the people who are in charge of the training school. Even the word "training school" is a horrible word. I looked it up in the dictionary, and train means to bend, to tie, to make to conform. Only secondarily does it mean to teach. The kids at the training school are being bent, they are not being taught, and they are being bent in the most warped of emotional ways. They are not learning about themselves, which is supposedly what they should be doing.

The training schools are far from the cities where most of the kids come from, and, therefore, as you have heard, parents do not come. That is one of the evils. The second evil is that the people in charge of the training schools are really as much in isolation as the children who are there, and being in isolation they are really accountable to no one, certainly not to the children, certainly not to the parents of the children, and very often not even to concerned citizens, and so they become quite arrogant, and abuse the power of authority that they do have. They do not listen to the children who are there. They certainly do not listen to the parents who are there. They very often do not listen to the communications that come out of their own departments because they act very much in an arbitrary way. And I have talked to many, many superin-

tendents, many, many people who work at the institutions, from teachers to social workers, to psychologists, to the clergy, to the paraprofessional personnel, and the saddest part of all of this is that the training schools are very often, certainly in our State, put in areas that are economically deprived, and by admission from governmental offices, are put there because people in the community need jobs. They are not put there because the children should be there. So, you get a facility that is started out of the self-interest of a community and perpetuated by self-interest, by people who are interested in their own jobs, their own security. These are people who have very little relationship to the lives of the children who are put there and to the cities from which the children come.

And the saddest, saddest part is the people who work in the training schools convince themselves that they are doing a good job. The psychiatrists and the clergy and the teachers who see solitary confinement, and who condone it, are more delinquent than the children who are there. I have seen solitary confinement. I have seen a 13-year-old girl stripped of her clothing, stripped of a bed, stripped of a book, stripped of all dignity in a room because she had a temper tantrum when she could not have her hair done for Sunday church services. She had uttered some obscenities and had a temper tantrum and was put in solitary confinement for 5 days. Certainly the temper tantrum was subsided in 2 hours and she was there for 5 days, because the cottage parent was, and I quote: "not ready to take her back." The isolation rooms are very often put in hospitals so this makes it all right. It then becomes therapy. The fact that terrible treatment goes on in the guise of therapy, or that the psychiatrist and the clergy or the teachers and social workers look the other way, that is all right too, because it is in a hospital. If this were a room that were a cell, or in a cellar maybe some person would object, but they do not. People perpetuate the system because it is to their own self-interest. The professionals too perpetuate it because this is the way they know how to handle children and this is the way that has been perpetuated for many, many years. They are afraid of the kids that are there. They are afraid of the aggression that they feel is within the children. The question—Where is morality?

If you visit any of these institutions fear permeates the place. Adults do not know how to listen to children. What's more they are afraid of listening to children, and so the result is oppression. I think the young man, Paul, was making some very profound statements because what he was implying was that children had to have a voice in determining the treatment and the program. Whatever happened to the "consent of the governed" idea? Children in treatment should be governing themselves and talking about themselves and they should be making the conditions of living about themselves. And while we have systems now that only perpetuates the self-interest of the adults who work there, there is no treatment. And as I started out, I will repeat, the children who come from the training schools are the most damaged that I have ever seen, and almost beyond help.

Senator BAYH: Thank you Dr. Rothman. Mr. Cohen, why don't you let us have your views and then I can address my questions to both of you.

(The prepared statement of Dr. Esther Rothman follows:)

PREPARED STATEMENT OF DR. ESTHER P. ROTHMAN

During the past few years in my capacity as both a task-force member of the Citizens Committee for Children and as principal of a special high school in New York City for emotionally disturbed and socially maladjusted adolescent girls, I have visited various Training Schools in New York State.

What have I seen at the Training Schools? I have seen a girl completing her fifth day of solitary confinement because she dared to become angry when her cottage parent refused her permission to have her hair done for Sunday services at church.

I have seen fifteen and sixteen year-old girls working as attendants in a state school for defectives where they change bed clothes and take care of all the personal hygiene of the defective children and adults. And they work for no pay. I don't know another word except slavery for involuntary servitude at a job that at best is emotionally draining and at best should be reserved for only the most mature adults.

When I asked the administrator why this should be the only work assignment for the girls, —why they were not attending school—why they were not working in offices, his answer was each and every one had volunteered. Volunteered. Are we really to believe that? Can we be as gullible as that?

Apparently the administrators of Training Schools expect us to believe anything they tell us to believe and that really is at the crux of the problem. They have a sense of power that comes from the sense of isolation. They really are accountable to no one except to a state department and a state department is not the children nor the parents of the children nor even concerned citizens. And it matters little whether that State Department is part of the correctional system or the social service system or any other categorical system, because departments come and departments go as organization and reorganization become political games—but the people within the departments remain the same.

Who are these people? They are the professionals and semi-professionals and paraprofessionals and jobless who live in the economically deprived areas of the rural state in which the Training Schools are built. Training Schools are built where people need jobs. It's a political pay-off. It's as simple as that. And the people who work at the schools are concerned with themselves, their wages, their hours, their unions and, it is totally reprehensible, certainly immoral for the professional people I have met who work at the institutions to condone what goes on. How cannot the clergy cry out against the solitary confinement of a thirteen year-old girl, who stripped off her outer garments, and was put in a room stripped of furniture except for a mattress? But they do not cry out because that stripped child and that stripped room are placed in a wing of the building that is called a hospital. And the word hospital makes it all right. The word hospital makes it psychotherapy. Yes, there are incompetent psychiatrists as well as inhuman clergy.

The truth is many professionals who deal with unhappy children do not know how to deal with children at all. They assuredly do not know how to deal with children from other parts of the state, other cultures for whom they have no affinity at all. And not knowing the children or their problems, they are afraid of them. The fear of the staff permeates every institution I have ever visited. The unafraid after valiant efforts at reform, succumb to frustration and leave.

Unfortunately the children cannot be as free. They are hundreds of miles away from home—living in a beautiful countryside it is true, but living in an area that is entirely alien to them. Their parents are often too poor to pay the carfare for a visit—often too overburdened to undertake the journey itself; they cannot and do not visit. The children are left to appreciate the countryside but understand nothing of why they have been placed there so far from the familiar—so far from home.

And understanding nothing—learning nothing—they are returned to former conditions of their lives—nothing has changed for them. There is one difference however, they are more adept at hating because the Training School has trained well. They have not taught. The word train by primary definition means to "drag, to direct the growth by bending, pruning or tying." The Training Schools have imposed conformity by brute force. Girls are trained to conform. They are not taught to adjust. They are trained to agree. They are not taught to question. They are trained to suppress emotions, not taught to examine emotions. They are trained to accept devastation; not taught to search for happiness.

The effect of such training is as direct as it is simple. The children have been trained effectively and efficiently to hate. While they are in training the hate is circumscribed within their bodies; when those bodies leave the grounds of the school, the hate, like turgid waters, is released violently and explosively. The girls I have known who have been released from the Training Schools are among the most damaged of human beings I have ever seen. They are the most primitive, the most assaultive, the most explosive, the most dangerous.

In my opinion, the Training Schools are symptomatic of the emotional and political climate of this country which is also dangerous. We stay in a war we cannot win and which serves no purpose, yet we talk of democracy and self-government. We perpetuate a criminal system of incarceration, yet we talk about self-determination and reform. We, it seems, turn out to be a nation of hypocrites. How then can we teach children?

Mr. COHEN. Like the doctor said, I would like to not read my remarks, but just make a few, perhaps in summary of what has already been said this morning.

Senator BAYH. I have asked that both of your fine prepared statements be put in the record as if they had been read.

(Statement of Mr. Cohen follows:)

PREPARED STATEMENT OF MORTON P. COHEN

I am counsel for plaintiffs in *Roberts et. al. v. Wyman et. al.*, a case attacking the absence of adequate rehabilitative attempts at four of New York State's training schools and in New York's aftercare program. The record in *Roberts v. Wyman* has been ordered sealed by Judge McMahon of the U.S. District Court and is presently before Judge Constance Baker Motley for decision. For these reasons I am precluded from discussing the case, but I am at liberty to discuss my knowledge of the training schools and aftercare programs independent of the case and obtained after some experience.

This committee, its predecessors, and the various personal knowledge from those incarcerated in training schools. You will undoubtedly hear more. I do not appear today to offer anecdotes about the results of such incarceration. The strip cells, the brutality, homosexuality, drugs, criminal education, family dislocation and resultant recidivism are all plain enough and repetition, even of horror, is boring. I would hope that this committee will be considerate not only of the blatant immediate effects of incarceration but also of the offenses leading to incarceration and the purposes of that incarceration—the rehabilitation of those children whose liberty is taken. The purpose of incarceration is rehabilitation whether the child's offensive activity is criminal, i.e. delinquent, or civil, such as truancy or family misbehavior, but it is especially important with the latter. It would be exceptionally ugly and uncivilized if the states were to deprive children of their liberty for non-criminal acts in non-criminal proceedings without some certainty that institutionalization would benefit the child. Yet this is exactly what occurs. Most judges seem to overlook it when they incarcerate children and some go so far as to prescribe the program the child is to receive in the institution without any idea as to whether the institution can provide it. The evidence on rehabilitative treatment—written as well as that obtained through personal observation—is that no one has any definitive knowledge of what treatment will rehabilitate a child who offends society whether the offense is truancy, intra-family disruption, or otherwise. And further, even if it can be presumed that offensive children will be helped by education, social therapy, vocational training, and psychiatric assistance, children in training schools aren't receiving even the minimum forms of these promises. Surveys, by such groups as the National Council on Crime and Delinquency, and the President's Commission on Law Enforcement, show that there are too few psychiatrists, too few teachers and too few social workers. In some instances people unskilled in an area are performing critical tasks, such as teaching the retarded or acting as social workers, and psychiatrists are reduced to pill pushers. In vocational training, children are trained for jobs they could not possibly obtain, and no job placement facility is maintained to link the training with employment. Indeed, there is seldom much relation between the child's free and incarcerated worlds.

The likelihood of a training school social worker or teacher conversing at length with the child's public school teacher or similar authorities is virtually nil. There are different training school personnel responsible for the child in and out of the institution, and their communications with each other as well as with the child and his family are limited. An example of the results of the failure of communication is the case of Wenceslao Martinez, a young boy who died as a result of this failure. Wenceslao, in December of 1969, was incarcerated at Otisville School for Boys which is over 1,000 miles from the boy's home in Otisville, N.Y.C. He had a history of drug problems and during Thanksgiving of 1969, when home on a visit from Otisville, had overdosed. He was brought to Metropolitan Hospital then, and was soon returned home and thereafter he returned, on his own, to Otisville. Otisville, as I understand, never discovered the incident. In December of 1969, Mrs. Martinez, the boy's mother, received a letter saying that Wenceslao was chosen as one of the boys to make a special holiday home visit, and that if Mrs. Martinez returned the enclosed card saying she would expect the boy home, he would be in New York City on December 18. Mrs. Martinez never returned the card. I have a photostat of it, taken from the original, in my possession. The reason was simply that she didn't want the boy exposed to drugs and another overdose. Nevertheless, and without any further communication with Mrs. Martinez, Otisville put Wenceslao on a bus for New York on the 18th. On the 19th Wenceslao died of an overdose.

The failure of communications is only one facet of the failure of rehabilitation for juveniles. Essentially, New York's juvenile centers for long-term incarceration are removed from the urban areas where the problems occurred and the child lives. This removal creates an entirely artificial atmosphere. It bears no relationship whatsoever to the life the child had or will return to. Families are separated with little opportunity to see each other and no opportunity to work out their differences with some assistance. Children with extraordinarily different and often difficult problems and lumped together like so many packages—truants, delinquents, parental problems—all together. And as to the caliber and quantity of help in these quaint juvenile villages, the geographic locations and pay scales generally preclude a satisfactory level of either.

In some cases, people employed on a full-time basis at night have unrelated full time jobs during the day. It is quite easy to move from this state of conditions—entirely removed from the child's arena of reality—to the depressing conditions of brutality and recidivism already well known to this committee. The N.Y. Community Service Society in a report several years ago expressed the problem best in its title "Out of Sight—Out of Mind".

As to the process of incarcerating children in these conditions, perhaps the most extraordinary circumstance occurs—large numbers, over 50% of all incarcerated, are incarcerated for acts so minor that they *couldn't* be criminal if performed by an adult. Could an adult who intimidated his family but did nothing more, be put in jail? Could an adult who decided that college bored him, and didn't go, be institutionalized? Many would say that quitting college was the right decision. Incarceration would be especially absurd if the incarcerated adult received no help for his troubles, and yet this is substantially the condition of the way stations we call training schools. And the incarceration for these minor offenses may legitimately last for thirteen years for one offense, because once the child is seven and comes within the gambit of the juvenile justice system, he may stay in it until the age of twenty. The child truly in need of assistance seldom receives it because the system busies itself maintaining order amongst the hordes of children pushed through its revolving doors. The expense of this process is exorbitant—estimated by the President's commission in Law Enforcement in 1967 as \$3,400 per year per child. The results are dismal.

Given these Alice-in-Wonderland realities of juvenile incarceration, I came to several conclusions and wish to make several legislative suggestions. First of all is that children exhibiting criminal and non-criminal activity ought not be co-mingled. This is not to say that juveniles and adults breaching criminal codes ought to be treated similarly. Children are far more pliable than adults and therefore commit crimes for different reasons than adults and respond to valuable direction far better.

But if a child is found to be uncontrollable by his parents or is a truant it cannot be sensible to incarcerate this child in an environment where his closest companions have found more unusual ways of acting out their discontent and where neither they nor he receive any encouragement to change other than

those common to adult prisons. I speak not as an expert on child behavior—but as a lawyer—but from what I have observed the difference is not disqualifying.

The point goes to the concept of incarceration for what I term juvenile civil misbehavior—truancy and the like. Essentially I believe that truants will neither be motivated nor valuably educated by long-term training school incarcerations. Small classes and counseling could as easily take place in the community as out of it, and if community treatment centers were available, the opportunity would be there on an individual basis to determine which children need time away from their families, which could be home nights, etc. The costs would be less than training schools, the urban resources greater, the public scrutiny easier, the continuity better, the alternatives greater and it might even assist in improving our schools. Certainly, the extensive loss of liberty and its concomitants is too high a price to pay for truancy. If we are really interested in the truant's education, there are better ways to insure it than the ones we now use.

The same considerations are present where children are incarcerated for intra-family misbehavior. The family has thrown up its hands—it can't handle the child. He has committed no crime but, for his own good, he will be put in a training school. Beyond the visitation of the father's sins upon the child this procedure insures that the training school graduate is often more into drugs and crime than he was before the process. The community treatment center would assist in these problems by counseling the entire family; it might retain the child on an in- or out-patient basis, or it might recommend neglect proceedings and punishment against the parents. But any and all of these ideas are better than the present civil incarceration of such children—a process which undoubtedly punishes many for the mere fact of their age.

What I am suggesting is an entire elimination of the training school concept—the disciplinary, geographically-removed institution—for juvenile civil offenders. I am suggesting in its place a community based treatment center and I doubt my suggestion is unique or even newsworthy. But what may be of interest is the federal legislation I propose to accomplish this end. First of all I believe that the present method of incarcerating juvenile civil offenders, given the brutality and the rest, is unconstitutionally cruel, and absent decent treatment techniques which no one seems able to provide, is a denial of equal protection and due process. I propose a federal law stating this fact and declaring it a federal crime for any state officer to incarcerate a child in an institution of more than ten resident children unless the judicial branch of the state has found the child to have performed some act which if performed by an adult would have constituted a felony in that state or three qualified psychiatrists have testified that the child is in need of such institutionalization to protect himself or the community from physical harm. In either case an individual plan for treatment would be set forth—the court record and reviewed by the committing court every three months.

I further propose that it be made a federal crime to incarcerate a child for failure of school attendance. Such failure is not and should not be criminal. It is another of those victimless acts which society punishes—this time compounding its error by dealing with children and presuming that the fault lies solely with them.

The power of Congress to pass such legislation lies within the Fourteenth Amendment which states, in Section 5 thereof that "The Congress shall have power to enforce, by appropriate legislation, the provisions of the article."

A less controversial, but highly desirable federal law would provide that no federal money is to go to any state institution doing any of the above. Such prohibition could also extend to any state institution having resident minors unless that institution is located fewer than ten miles from the ordinary or regular previous residence of the child where that residence is in cities of 100,000 or more. The purpose of such legislation is to encourage states through financial inducement to close distant training schools, with all their many archaic considerations, and re-open community based treatment centers. Many conditions of benefit to children could be tacked on to such legislation, such as prohibitions on strip cells, minimum standards of living and other forms of basic controls, thereby insuring not merely access, but that a rehabilitative goal is set, and the problems of brutality eliminated.

As to the money involved, I am presently involved in researching the amount of federal money that underlies the present training school system. It is my belief that much of the money supporting these institutions comes from the

welfare system and the support of dependent children. If this is the case, the federal government may easily insure the proper expenditure of its funds.

A final suggestion for encouraging states through finances to perform as set forth above is through LEAA grants. If agreement may be had on the conditions of such grants, and I would hope my testimony has helped suggest some of these conditions, it would be a simple matter to obtain at least some experiments on these ideas and then promote the ideas, especially if inexpensive amongst the various states.

Mr. COHEN. It seems to me from my experience, and from what I have heard this morning, that a majority of the crime in this country concerning children is committed not by the children but by the system which institutionalizes them. If there is to be any true sense of justice about this deprivation of liberty of these children it ought to be, not that the children are to be considered as criminals, but that those who put them away without any concept of due process, without any treatment centers as they are called, which are entirely separated from the children's families, these crimes concerning the children. A majority of the children who are in these institutions have their liberty taken away because they are either truants or because they have been involved in intrafamily acts.

In New York State if an adult were committed for an intrafamily act involving violence, it probably would end up, because it is an intrafamily crime, that that adult's crime would be taken out of the criminal courts and put into a family court where the adult who had committed an act of violence in the family would be placed on probation and not be put into an institution.

What I have said, Senator, is that children are treated substantially differently from adults, even for the same act, most frequently for lesser acts. Often they are treated more harshly than adults.

Senator BAYH. That is one of the amazing things that I cannot understand. I do not think that is generally known to the public, that children are treated more harshly for noncriminal acts than adults are for what we call criminal acts. It is totally inconsistent and inconceivable that that should be a part of our system of jurisprudence, if you want to call that jurisprudence.

Mr. COHEN. This is at the outset of that system. This is at the time the court works for the child and adjudicates the child. Subsequent to that time, the treatment the child receives is often worse than the adult would receive if he were so incarcerated. Again, the child seems to have no advocate. The child's advocate is too often himself. There is no similar organization for children, unfortunately involving children, and there is none as in the civil rights movement. So, what we deal with substantially is not only the victimless crime, but an advocateless child, because once that child has been adjudicated by the court system, which has no idea as to what to do with that child, and institutionalized, it is as the New York Community Services Society has said, "out of sight out of mind." Let us take a truant child who goes into an institution in the middle of the school term. They will generally get perhaps 2 hours of schooling a day at that institution. The reason that he has been put in there is because he has been truant to begin with, but he does not get the schooling that he would have gotten outside. He has lost his liberty, and the teacher he has generally is not as good as the teacher outside of the institution. He is away from his family entirely. He is put into a class in the middle of the

school term, so he is going to be disrupted altogether. The subjects are not necessarily the subjects that he would have outside the institution. Even his records generally do not get to the people who have put him into the institution, and once he has done his time and he is removed and goes back to the community, again there is an absence of communication between the institution and the community, so the records do not go back to the community.

In addition to this, the people working with him are altogether dissimilar. You have got one person in one place and other person in another place. If he acts out, as they call it, again, back to the institution and this time to another one, again away from the family. I cannot think of anything that would train a child better to become an adult offender than the system we now use. I cannot see in any way at all how the truant is an offender. There is nothing so far as the pure truancy act is concerned that is in any way different from an educational offense, and if the educational offense has been committed, the probable reason is boredom, and if there is to be a problem, that problem lies within the school system. Yet, what often happens is that the school system decides what it will do is to put this child into an institution. I feel it is a carryover from those days when the truant was to be punished, and that will teach him, and thereafter he will go back to the school. But I do not see anything that will teach him in the institution, again, aside from coming in contact with people who use this child for homosexual problems, drug problems, and similar things, which are going to teach him not what we think to be the purpose of education, but instead miseducation, the criminal acts the child will now learn in order to solve his problems once he is returned to the community.

At the very least, the institutions, if there are to be any, ought to be closer to the community. But, there seems to be absolutely no reason for putting a child who has committed no criminal behavior into an institution unless some group of psychiatrists, as we deal with adults, would determine that child to be in need of institutionalization for protection of himself or for the community. As has been stated here before, I doubt very much if there are any children who are in that type of mental state.

I would suggest to the committee four possible alternatives to create the type of climate that will reduce the problems we have and that the committee has heard this morning. One is that we have the Civil Rights Act, which was enacted in conjunction with the 14th amendment, and that Civil Rights Act makes it a crime on the one hand to deprive a person of their civil rights. It would seem to me that it is perfectly sensible that if a child is deprived of his civil rights, has his liberty taken away for a noncriminal act, without any type of due process, that act of deprivation of liberty ought to be a Federal crime. That is the first suggestion I would make.

And the second would be that I believe there are substantial amounts of Federal moneys going into the training schools, and into the educational systems which often incarcerate the child. I believe that that Federal money, No. 1, ought to be conditioned as far as the school money is concerned upon the prohibition of placing a truant into an institution outside of the perimeter of the child's locale. Instead I would suggest that with the possible exception of some community-based or-

ganizations, where there is sufficient evidence that the child ought to be put into an institution, then if only for a short period of time, to determine why he has been a truant and what can be done about it. I do not think it is very often necessary. When it is unnecessary we should prohibit the incarceration of the child by saying that there will be no Federal money if the child is incarcerated. That is the second suggestion I would make, and I hope that is clear. I am not sure I have made it sufficiently clear.

The third, I think, is relatively easy, and that is to be able to take some of LEAA money and to use it in order to suggest that there be a community-based organization such as the Sister has spoken of this morning. I do not believe, however, that that is going to have substantial effect on either the juvenile judicial system for children or the incarceration system for children.

And the fourth: I have been attempting to determine whether the money we presently use in ADC situation, after the child is incarcerated does not, thereafter, go to support the training schools, and whether, in fact the Federal Government is not using some of its money to support the same training schools which we have heard this morning are being so abusive of the children. I do not think it is sufficient to simply legislate concerning the strip cells and the brutality. I suspect that those are only variations on the theme of incarceration.

Senator BAYH. The other three points are clear, but I am not too sure I understand this last one. When we deal with ADC moneys, as I understand, they go to the mother or to the parent. How do you want to handle these funds?

Mr. COHEN. What I am concerned about is whether the local department of public services, once the child is put into an institution, does not simply take the money off the mother's budget and put it into the budget for the training school. I am not sure whether this is the case or not, and I have not checked it out, but I am concerned with whether a continuance amount of Federal money is flowing into the State Department of Social Services then for the children who are incarcerated in training schools. I would really like to get a handle on some of that Federal money that is, I believe, going into the training schools.

I think it is substantially easy concerning Federal money going into the public schools, themselves. It would seem to me that a great deal of that is going into poverty areas, and it is within these poverty areas that substantially the truancy problems result in incarceration. I think we could probably limit the incarceration of children for truancy substantially by limiting the Federal money that goes into schools in poverty areas to those schools which do not use truancy as a method of incarcerating children who have problems within that school system.

In closing, we would just like to read what seems to me to be the most important aspect of everything we have heard. It is that we are substantially depriving children of their liberty. The majority of the children do not need institutions and the New York Times in yesterday's editorial, the News of the Week section said that these are crimes against children, and they are crimes against children. It is not simply a question of denominating it in a pleasant way as a

crime. It ought to be a crime and a Federal crime to deprive a child of his civil rights by incarcerating him for no reason other than that he has failed to go to school or has been a problem to his family.

Senator BAYH. I would like to ask at this time, if you have no objection, that the editorial to which you refer be placed in the record. I think the author of that editorial has most perceptively accentuated the problem of trying to help children.

(The editorial entitled "The Ultimate Crime," which appeared in the New York Times of May 16, 1971, was marked "Exhibit No. 13" and is as follows:)

Exhibit No. 13

THE ULTIMATE CRIME

Exploitation and mistreatment of children are odious practices in poor and underdeveloped countries; in an affluent society they are inexcusable. Yet America today is guilty of crimes against children committed not as occasional aberrations but, often, as publicly condoned practice. The guilt is compounded by the fact that the abuse exists alongside much overindulgence.

Child abuse takes many forms, from sadistic physical injury to widespread and growing employment of children as virtual slave labor. Senator Birch Bayh, as chairman of the Judiciary Subcommittee on Juvenile Delinquency, has held up to public view the shocking story of children committed for minor misdemeanors to correctional institutions which rather than correct can only embitter and destroy. He offered testimony of alcoholic and sadistic correction officers, including a chief guard in a Texas detention home who was known to have handcuffed his own children to their beds and beaten them. Witnesses told of children who, for the theft of a few pennies, were sent to overcrowded, antiquated and understaffed "dumping ground" state reformatories.

These disclosures merely confirm conditions repeatedly documented by earlier investigations. In New York the discovery of children in solitary confinement in state training schools last year led to the passage of a bill to outlaw such practices. But the measure was, incomprehensibly, vetoed by Governor Rockefeller.

The American Friends Service Committee, following nationwide investigations, found that current child labor abuses in farming are reminiscent of those in sweatshops prior to the Child Labor legislation of the 1930's. From Maine to California, armies of children, many no more than six years old, toil for a pittance, eleven hours a day, stooping and crawling in 100-degree heat.

Over 800,000 child farm laborers, at least 300,000 of them migrants, working under conditions that break their bodies and spirit, are virtually excluded from regular schooling. Non-enforcement of attendance laws combined with hostility on the part of local communities often condemn them to educational retardation.

A society must expect ultimately to be judged by the way it treats its children. America cannot face that judgment day with an easy conscience. The terrible chronicle of parental child abuse, which annually maims, even kills, young bodies and minds, points to a perverted view of corporal punishment as a tool of discipline.

Hearings and reports, essential as they are to alert the public, will not put an end to these evils until the nation recognizes child exploitation and abuse as the ultimate crime of humanity against itself and its future.

Dr. Rothman, you mentioned the problem of violent acts. Can we distinguish between a way a child should be treated if the violent act and the violent behavior occurs before incarceration and after incarceration?

Dr. ROTHMAN. I am not sure I quite understand what you mean.

Senator BAYH. You mentioned that the children that respond violently once they are subjected to the benevolent treatment of the State are those that have the greatest opportunity of making something of themselves. They have refused to go along with the kind of treatment they have been subjected to that has no relevance to any act that they have committed prior to being subjected to it.

Dr. ROTHMAN. You are talking about children who are violent before they get there?

Senator BAYH. Yes. How about the child that stabbed his mother, for example.

Dr. ROTHMAN. It is not likely that that child is going to stab anybody else. This is the point about violence. Violence is an emotional reaction of an individual against another individual and it is out of a deep seated problem of frustration and inadequacy, unhappiness, depression, anything that erupts in this way. Whether it is a mental deviation or an emotional deviation or something that is just explosive, the point is the child who is angry at his mother is not likely again to commit an emotional act if once this emotional act is dealt with or once this child is put in a treatment center where his emotions are worked with where he has a chance to look at them and explore them. In other words, the process of therapy.

Senator BAYH. Let us take another example. Suppose it is a 15-year-old boy that slugs the corner groceryman and takes the money from the cash register.

Dr. ROTHMAN. All right. I have a school full of 125 girls who have assaulted teachers, and have done just the kind of thing that you are talking about, and have robbed people, et cetera. Now, these kids did not grow up saying that I am going to be a criminal. Their criminal acts are a result of whatever emotional problems and whatever friends they have gotten involved with, or the conditions of the area in which they live. Admittedly, I do not condone these crimes, if crime is the right word. I do not condone these acts of violence. I am talking about the legal word. I do not know what is a crime.

Senator BAYH. I want us to live in a world of reality, and I think you do, too. Mr. Cohen suggested that we not commingle those who have been adjudged to have committed crimes with those who are merely runaways or truants.

Dr. ROTHMAN. Well, I disagree with that. As I have said, I have a school full of girls who have done these things, these are extremely unhappy kids who have acted out violently at a time in their lives when they have been against something, and where they feel everyone is against them. These girls are no different from girls whose needs are just the same, who are just as unhappy, but who, instead of acting out against others, have acted out against themselves. Some girls hurt others; some hurt themselves. One child expresses her unhappiness violently, and that is a symptom, and another child expresses her unhappiness by truancy. That is also a symptom. Or another child uses drugs and one child acts out against the community, the other against himself. The thing we want to deal with is the needs of these children, why they are finding it so difficult to show themselves alternative ways of behavior. Therefore, you do not take the symptom, which is the violence; you do not take the victim, which is the drug addict; you do not take the symptom of homosexuality, you take the total person and say to the child "look you are doing these things which are detrimental to you, which are detrimental to society;" and looking at it together, the child, the professionals, and with the help of the other children, we say to the child, "how can you behave in a way that is not detrimental to you, how can you behave in a way that will also make you happy?" And so, the symptom, the act, the symptom is not what we look at

necessarily by itself. What I am saying is we should not isolate children on the basis of symptoms. I think we may have to isolate them on the basis of need. Which is why I say that I do not think we need the high maximum security. These children are not going to go out and commit acts again if their needs are dealt with therapeutically.

Mr. COHEN. I am also concerned, as an attorney, with the act of deprivation of liberty by the State and, of course, it is easier for me, as an attorney, to denominate that according to a symptom. If that symptom is to be determined by some evaluation which is sufficiently professional as to not simply be the noblesse oblige we talk of that puts kids into institutions simply because it does not know where else to put them, if we can have such denominations I would not be altogether dissatisfied with institutionalization. But, what I have seen so far is that we have no idea how to treat children, certainly not in the training schools that I have seen, and unfortunately, I have not seen enough of the better institutions. We have so little idea of how to treat children that I am going to be as cautious as possible about taking away the liberty of any child whether he has committed what would have been a crime if performed by an adult or not, but essentially where that child has not committed an act which would be a crime. I cannot see any reason to take that child's liberty away, unless there were some sufficient guarantee that he would be assisted by his loss of liberty. It is to me essential not to lose the child's liberty, and if the child is a truant, and my father was a truant officer for some 35 years, and I can recall quite often discussing and going with him to various homes of children and trying to see why a boy or girl would not attend school, and it seemed to me substantially it was because what was happening outside of the school was far more exciting than what was happening inside of the school. And if that is the problem I think that is caused then not so much by the child as by the school. I am not going to simply say children are not at fault for their acts. I think that would be too simple to deal with, but until such time as we know what causes the problems within a child, and what solves that problem, his liberty is too precious to be taken away from him, and the mere fact that he is, in the eyes of the law and in the eyes of many people, incompetent because of his being a child, that does not mean that we have the right to simply say OK, we will institutionalize you because we do not know what else to do with you. I would rather have the boy who is a truant, out on the street someplace, than going to school where he is learning what we learn today, homosexuality, drug abuse, and brutality, and the like.

Senator BAYH. I think you expressed a doubt in your testimony as to whether the type of institution or the type of program that was described by Sister Mary Paul is really going to be of much benefit. Now, did I interpret your remarks accurately?

Mr. COHEN. What I had said was that my experiences with the New York State Training School, and unfortunately I have no experience with Sister's—

Senator BAYH. I may be in error, but I thought you expanded that to include community-type services as well.

Mr. COHEN. Oh, no. What I said was that the community-based institutions, and I hate to use that word, but the community-based centers are far better for the treatment of children than is the institution outside of the child's immediate arena for a number of reasons

And I am not sure if those reasons have been sufficiently spelled out. It seems to me from what I have seen that most of the children put into institutions are outside of the community and are being brought into an entirely artificial world. There are very few people who look into that institution and see how it is being run. There are very few opportunities for the children to communicate with their families or anybody else, and even if it were a perfect world, I suspect that what he is being returned to is far from a perfect world, and I do not think there is any meshing of the two worlds. I would suggest that Sister has spoken of something that is a far better way of working with children than any of the training schools.

Senator BAYH. We are trying to go from where we are, from the conditions that have been so alarming to where we would like to be. Of course, the question is, where do we start? It seems, Mr. Cohen, from what you have said, and from the experience that has been related in El Paso and elsewhere, that the place which needs our immediate attention is who makes the original determination, whether it is a court, whether it is a social agency. If you were putting together the ideal program for Jill who runs away from home, or Paul who cannot get along with his mother and father, who makes the original determination of what institution should deal with the problem? Is that the type of situation that is dealt with by a purely legal institution, or is it a social determination? How do we define it?

Dr. ROTHMAN. Well, I would feel, if I may answer that, that the judge in the family court, and I have been involved with family courts now for a long time, both as a principal of a school and, of course, I am a licensed psychologist in New York State, the judge is the last person very often to make a decision that is helpful to the child. It may be a legally correct decision, and I do not presume to pass judgment on that. I know in terms of helping a particular family or a child it has very often been the most damaging of decisions, and that if we are going to keep a family court system as we have it I would think some things should absolutely be ruled out of the jurisdiction of the court. And as I say, truancy is one. Truancy represents many, many problems, many of them emotional, many of them due to the fault of the school, and it really has no place in a court system, particularly when the New York State, the State itself, violates its compulsory education law by not providing schools in some of the training schools, and here we are prosecuting children for violating the same law. So, I do not see that as any place in a family court.

I also feel that many problems, when parents become desperate, they look to the court for help. The child runs away and they really do not know where to go. I think we must have the creation of many, many facilities without legal jurisdiction to handle things on a social service kind of level. Then there is a court, unfortunately some things do get to court, and a child does commit a delinquent act, and somebody does press charges, or a child runs away and a parent has to go to the court and pick up the child. I think the court then needs many more resources than it has, possibly a judge alone versed only in legal—whatever it is you are versed in, legal something is not the answer to dealing with it.

Senator BAYH. That is a good definition of it.

Dr. ROTHMAN. Of human problems that I think perhaps a group of people, not a judge, but a judge, psychiatrist, a social worker, and a

group of people dealing with a family situation in which a legal definition is only part of the total treatment program. I think it has to be a new concept of a family court, rather than a legal definition being the prime one, and it becomes a sort of a group decision of which the child is a voluntary member of the group, and the child's family.

Now, in some kind of way this is the area in which I think that the family courts must go.

Mr. COHEN. And the key word to me is jurisdiction. We are all too frail to be able to make these determinations from what I have seen so far, and if we continue the jurisdiction of family courts or many social agencies the way they are now, then we are simply going to continue to take children's liberty away as a "noblesse oblige" instrument.

Senator BAYH. This committee has heard example after example of acts of irresponsible parents which are imposed on the children in such a way that can leave no question about violating their constitutional rights. We all, of course, are the products of our own personal experience. For example, our family moved from one school district to another when my child was about 11 or 12, the same age that we heard described in such dramatic terms by Paul. It would not have been necessary, but we decided that our child was going to go to a different school. If he had to make the decision at age 15, he would say, I am sure that my parents made the right decision. But, there must have been 3 months where almost every night he cried himself to sleep because he did not want to leave his old friends. Doctor, you have talked about this concept of the child governing himself, or people governing themselves. Are all 12-year-olds capable of determining what is right for them?

Dr. ROTHMAN. Let me ask you a question. How do you know you made the right decision?

Senator BAYH. Well, I happen to believe that a person 35 or 40 that loves his child is in a better position to make a determination than a 12-year-old. If that is not right, then we had better amend the Constitution and lower the voting age from 18 to 12. I think we can carry this to a ridiculous extreme, can we not?

Dr. ROTHMAN. Yes, we can to a ridiculous degree, but I do not think we give children enough credit for decisions about themselves that they can make. Certain decisions, of course, we are going to make, and very obviously, you do not let a 2-year-old cross the street. A 2-year-old obviously does not have the judgment. On the other hand, there are many decisions children can make for themselves that they are not permitted to make. A 12-year-old can sit down with a parent and not have the parent make the decision for him, but the parent may discuss it with the child so that they come to a communal decision, one that is of benefit to the child. Now, if there is a relationship between the parent and child to begin with that is one of respect, and I do not say, necessarily love, but one of respect where they each respect the way the other one can think and feel, I think the decisions that come out of that kind of home are going to be good ones generally. Where you have decisions that are imposed upon children, whether it is an institution or a teacher, where the child does not understand the decision nor understand the rule then you have unnecessary dissension. And very often adults do this. For instance, some schools impose a ban on chewing gum in school. There is no earthly reason most often, for their rule, except that it offends some adult. If the child does not

understand the offense, and does not understand the rationale for the rule, but is told how he must obey it, then that becomes an angry child, and one who does not respect other decisions, decisions and judgments that may be necessary ones. Rules should be worked out between adults and children, not just imposed. This again is according to the age of the child which is a determining factor. If it is something the child is unable to comprehend, as in the case of physical danger for a very young child then you point it out, or you just say yes or no. But I think by the time a child gets to 6, 7, or 8, and certainly to adolescence there are many decisions they are able to make, and I think most adults would be surprised at the judgments they would make in which they would control themselves. I think when we're talking about schools or training schools or any other institution it can only work if the children have some investment in their own well being and in running the institution or the school for themselves. Democracy must be made applicable for children too. I firmly believe this. This does not mean that parents, teachers, and adults must abdicate their roles. It means that these adults must recognize the rights of children to express their opinions, particularly in decisions that affect their lives. Those of the children that are able to understand what it is they are trying to learn for themselves.

Senator BAYH. Mr. Cohen, do you have any thoughts on this?

Mr. COHEN. Well, for me it is a far simpler question. If you had decided that your child was unhappy and you were therefore going to take him to the local family court and work things out with the judge, then altogether different questions arise, and that is where I think we are. We fortunately do not have to decide as difficult questions as the one you posed where different families have different ideas, and among some people it is quite necessary to hit your child every once in awhile, and in other families it is quite unnecessary to do so. In many instances the children grow up quite well, and in others they grow up quite poorly. I am just concerned about when you put that child into an institution. When that starts to happen I think a whole new question comes into being, and that question is what to do with this child who has done nothing sufficient to cause him to be institutionalized. On the one hand we have got the punishment theory, and I think that still is substantially in vogue, even though we talk in terms of rehabilitation. I think in truancy quite often we still think that if we put this kid away for a little while he will probably come back and go to school. I think that whether you deal with the punishment or the treatment theories we ought to be a whole lot more certain than we are now that something good is going to be done for that child before we put him into an institution, and since I cannot see any good that is being done to those kids who are being put away for truancy or because there are some sort of intrafamily problems, I say those children oughtn't to be institutionalized at all.

Senator BAYH. On the one hand, it seems to me we need to determine that something good is going to happen to the child, or something better is going to happen, and on the other, it seems to me you have a responsibility to determine that something wrong was done.

Mr. COHEN. Neither of which are being covered in the judicial system now.

Senator BAYH. Would you care to say anything more about the type of vehicle that we ought to have to make a determination? You are a lawyer and in a good position to make that judgment.

Mr. COHEN. Well, I have very little faith in that great responsibility of institutionalization by anybody. I would suspect that the legal system would be in the best position to determine institutionalization, because it does deal with the deprivation of liberty. When that occurs there has to be sufficient expertise by the social worker and the psychiatrist to determine the institutionalization.

If it is determined that the child has performed some act which, if an adult, would be criminal, or which would be a harm to somebody, himself or others, then I would say institutionalization would be acceptable, but under as close controls as could possibly be managed. Controls which I would be happy to suggest in the form of draft legislation if the Senator would like.

Senator BAYH. I wish you would. Our time has gotten past us and we are going to have to move on. If we could call on both of you to help us find out, not just what the problem is, but the specifics of dealing with it, I would be very grateful. Some laws at the State level seem to me to be the culprits. In the case of one jurisdiction, if a parent reports the child as a runaway, he has waived the opportunity of keeping that child out of a penal school or reform school. What sort of alternative is this? First of all, the parent is not aware of the consequences, and second, even if he or she were aware of it, how in the world can you find that runaway child? The parent has no resources to find that child.

May we ask you to help us in this pursuit of specifics? You have mentioned four specific categories, Mr. Cohen, and the doctor does not agree totally with you, but I suppose you could reach a middle road which you both could agree to.

Dr. ROTHMAN. We would be delighted to.

Senator BAYH. You have both been very helpful and I appreciate it. I know how much of an inconvenience this was to you, and I want to thank you very much.

Mr. COHEN. You are welcome, sir.

Senator BAYH. Our next and last witness before the noon recess, after which Senator Cook will have the opportunity to share some thoughts with some other witnesses at 2 o'clock, is Mr. Joseph Rowan, executive director of the John Howard Association, Chicago, Ill. The John Howard Association is a nonprofit organization devoted to rehabilitation of released and incarcerated prisoners. From 1962 to 1967, he served as deputy director of the Department of Corrections for the State of Minnesota. Sir, if you will let us have one moment to recess then we will be right back with you.

**STATEMENT OF JOSEPH R. ROWAN, EXECUTIVE DIRECTOR, JOHN HOWARD ASSOCIATION, CHICAGO, ILL.**

Senator BAYH. I want to thank you for being with us.

Mr. ROWAN. You are welcome.

Mr. Chairman, after a little over 30 years in the field I have come to the conclusion that my No. 1 recommendation would be foster and shelter care which has to be the major problem in this field

which needs attention. I have worked since 1955 going throughout the United States, first with the National Council on Crime and Delinquency, and now as director of the John Howard Association to study various delinquency programs. A number of our local detention facilities and State training schools are being overused to a great extent, due to a lack of adequate foster care facilities locally.

I have met with two groups of judges in the last 2 months, and in both instances they said that they were using local detention facilities, including jails, and were also committing youngsters to the State training school because of the lack of adequate foster homes.

Senator BAYH. In other words, the judges that you have been talking to seem to recognize this shortcoming?

Mr. ROWAN. Very strongly, oh, yes, and this is all over the country now. These are only two judge's meetings that I have been to in the last 2 months, but since 1955 when I worked in the different parts of the country, the West and the Midwest and the South now, this is a very common complaint of judges all over. And I say, you meet with State judges and associations in any State and you will find this is a major problem. States like Illinois, Florida, where we are presently doing a study for the Florida Legislature, \$60 to \$70 a month are very common payments for welfare departments to take care of troubled youngsters in foster homes.

I am trained in the social welfare field, and I say that for defensive reasons for my next comment. The social welfare field has aided and abided delinquency by operating on the myth that a good child welfare-foster care program can be operated by covering the bare essentials and relying on the Christian spirit of foster parents to carry them through. There are successful States that have been able to develop foster care programs, Minnesota, Wisconsin, which are spending \$165 to \$225 a month instead of trying to get by cheap with \$60 or \$70 a month payments. Wisconsin has 44 group homes operating. I was in that State for an all-day-training program a week ago Saturday, and they have 44 group homes operating, more than any State in the country. They have also got one of the lowest crime rates and one of the lowest institutional populations.

There are two recommendations that I would have along this line. One is that as far as—

Senator BAYH. May I interrupt before you get to the recommendations? Sister Mary Paul testified that the experience she has had in New York is that the two institutions which have the greatest amount of personal treatment and communication between the girl and her family, plus the type of service that was not incarceration, were less costly than the training schools that had absolutely no relevance in trying to deal with the personal problems of the child. Do you have any thoughts on this?

Mr. ROWAN. Yes. Basically this is true, as outlined in my statement. Shelter care, even at \$200 to \$225 a month will be \$2,400 a year compared to \$7,000 to \$12,000 to keep a boy or girl in a State training school or correctional school. In the foster care facilities in Wisconsin, there is an average of five boys or girls in a group home, not operated by a social worker or psychologist, but by ordinary parents in the community, people who have raised their own youngsters and are now between 40 and 55 years of age, who want to continue working with

youngsters. Minnesota has 27 group homes of this type, not operated by State paid staff, and not 1 cent for rent is paid by the State, but the \$145 to \$225 per month per child is paid the family is taking care of their own rent. In Wisconsin, backed up by psychological testing and research, the youngsters they put into their group home programs were the most disturbed psychologically and yet they had a 40-percent lower return rate to the State training schools than the youngsters who were much more healthy psychologically who went back to their own homes. So, small type family group homes can handle a majority of youngsters before they need to get to a training school.

One of the major problems is that over half of the kids that get into difficulty and need protective services are not under AFDC, Aid to Families of Dependent Children. Last night I was involved in a meeting called by one of the leading senators in Florida regarding a juvenile program. There were about 15 of us there, and the director of family services commented that about 65 percent of the youngsters did not belong to AFDC who needed foster care facilities. One major recommendation is that the aid to dependent children and family programs must be beefed up to provide more moneys, \$200 a month for troubled youngsters. This is still going to be one-third as expensive as an institution.

Secondly, the Federal Government is going to have to extend financial support to protective services for cases not under AFDC because this is a major block. This is the biggest percentage absolutely, at least it is in Florida.

As far as the second major area is concerned, when I testified 2 years ago before this same committee I expressed a strong concern, and last year in October before the American Congress of Corrections I got a resolution introduced and passed which said that before LEAA moneys are expended there should be a feasibility and planning study made. I see this country set back 25, 50, or 100 years if we slap institutions up all over this country without proper planning for community-based programs, including foster care. As I have been outlining, group homes, and probation, which really has not been tried in this country in the juvenile field, must be included.

I have run across three examples of what I think are terrible situations of misuse of moneys by LEAA in the last several months. In one instance alone in one county in Florida \$140,000 has been spent for architectural fees in two feasibility and planning studies that should have been done by professional organizations, like the National Council on Crime and Delinquency, the American Correctional Association or our own organization. If anyone honestly expects that an architectural firm is in a proper position to recommend the facility to be built one-third as big or one-half as big as normal, because of inadequate foster care facilities, inadequate probation, and the excessive time it takes the court to process a case, the matter of public defender services and all of the rest, they are out of their minds. Architectural firms absolutely should not be involved in feasibility and planning studies to determine the size of the facilities. And I will name firms throughout the United States that are recognized, legitimate architectural firms that will not become involved in feasibility and planning studies. They ask us to make these feasibility and planning studies because they have a vested interest. And along that line, to make it brief, my feeling is

that the Senate should insist upon a rider on LEAA moneys which will say that feasibility and planning studies should be done by firms which do not have a vested interest in the result. Architectural firms have vested interest in the results, and I say that we have activities going on here that might be considered near criminal, primarily misuse of moneys.

Senator BAYH. That is a pretty tough accusation. I am not saying it is not true. I am wondering if we can make a distinction between misfeasance and malfeasance where perhaps the firms are brought in just as a part of a general philosophy of attending to juvenile problems in the business as the usual way.

Mr. ROWAN. Cementing in bad practices, as I would call it; right. And I think the problem here is with the LEAA and their guidelines. I do not blame the architectural firms as much as I do LEAA policies because LEAA with their guidelines or spending policies have involved architectural firms and have encouraged this where there is no absolute guarantee that the building is even going to be built.

To give you an example, in the one study, and I will give you the number of the study, the LEAA grant 71-DF 639, and another grant for 70-DF 153, \$123,511 was spent in one county for a jail complex institution study. We made a study in a similar county (Milwaukee County, Wis.) for less than \$5,000. This is what I am talking about, misuse of Federal money which could have been put into the program that these wonderful people before me have testified to. These two grants that I am talking about are discretionary grants, right here from Washington, D.C. A third grant was a State grant in which a jail study is being made in the State for \$86,000, which again, an architectural firm is involved, when an agency like ours, or preferably competitors, could have done this for \$14,000. Actually the \$86,000 was the Federal grant and the total Federal-local was \$144,000. So for \$14,000, not \$144,000, or one-tenth of the money used in this county, a study could have been done as adequate or more adequate.

As far as juvenile detention is concerned, which is the third major area which I am getting into, I share the same feelings that were expressed by people earlier to the effect that we must protect the civil rights of youngsters by effecting legislation which would prohibit the use of a detention facility for a dependent or neglected youngster. We are keeping them in detention homes and jails throughout the country because of a lack of adequate foster care facilities.

I would like to back up a bit. Right now, this very minute, we have more adequate adult probation services than juvenile probation. This is something which very few organizations have cared to emphasize, and I would like to repeat myself. Throughout the United States today on an overall basis we have better probation services for adults than juveniles, and the basic reason is we have 37 States which administer adult probation. We have only 15 which administer juvenile probation. And the reason I am making this statement is that inadequate juvenile probation is a major factor in overdetention. If you have proper probation services you will not have a lot of youngsters locked up in detention facilities.

Senator BAYH. Why do we make that distinction between adult and juvenile probation?

Mr. ROWAN. I make this distinction because I do not believe the American public and taxpayer, if they knew it, would want to have worse probation services for juveniles than adults.

Senator BAYH. I do not mean why do you make that distinction, but why do you think the system makes it? Why do you feel that society has permitted this distinction to be made? I am not questioning that you should not draw that conclusion.

Mr. ROWAN. What has happened is this: The various States abdicated their responsibility for adult probation, or the counties I should say did, and locally they wanted to work with juveniles. So what happened is that local communities, the counties have wanted to handle juvenile probation. They have not been able to develop it. So, the county said we do not want to monkey around with adult probation, and let the State handle and administer it. Some States like Indiana and now Illinois are moving that way, and others have taken over the responsibility for adult probation, and they have done a much better job. Wisconsin today, which has the best adult probation program in the country, with an average caseload of about 39, as it was a few weeks ago, has a very inadequate juvenile probation program. Washington State is the same way, so is Minnesota. You go on down through the 37 States where the States administer adult probation and the counties administer juvenile probation and you will have much better adult probation services. This is one of the great tragedies in this country. So far as Federal financing is concerned they should lend support to developing State-administered juvenile probation systems.

Senator BAYH. Let me ask you why should State probation systems function better than local ones? It would seem to me that the right kind of local program that was familiar with the problems of children, familiar with the unique situation that might exist in a given community could do this better than somebody sitting in Indianapolis or Springfield.

Mr. ROWAN. What happens is Illinois has 102 counties, and it is easier to develop one State system than 102 county systems. Now, I have already mentioned Wisconsin, and I worked in that program from 1950 to 1955, and it is still probably the best probation system in the country with low caseloads, master degree requirements all the way through, very few if any vacancies, and they are able to operate effectively, but yet in that same State they have a very inadequate juvenile probation system. And you go to other States and it is the same way. You go down the 37, and in the far greater majority you will find better probation for adults. So, I think the LEAA and the Senate in this legislation has got to earmark and push for State-administered services.

I will give you an example in Illinois. The difference between juvenile parole, which is State administered, and juvenile probation, and we just finished a study of the 102 county probation systems in Illinois, and the average caseload is 110 statewide. The average juvenile parole program is around 50, almost meeting national standards. Now, when you go on, and on and on, it is the same situation in the various States. Government is best which governs closest is a myth in this field of delinquency and crime handling. The facts are there, they are indisputable.

Senator BAYH. Could you give us your opinion, Mr. Rowan, of the California system which has a subsidy program for retention of juveniles in the local communities?

Mr. ROWAN. Yes. California pays from I guess, \$2,800 on up to \$4,000 for each youngster committed, less this year than last year. Washington State has also picked up this type of a subsidy program. This has helped reduce the manner of commitment to institutions in California. They have closed down two youth authority facilities and parts of two adult facilities, actually two complete units, and this program has worked exceedingly well. But, it is still second best. The case loads are 90 for juveniles and 140 to 150 for adults in various counties, and this is word that I have gotten just last week. Youngsters are backing up in local facilities, detention facilities, county training schools and so on. This is a good program, but it is only second best to a State administered juvenile probation program which is fully financed. We still do not have national standard for probation services in California, despite the excellent work they have done in moving ahead. Washington State has had voluntary subsidy since 1959 when I worked in the State for the national council, and they moved to the same system as California, and this is good.

Now, maybe most States will move this way, but I would much prefer the State administered system and the same as an adult in the State administered system where the State finances a complete package. The Senate should pursue legislation in the area of civil rights which would prohibit the detention of not only dependent and neglected children, but minors in need of supervision in juvenile detention homes and jail quarters.

Secondly, legislation should be enacted which would outlaw the use of common jails for the detention of juveniles charged with delinquency unless these are offenses which would be crimes if committed by an adult.

So, what I am saying is that truancy and runaway youngsters, jail quarters must be outlawed because all they are is a crime-producing situation.

I would like to go further in support of something which is not in my statement which I added before I came here today. There should be a prohibition on commitment of minors in need of supervision and truant and runaways to State correctional facilities, State training schools, which in many instances, as I reported 2 years ago, are schools for crime. And I was responsible for administering seven of these facilities in Minnesota.

Welfare programs should handle minors in need of supervision, not training schools.

One county that I made a study in last year detained over 2,000 youngsters locally, compared with another county in another State where they detained only eight youngsters locally. It was the same population, the same degree of urbanization approximately. Over 2,000 youngsters detained in one county and only eight in another. Why?

Getting back into the matter of adequate foster home and shelter care facilities locally, adequate probation facilities locally, and keeping delinquents out of detention, runaway youngsters can be maintained in adequate and open foster shelter care facilities. They are doing this in various areas of the country. Minneapolis is a good example. When they were building additions to the maximum security facilities in Minneapolis they used open shelter care facilities because

of the overflow, and it amazed a lot of people, including the director, who said that he is never again going to ask for one bed in maximum security. The reason why is the delinquent kids that were kept in the open shelter care facilities did not run. And we have got other examples around the country, including the county where they detained only eight youngsters in security.

Two years ago when I was here I was highly critical of Audy Home, which is the detention home in Chicago. I am very happy to report that the average daily population there has been reduced from over 435 to less than 300 most of the time this past year. I am very happy to say that they had a good number of dependent, neglected kids in that facility when I was there 2 years ago, and that, as a result of progressive thinking on the part of local officials, plus a little bit of watchdogging on our part, we have kept dependent and neglected youngsters out of that facility. And I am very happy to say that they are paying salaries which have now been raised to over \$700 a month.

Senator BAYH. May I ask if you have had a chance to study the disposition of the additional caseload in that home? We have had one of the legal service attorneys here who said that a number of those children or youths had been sent to mental institutions. If this is the case, perhaps an improvement is not as salutary as the numbers might lead us to believe.

Mr. ROWAN. Yes. Now, as I will get on down later in the paragraph, they have made a good start. There is still some way to go. Now, one of the indications is that they had an average of about 35 retarded youngsters in Audy Home 2 years ago when I was there. The other day they had three and so they have done a good job from that standpoint. One of the major problems in Illinois, again, is the lack of adequate foster shelter care facilities. And on the matter of referrals to mental facilities, I am not up on this. We are making a continuing study and I will get into it.

Senator BAYH. I will be glad to have your assessment. If, of course, there were mentally retarded children in the home, of course they should have been sent to mental institutions, but a very strong inference was made that some of those who were referred did not fit in that category, but that this was just another way of holding them.

Mr. ROWAN. Without having made the study I would raise doubt that, knowing the mental facilities in Illinois, and as tight as they are, that they would be using those places for dependent and neglected youngsters.

Senator BAYH. Well, I will ask the staff to find that testimony and make it available to you.

Mr. ROWAN. I would appreciate that.

Senator BAYH. And we would like your assessment of that.

Mr. ROWAN. I will tell you what I will do. We make a continuing study of those facilities, but that angle, I must be honest, we have not gotten into, but we will and I will give you a report within the next couple of weeks or a month on that.

Senator BAYH. Thank you. I would appreciate that.

(The subsequent report submitted for the record was marked "Exhibit No. 14" and follows:)

Exhibit No. 14

JOHN HOWARD ASSOCIATION,  
Chicago, Ill., December 21, 1971.

Mr. WILLIAM MOONEY,  
Subcommittee To Investigate Juvenile Delinquency,  
Committee on the Judiciary, U.S. Senate,  
Washington, D.C.

DEAR MR. MOONEY: In follow-up to the request of Senator Birch Bayh, I am enclosing a Report Concerning the Statement of Patrick Murphy, Chief Attorney of the Juvenile Office, Legal Aide Bureau of Chicago, Before the Subcommittee to Investigate Juvenile Delinquency of the Committee on the Judiciary, the U.S. Senate.

Sincerely,

JOSEPH R. ROWAN, Executive Director.

REPORT CONCERNING THE STATEMENT OF PATRICK THOMAS MURPHY, CHIEF ATTORNEY OF THE JUVENILE OFFICE, LEGAL AIDE BUREAU OF CHICAGO

Report requested of Joseph R. Rowan, Executive Director of John Howard Association, 537 South Dearborn, Chicago, Illinois, by Senator Birch Bayh.  
Report rendered by Charles J. Kehoe, ACSW, Assistant Executive Director, John Howard Association.

#### INTRODUCTION

When Joseph R. Rowan made his statement before the U.S. Senate Subcommittee on Juvenile Delinquency on May 17, 1971, the chairman of the committee, Senator Birch Bayh, questioned Mr. Rowan on some of the statements made by Mr. Patrick Murphy concerning juveniles being transferred to the Elgin State Hospital who could benefit from other programs and did not need that type of facility.

While an immediate answer could not be given, as John Howard Association had not worked in the field of mental health directly, Mr. Rowan agreed to look into the matters of Mr. Murphy's report to Senator Bayh concerning that statement. The following is a report on the statement, page for page.

#### SCOPE OF THE STUDY

The study was made by the John Howard Association and included discussions with the regional director of the Department of Children and Family Services, an administrative assistant to the juvenile court judge, the superintendent of Audy Home and with one of the secretaries of the Audy Home concerning children transferred from there to Elgin State Hospital.

In addition to the above interviews one day was spent at Elgin State Hospital "watching their operations" and talking with the staff. There was not an opportunity available to visit with the children personally as many were out at a summer camp for a period of two weeks and would not be returning until ten days later. However, various phases of the program were observed directly and there was only a brief notice that this person would be touring the juvenile unit at the hospital.

#### FINDINGS AND CONCLUSIONS

While it is believed that Mr. Murphy has the highest aspirations for the handling of juveniles in this and other states, it is a concern to us that frequently he selects cases out of the ordinary or speaks in generalities and, without referring to positions or persons, he broadly scorns many of the persons involved in the "system". This, of course, makes it most difficult to "track down the complaints" and therefore many of the complaints must be left in question.

On page two of Mr. Murphy's statement he alludes to the "bureaucrats who most often refer to themselves as child care workers or social workers when they have absolutely no professional training, do everything in the name of the best interests of the child." This was found to be basically true, that there is a drastic need for more professionally trained staff in the entire child welfare field, including corrections and mental health. There is no doubt on the part of existing professionals that they are tremendously under-manned. Because of a state law which now requires social workers to register or not use the name "social worker" various

titles and "handles" have developed which boil down to nothing more than a caseworker.

On page two, category number three, Mr. Murphy states that there are "youngsters who are committed to the Department of Mental Health because of alleged mental retardation or emotional illness." The word alleged would lead one to believe that there is reasonable doubt that this person is not mentally retarded or emotionally disturbed. However, sufficient psychiatric exams must be provided to youngsters both at the court level and at the state hospital to protect the possibility that this youngster might not be mentally retarded or emotionally disturbed. (We also get into the specifics of this later.)

On page three Mr. Murphy states, "Unfortunately, children who stay in these State 'industrial schools' the greatest length of time are those whose families do not want them, or whose families are not very cohesive. Again, unfortunately, this seems to be most often the case when a runaway or very young pre-delinquent child is involved. The irony is an older child who commits a serious offense is paroled early while a younger child or runaway who commits either no offense or one in which the intent has to be questionable at best is often kept in these juvenile prisons for many years." This is probably true. There are few, if any, foster homes available and only a smattering of group homes throughout Illinois. At present, there are no more than six group homes in Illinois for paroled youngsters.

What Mr. Murphy did not ask was where can the Department of Corrections strengthen its foster care services? Obviously, the group home situation has proved itself successful in numerous states and should be encouraged further in all states. It is true that a youngster who has no place to go does spend a great deal of time in institutions, but it is questionable to compare this to a youngster who commits a more serious act getting out substantially earlier. There probably are many youngsters who committed serious acts who have the same lack of facilities at home as do the children that Mr. Murphy refers to and because of this they too remain in the institution over an extended period.

On page five Mr. Murphy makes a generalization that "Many children are placed into mental institutions when they are not emotionally disturbed or mentally retarded. Further, they receive no hearing to determine whether or not that child should be placed into such an institution." This is a questionable statement. In closely observing the number of children placed into the Elgin State Hospital, where the majority of children went that Mr. Murphy is referring to, it was found that from the period of June 1, 1970 to May 31, 1971, four boys and fourteen girls were transferred from the Audy Home-Cook County Juvenile Court to the Elgin State Hospital. Most were mentally retarded and the others were certified to be "emotionally disturbed." Of these eighteen youngsters it is determined that all of the youngsters either had to have a psychiatric exam by the juvenile court psychiatrist or through the Illinois State Pediatric Institute which evaluates all Audy Home children going to the Department of Mental Health. Further, the "admissions systems" is closely supervised. There are shortcomings in the admission system and these have been abused in previous years. However, it appears that this has been alleviated.

There are basically two types of admissions which constitute the bulk of children coming into the mental health facility. These are through voluntary admissions and emergency admissions. Voluntary admissions are described in Article Five of the Mental Health Code, effective January 1, 1968, amended 1969. Voluntary admissions in Section 5-2 are stated thusly: "The application for admission as a voluntary patient may be executed by, and the superintendent shall accept the applications from—

- (1) The person seeking admission, if he is eighteen years of age or older;
- (2) Any relative, or attorney for him, with his consent; or
- (3) If he is below the age of eighteen years, by parent, guardian, person in loco parentis, the Illinois Youth Commission or Department of Children and Family Services."

Under the statute covering emergency admissions, Section 7-6, it states, "within 24 hours, excluding Saturdays, Sundays, and holidays after any person ascertained to be in need of mental treatment or mentally retarded, is admitted to a hospital under this article, the superintendent of such a hospital shall file, or cause to be filed, two copies of the petition and the physicians certificate in the office of the clerk of the court in the county in which the hospital in which such person is hospitalized is located. Upon the filing of such a petition in certificate the clerk shall immediately present them to the judge of such court who

shall set them for hearing at a time not more than five days excluding Saturdays, Sundays, and holidays, after the admission of the patient to the hospital. The order setting the hearing on the petition must direct that the reasonableness of the time and place of the hearing be served upon the patient, his attorney if any, and the persons entitled to receive a copy of the petition pursuant to Section 7-4."

The staff at the hospital readily admitted that in previous years children were being committed to the State Hospital under voluntary admissions, by their parents, to give them a "taste of what it is like when they're bad". Later, or within a few days, these children would then be removed by their parents. However, this has not been done of late and rarely happens now. The hospital has provided safeguards and where there is doubt concerning the need to place a child in such an institution, the facility demands that the admission be an "emergency admission". Thus, the court must then make the decision as to whether or not the child is admitted. It is described as a "protection for the child and the hospital". Also, in such cases, a child is seen by two psychiatrists within a period of 24 hours after admission.

Experience has shown, for example, that during 1967 at one of the youth commission facilities it was a most difficult task to get a child into the state hospital. Furthermore, seven children were recommended for psychiatric hospitalization, and only one of the seven was accepted by the Department of Mental Health. According to Mr. Murphy's statement one would get the impression that we were now at the other extreme where we were "throwing kids into the institution at random".

On page six, paragraph one, Mr. Murphy states, "When a child who has been adjudicated neglected because of a poor home environment is placed in a maximum security penal institution for one or two years because the county and state do not have proper facilities, again, we believe his Eighth and Fourteenth Amendment rights might have been violated; but we have no knowledge as to whether the aforesaid incarceration is good or bad for the child." It is not possible that a child who did not commit a delinquent act would end up in any such type facility. While many delinquent youngsters committed to state institutions (training schools, not penal institutions—as such are exclusively reserved for adults), have dependent-neglected backgrounds, the law forbids any commitment to a correctional facility without a law violation. We recognize that many such cases would be better handled as dependent-neglected.

On the bottom of page six Mr. Murphy alludes to the fact that many of the children who end up in state institutions are the poor, the black, the Appalachian, the Puerto Rican and so on. This should come as no surprise to anyone who has experience in this field. Money means that you can purchase services and purchasing services means that you can avoid incarceration in state facilities. It is a well known fact that the rich, seldom, if ever, go to jail, prison, or juvenile correctional facilities. These people can afford other types of treatment, namely private. It is not clear whether Mr. Murphy is asking for more "rich children" to be locked up or for better services for the poor children. If he is suggesting better services for the children of poverty families then it should be said.

On pages seven and eight Mr. Murphy describes the case of a girl, whom he calls Vicki, who is wrongly placed into the state mental hospital. As Mr. Murphy describes her plight through the juvenile court, Audy Home and finally to the state hospital he describes the appearance of the Audy Home. One erroneous fact which is twisted is that the building is not surrounded by a twelve-foot high one-foot thick concrete wall. Rather this should refer just to the recreation yard. If one were to read into this statement it would appear that the entire institution was surrounded by such a wall. Mr. Murphy does not state in describing how Vicki was sent to Elgin State Hospital, what facilities existed for "residential treatment".

Private residential facilities nationally are scarce and extremely costly. As a rule only a small minority of children go to these residential facilities from state agencies because of the standards set by the facilities. One facility, for example, requires that there be some "potential" for growth in treatment and that the parents be heavily involved during the treatment process. Other institutions set other demands. It was not clear in this statement as to whether or not the state had tried to use these institutions and were unsuccessful because of their standards or whether they just completely neglected to help the child at all. However, the impression one gets is that the latter occurred.

Mr. Murphy also states on page nine, "Furthermore, there is much to indicate facilities by the Department of Children and Family Services because they

realize that the agency is merely dumping the children inasmuch as there is no other place to put them." Obviously Mr. Murphy has never worked in a state agency or institution. The exact opposite would be more true. Seldom if ever does one find agencies that so willingly accept children that they will never "gripe" about commitments. It is a fact that most agencies don't want to do the other agency's work for them. Table I below illustrates the census for the particular children's unit which Mr. Murphy is referring to at the Elgin State Hospital. As one can see, the peak populations (in column "High") have decreased over last year. Also, the low has gone to an all-time "Low". While admissions are up over the previous year, discharges are also up over the previous year—indicating that more children are being discharged and would probably indicate that a shorter length of stay has been arrived than was the case a few years ago.

TABLE I.—CENSUS, CHILDREN'S UNIT, ELGIN STATE HOSPITAL, JULY 1966 TO JUNE 1971

Year	Low	High	Admitted	Discharged
July 1966 to June 1967	109	116	154	124
July 1967 to June 1968	107	121	169	166
July 1968 to June 1969	112	127	133	134
July 1969 to June 1970	107	140	165	165
July 1970 to June 1971	89	123	189	174

It should be noted, also on page nine, that Mr. Murphy states that he sued the federal and state courts alleging that the Audy Home was an unfit place for neglected and dependent children and asked the court for the removal of the children. It should be pointed out that several groups including the John Howard Association, National Council on Crime and Delinquency, League of Women Voters and approximately 25 other groups and organizations strongly pushed for the removal of the children. Media lent strong support, including editorially. No one group could actually say that it was the prime mover in this decision.

at the bottom of page nine Mr. Murphy states that he recently filed a civil rights suit on behalf of "two 13-year old boys who were caught in consenting homosexual behavior in Elgin State Hospital. These two boys were placed in restraints for 77½ consecutive hours as punishment for their conduct." The institution denies the fact that the boys were placed in their beds for 77½ consecutive hours, but rather states that they were let up to use the bathroom facilities, to eat and for some well supervised recreation. However, they did not deny that the remainder of the time the boys were restrained in their beds.

The complete story on this case should be put into a total perspective. First, what is consenting homosexual behavior for juveniles? Certainly, no one would want their child going to an institution knowing that he could fall into "consenting homosexual behavior". What is consenting homosexual behavior for an adult (which is legal in Illinois) should not be interpreted as necessarily being the right thing for juveniles. Mr. Murphy gives the impression that because this was "consenting" that the children should not have been disciplined. However, if this was the case, then children should have the right to smoke or drink. This is nonsense. Not only do children of this age need protection when they are "normal" and have an "average" intellect, but when one considers that these are emotionally disturbed, very likely low I.Q. children, more supervision and guidance are needed in making decisions for these children.

Furthermore, it should be noted that the one child who was described as the "plaything for the ward" and who was the recipient of homosexual behavior contracted anal gonorrhea from a young lad who was the aggressor and who had just been home for a weekend furlough where he contracted gonorrhea. The recipient of the homosexual behavior was the "punk" for the entire ward. Thus after several children had become involved in the homosexual behavior it had ended up that within the period of two weeks 17 of the 28 boys on that ward had active cases of gonorrhea. Certainly, something should be said for the lack of close supervision. However, even with the best supervision there are still opportunities for children, particularly emotionally disturbed ones, to get involved in homosexual acting-out.

There are no "quiet rooms" or "segregation areas" for children at Elgin State Hospital and thus it is felt that restraints must be used if a child is to be kept

from interacting with the general population. Children, when restrained to a bed, are given six to eight inches of movement for their arms and legs, even with the restraints. Thus the statement concerning the "spread eagle" is exaggerated. There is no doubt that this does seem to be a "crude" and almost inhumane way of restraining children. However, this is the only alternative that the hospital felt it had. For many of these children, drugs and medication have not proven helpful in restraining them in acting-out behavior.

On page 10 Mr. Murphy states that on touring the facility he recognized many of the names of the children and found them to be children who were at the Audy Home when the Judge signed his order removing neglected children from there. Mr. Murphy's statement, "Certainly it was coincidental that these children were mentally retarded and could easily be placed at Elgin State Hospital," gives the impression that there is doubt that these children were mentally retarded and subtly suggests that these were not mentally retarded but dependent and neglected children. It should be noted that all of these children were diagnosed as mentally retarded by either the court psychiatrist or a physician at the Illinois State Pediatric Institute. Transfer within the Department of Mental Health caused a movement from Audy Home to the Elgin State Hospital. All 23 of these youngsters came to the state hospital at one time because of the pressure being placed on the Department of Mental Health through focal zone centers to remove the children from the Audy Home.

On pages 10 through 12 the case of Vicki is discussed again. The impression one gets is that Vicki is a "nice little girl" who occasionally slaps someone. However, upon looking at the information from Elgin State Hospital one finds that this girl had not only attacked many of the matrons but had also become a direct threat and attacked several of the children. On numerous occasions, the hospital stated that they tried to work with her, however, her behavior was of such a volatile nature that they were unsure as to when she would act out again. Because of the danger she created to the welfare of the other children and staff it was decided that Vicki would have to be handled through the courts and correctional system. Again, Mr. Murphy's statement "other girls who have committed much more serious crimes have come and gone in the meantime" gives one the impression that Vicki is unjustly held. However, resources for Vicki can best be described as "zero".

Mr. Murphy suggests that the Department of Children and Family Services apparently "does not wish to assume the burden of attempting to place her in an institution which could aid her." I am certain that if Mr. Murphy could find an institution which would take a child who has demonstrated her hostility and potential danger to staff and other children that the Department of Children and Family Services would be more than happy to transfer her to that facility. However, once again it has to be noted that these facilities do not exist and where they do exist are usually at their peak populations and have long, long waiting lists. No one, including the staff of the several agencies that have worked with this girl, will deny that the state has not done its job in providing help for her. At best, the mediocre services which are provided by most state agencies across the United States do not help a person so disturbed, but merely provide custody.

John Howard Association staff who recently inspected the Geneva State Training School for Girls and talked with many of the inmates there felt this was a progressive institution with their philosophy in the right direction. The girls that the staff talked to, both in maximum security isolation units and in other parts of the institution felt that they were being "fairly treated".

From pages 14 to 19 Mr. Murphy discusses the problems of incarceration for truancy and running away. It is the findings of the John Howard Association that in this respect Mr. Murphy is 100% correct. For many children across the United States acts which are not punishable if one were an adult are severely punishable because you are a child. John Howard staff has found juveniles sentenced to or detained in jails for offenses such as drinking beer, running away and being truant from school. Judges, rather than wanting to find an adequate foster or group home placement for the child would "give them a taste of what jail is like". In a case that JEA worked on, staff of the Association was convinced that unless one child were removed from a jail a suicide would follow because of the extreme depressing and lonely atmosphere in the jail. It is true that for the most part the courts do not inquire as to why a child runs away but only emphasize the seriousness of "running away". As was stated running away in certain situations could be the healthiest thing that this child has ever done when the parents are creating the problems.

Mr. Murphy again describes the case of a child who he feels should be placed in a residential facility. Again, it should be noted that placement of children in residential facilities is probably the most difficult task in child welfare. What facilities do exist have either extremely rigid intake policies or have boarding rates which are beyond the limits of what the states will pay. For most states a limit of \$400-\$500 per month per child is set for placement in all residential facilities. However, many facilities, particularly the better ones, have fees of substantially more than this because of the cost of care for a child in such a facility.

Mr. Murphy describes the situation for children who are incarcerated as delinquents in state correctional institutions in Illinois. Basically, his findings are correct and there is nothing that we would disagree with in his statement. However, on page 23 Mr. Murphy describes the case of a child who ran away from a medium security institution and spent Christmas with his family and then turned himself in on December 26th. When he was returned to St. Charles he spent three weeks in solitary confinement at which time he was transferred to Sheridan. At Sheridan he spent over 49 consecutive days in solitary confinement. It should be noted that John Howard Association had direct contact with this case and that there are facts which Mr. Murphy has failed to point out. One is that this young man ran away with three other boys and on the way out severely beat and assaulted an old youth supervisor at St. Charles. He had a long history of delinquency. It was the impression of Mr. Murphy that because the boy spent the day at home on Christmas that he should not be "disciplined" but rather understood. Nonetheless his running away should not be condoned as Mr. Murphy would suggest.

It is true that in many state institutions children do end up spending more time than they would have if convicted of the same crime as adults.

On page 24 Mr. Murphy gets to the most important issues in his whole statement and that is the lack of well trained professional personnel. Most people who work with bachelors' degrees are not prepared to deal with the complex emotional problems of these type of children and their families. On page 25 Mr. Murphy says that "if these same resources were directed toward the family, many of these natural families could take their children back without any state aid whatsoever." This is probably true except that it would require that many families would still need the additional financial help.

The elimination of incarceration of children under 12 who are runaways and truant, has been developed here in Illinois and is presently being brought into reality. In touring state institutions here, it has been found that children under 12 are now being handled through the Department of Children and Family Services instead of the Department of Corrections. This is also being supported in the "Unified Code of Corrections" which is now in the Illinois Legislature.

The only other point which needs to be made on page 27 is that the problems of delinquency, dependency and neglect will not be resolved within the Board of Education. The Board of Education has not done an adequate job in educating children and therefore is no resource to be referring emotionally disturbed children. Teachers cannot detect emotional and family problems and treat them no more than professional social workers can be good educators in the elementary and high school classroom. A teacher is not a therapist. It has not proven to work well in other schools and would prove only to be a disaster here in the Chicago school system. As Mr. Murphy states, "This calls for tremendous flexibility and imagination of which the Chicago Board of Education seems totally incapable." Even in the best systems the plan as Mr. Murphy has outlined would not work. It is true that children's neglect and emotional problems are horizontal and span the entire area from poor grades to delinquency.

The most important point in the entire paper is made on page 29: "The lack of properly trained personnel is much more of a pressing problem. For instance, many children now taken from their parents and placed into institutions could work out within their natural homes if a properly trained social worker could devote a great deal of time to working with the family. If properly trained personnel were continuing to work with the child and the family during the child's absence then the child could in all probability be integrated back into the family with the result that the expense upon the state, though great for a year, would be much less in the long run than it is now."

## SUMMARY

It should be noted that while Mr. Murphy has left out a number of facts he basically touches on many key issues in the child welfare field. With the exception of the individual instances mentioned, Mr. Murphy has accurately described the inadequate and poorly staffed services for children in Illinois. It is not likely that there are many states which have services better than Illinois as child welfare is not a priority in our country today. So long as we put our emphasis on other areas the helping professions will be only "stepchildren."

Mr. Rowan. And if there is anything that can be done on the matter of rural location please do it. Before I left Chicago over the weekend, my assistant said be sure to get into your statement this business about "do not locate correctional facilities out in the rural areas, away from communities where you cannot get staff and where parents cannot get the money to travel and soon for visiting." I would like to reemphasize what people earlier have said. We need a national training academy which can be locally conducted which should be promulgated by the Senate which would make it possible to upgrade child care workers throughout the country. We have got the FBI law enforcement academy which has done a great job in the law enforcement field. We need the same thing for child care workers in detention and correctional facilities throughout the country.

I would like to get into a controversial area in which I know I am going to incur the wrath of a lot of my professional colleagues around the country, but I am firmly convinced, after a number of years of trying to do otherwise, that we must authorize release of juveniles on money bail because of the sad situation that we find in our foster child care program, probation programs, and detention facilities and jails. Illinois has only about 12 detention homes out of 102 counties. We have been operating behind the closed doors of the juvenile court, and I feel that is going to change in a couple of years, and if I come back I may have some drastic recommendations on further overhauls of juvenile courts. My feeling is that with the abuses that we have had down through the years, the way we have put youngsters in crime-producing situations, and we have had 70 years to do a lot better job, since 1899 when the juvenile court was founded, we must help protect youngsters by money bail. We are detaining two to four times more than necessary all of our studies of detention facilities indicate.

Senator BARN. How does the money bail situation deal with a neglected child who is in the institution because he could not get along with his parents because of domestic problems at home? Does that relate to that type of child that is there for reasons other than adult type criminal acts, or is that directed at other types of offenses?

Mr. Rowan. Well, first of all the dependent, the neglected children should not be in the detention facilities or in jail quarters. That should be treated by law, and we are trying to do his. I am talking about the delinquent who is in the detention facility for committing what would have been a crime if committed by an adult, because what happens is we will have five people getting into trouble and committing a crime. Three will be juveniles and two will be adults. The two adults can get out on bail. Youngsters get detained in detention homes because of a lack of foster care facilities and a lack of probation which could be substituted, in lieu of detention with contacts once or twice a week. So, then when it comes time for commitment the adults get committed for 1 year, maybe 2 years, and the youngster at the age of 15

or 16 years of age gets committed for 5 or 6 years, until he is 21 years of age. So, all the way down the line we have this business about "there is no justice," and I say that we have substituted official neglect for parental neglect, which we are doing in a great number of our detention facilities and juvenile courts throughout the country. We must protect civil rights by having money bail for release of juveniles, because at least we will have families pulled together, maybe for the first time and at least youngsters will know that the money is being put together, that he is worth that much, when he may not have known that before. And this may not be the best way of looking at it but it will force local jurisdictions into doing something about detention and probation and foster care services.

I therefore encourage the Senate Committee on Juvenile Delinquency to promulgate legislation which will protect the rights of juveniles by affording them money bail.

Last, as far as public information area is concerned, 2 years ago I testified that I strongly urge that a rider be put on LEAA moneys which would require training of administrators prior to their getting grants. The greatest single need in the field of delinquency and crime handling today is a lack of public understanding and involvement, and it has not gotten any better. We are giving grants right and left without requirements that the administrators know anything about working with the public and the citizen advisory groups, and so on, and my feeling is money spent along this line is going to go down the drain to a great extent. I feel that before LEAA moneys are given out that administrators, and it can be done, pull them in for other reasons, they must be trained in how to work with the public, public relations, citizen action involving key citizens, and people that pay the tax dollars.

Senator BAYH. Well, thank you very much, Mr. Rowan. I have asked questions as we have gone along so I will not do that right now. As we go ahead if we can refer certain questions to you I would appreciate it, and I hope that you can give us the benefit of that one matter that you were going to investigate.

Mr. ROWAN. Yes; we will research that. If your staff could furnish the previous testimony regarding the Audy Home, I will look it up and give it to you very shortly, within a couple of weeks.

Senator BAYH. Fine. Thank you very much.

Mr. ROWAN. And we will be glad to help anywhere else along the line that we can.

Senator BAYH. You have been a great continuing help to the committee over the years, and we appreciate that very much.

(The prepared statement of Joseph R. Rowan is as follows:)

#### PREPARED STATEMENT OF JOSEPH R. ROWAN

##### INTRODUCTION

The John Howard Association of Chicago has been operating in the delinquency and crime field since 1901. The Association was patterned after the John Howard Society founded in England about 200 years ago as a "watchdog" agency regarding the handling of offenders in institutions.

The Association provides survey and consultation services internationally on an at-cost-basis on request of officials and, in addition, performs "watchdog" work without either invitation or cost where alleged abuses exist.

#### MAJOR PROBLEM AREAS NEEDING ATTENTION

##### I. Foster and shelter care

The use of juvenile detention facilities is seriously abused because of a lack of adequate foster and shelter care facilities for dependent, neglected and delinquent children.

Few welfare departments throughout the United States pay an adequate foster or boarding home rate for youngsters and therefore such facilities are very inadequate in both quality and quantity. How can foster parents survive on \$60-\$70 a month payments which are very common today in the more affluent states?

Down through the years the social welfare field has "aided and abetted delinquency" by operating on the myth that a good child welfare-foster care program can be operated by covering the "bare essentials" and relying on the Christian spirit of foster parents to carry them through. This is nonsense. We live in a capitalistic society and we must operate foster-shelter care facilities on a profit making basis.

You cannot expect people today to care for a youngster by taking money out of their own pockets to make ends meet. In the first place, this cuts down drastically on the number of good prospective foster parents that an agency can recruit. Secondly, it forces foster parents to "cut corners" and naturally the child is the one to suffer.

States like Wisconsin and Minnesota are spending \$165-\$225 per month for the care of delinquent youngsters in foster-boarding home facilities. At an absolute minimum, payments of \$100 per month should be paid for dependent and neglected children who are not disturbed. If there are emotional problems, payments should be much higher.

Even at \$200-\$225 per month, this amounts to only about one-third the cost of institutional care. And, the results will be much better. With four years of solid research the state of Wisconsin demonstrated that much more disturbed youngsters, as verified by testing, succeeded in small, family group homes compared with psychologically healthier youngsters who were returned to their own homes. In fact, the return rate for the youngsters going to the group homes was forty percent less than for the more stable youngsters who returned to their own homes.

During the past two months I have met with two groups of judges and in each instance they reported that it was necessary to use juvenile detention and jail facilities to hold both dependent and delinquent youngsters due to a lack of adequate foster-shelter care facilities. Further, they said that commitments to state training schools were made for the same basic reason. This is absolutely tragic. There is a "well worn path" from dependency and neglect to delinquency to crime. There is no more fool proof way to produce crime than to try to get by cheaply on foster facilities.

Regular foster and small family group homes can be found if the agency pays a decent rate. Wisconsin has forty-four family group homes with an average of five delinquent youngsters each. This is more than any state as far as I know. It can be done.

*Recommendation.*—The United States Senate must provide the leadership in seeing that the categorical aid programs are sufficiently financed to allow for recruitment of an adequate number of foster care facilities so that "official neglect does not replace parental neglect".

##### II. Use of Law Enforcement Assistance Administration grant moneys

The Law Enforcement Assistance Administration (LEAA) must fully implement a resolution which was passed at the Congress of Corrections (sponsored by the American Correctional Association) on October 15, 1970. The John Howard Association introduced the following resolution which was passed by an overwhelming majority at the Centennial Congress in Cincinnati:

"Whereas, The design, size, location, program and construction of correctional institutions, including jails, prisons, reformatories, halfway houses, treatment centers and juvenile facilities involve important and difficult problems which vitally affect the well-being, progress and treatment of those committed thereto; and

Whereas, Significant progress has been achieved in developing community based procedures which offer alternatives to institutionalization; and

Whereas, The architecture and construction of penal and correctional institutions should be functionally related to program designs;

Now, therefore, be it resolved, That the American Correctional Association and its affiliated bodies offer their services and good offices to the LEAA and State Planning Agencies in reviewing the need, feasibility and basic concepts involved in applications for construction grants for correctional institutions and facilities as a prerequisite condition to their approval."

In one county alone over \$140,000 was spent for architectural fees in two projects financed by LEAA in which there was no firm guarantee at the time that the community would move ahead to build the proposed facilities.

It is our firm conviction, and that of a number of correctional leaders with whom I have talked during the past several weeks, that LEAA feasibility and planning study monies should not be allocated for architectural fees until the communities have agreed to pursue the building of such facilities. Several recognized architectural firms in the United States with which we have worked strongly agree on this principle.

The John Howard Association has been involved in numerous feasibility and planning studies down through the years and its broad experience shows that program must be decided on first before the architect comes into the picture. The competent architectural firm recommends that program be agreed upon before it begins working on schematics and drawings.

In line with the resolution passed at the American Congress of Corrections, feasibility and planning studies should precede applications for architectural and construction grants for correctional facilities. Can an architectural firm be expected to recommend a smaller facility than originally anticipated, by emphasizing revised practices? An agency with program expertise is in a much better position to point out bad practices which, if "cemented in", will only mean a continuation of poor practices and a facility much larger than necessary.

In a third instance encountered by JHA in one of the states in which it is presently working, a statewide study is being conducted regarding the feasibility of establishing a regional jail system. Of the \$86,671 federal share of the grant, a total of \$76,500 pertains to an architectural planning firm.

A review of the grant proposal gives no indication that a study will be made of the factors affecting bed capacity, such as adequacy of probation, summons and own recognition release, time to process cases in court, adequacy of states attorney and public defender staffs and the diverting of public intoxicants and other offenders from the jail-court route.

The total budget for the regional jail study was over \$144,000. Based upon extensive jail study experience which JHA has had for many decades, I can tell you that the regional jail study in this state should cost no more than about one-tenth of the monies authorized.

Such exorbitant fees are being charged by profit making and non-profit firms in the delinquency and crime field, which are operating with LEAA monies, that our Association has had a difficult time in several instances trying to convince officials that it could do an adequate survey-consultation job at the at-cost fee proposed.

It is time that the U.S. Senate (and House of Representatives) put riders on the LEAA appropriations bill which will safeguard the wise expenditure of monies which Congress and the taxpayers intended. The three instances cited above occurred in only one state. What is happening in the rest of the 49 states?

The Law Enforcement Assistance Administration cannot be expected to objectively and effectively police itself, although it should do this to as great a degree as possible. Two nationally recognized agencies in the delinquency and crime field have been the benefactors of LEAA grants and seemingly are not in a position to provide "watchdog" services. It is therefore incumbent upon the John Howard Association to perform this role with use of private moneys, however difficult they are to obtain.

**Recommendation.**—The Senate should insist that the granting of Federal moneys through LEAA must be preceded by sound feasibility and planning studies which do not involve agencies which can profit from the results of the studies and consultation work. Unless this approach is pursued, the modernization and construction phase of the Safe Streets Act will set this country back regarding the handling of juveniles, instead of advancing it.

### III. Juvenile detention

The temporary detention of youngsters charged with delinquent acts is being carried on throughout the country under atrocious conditions. Only about one dozen detention facilities for juveniles, separate from jails, exist in 102 counties

in the State of Illinois. Only two of these programs can be considered as coming anywhere near meeting recognized standards. The others are primarily "cold storage". This is typical of other states, so therefore Illinois is no exception.

Several decades of efforts to get two or more counties together to operate a regional detention facility have failed miserably. The only way in which adequate juvenile detention facilities will be developed on a regional basis is through state financing and administration. Therefore, LEAA guidelines must insist upon expenditure of grant moneys only when the community meets minimum volume requirements. Experience has shown that unless a community has 3,000 delinquency "arrests" per year it cannot afford to operate a detention facility with constructive program to change attitudes and thinking of the youngsters so that they will be returned to the streets better than when they entered.

Standard setting agencies have been waiting for years for communities to develop adequate detention facilities. Down through the decades, including the present time, dependent and neglected children are also being kept in juvenile detention facilities and jails throughout the country due to a lack of adequate foster and shelter care facilities which I have outlined earlier. We cannot afford to wait any longer.

**Recommendations.**—The Senate (and House of Representatives) should pursue legislation in the area of civil rights which would prohibit the detention of dependent and neglected children and "minors or children in need of supervision" in juvenile detention homes and jail quarters, even though they are separate from adult facilities.

Further, legislation should be enacted which would outlaw the use of common jails for the detention of juveniles charged with delinquency unless they are charged with offenses which would constitute crimes if committed by an adult.

This means that "victimless offenders" in the juvenile field would need to be retained in shelter care facilities rather than detention homes and jails. Several communities have demonstrated that runaway youngsters and truant will not generally run from adequate, open shelter care facilities. In fact, various communities have demonstrated that even delinquent youngsters can be kept in open shelter care facilities on a selective basis.

While they were enlarging a maximum security detention facility in one of our major cities, an open shelter care facility was used for the overflow of delinquent youngsters. To the surprise of the officials the youngsters did not run and this prompted the director of juvenile court services to say that never again will he recommend the addition of beds in maximum security for delinquents.

"Program holds kids" and it is the public's job to provide adequate program instead of substituting "official neglect for parental neglect." Only in this way will we stop dependent-neglected youngsters from becoming delinquent and a delinquent youngster from going on to become a criminal.

The once highly criticized Audy Home in Chicago has reduced its average length of stay and daily population by nearly one-third, due to upgraded practices. Dependent and neglected children are not housed there any more and while they subsequently "sneaked in" under the category of "minors in need of supervision", this practice has been controlled. Starting salaries for child care workers are now over \$700 per month, allowing recruitment of higher caliber workers.

### IV. Juvenile treatment facilities

Most states have very substandard training school programs due primarily to inadequate staff and financing. The lack of training for house parents is commonplace. Local efforts at training have generally failed and national leadership is needed.

**Recommendation.**—A national training academy, regionally conducted, should be promulgated by the Senate, making it possible to upgrade child care workers.

I am happy to report that Illinois is moving ahead in several areas of juvenile handling. A one-third reduction has been achieved in returns to state institutions, due in part to significantly increased budgets, which of course will mean long range tax dollar savings. Staff training has been upgraded. The further development of community based programs is taking place. More needs to be done but the commitment is there.

Despite a 40% turnover of house parent staff due to low salaries, Florida is moving ahead on upgraded parole-aftercare services with less than a 10% turnover of staff and reduced returns due in part to heavy emphasis on weekly, reality based group counseling sessions throughout the state.

Continued efforts in Minnesota regarding guided group interaction sessions five times per week in institutions, together with group counseling in the community, have paid off in reduced returns and a reduced training school population to make it more workable.

#### V, Bail for juveniles

A number of my professional colleagues will raise their eyebrows when they hear of my next recommendation, namely, that juveniles should be considered for release on money bail the same as adults. Throughout the country juveniles are being over-detained by two to four times greater quantity than need be because of punitive policies and/or inadequate services which otherwise could have been rendered at the point of arrest in lieu of detention.

Unnecessary detention is a major factor producing delinquency and crime in this country. Detention in some cases feeds the youngster's unhealthy ego and provides recognition for him. "He has finally achieved identity". "He is now somebody."

We have waited for 70 years since the founding of the juvenile court for services for juveniles to be made more adequate. Unfortunately, in many states, we find that services for juveniles are not as adequate as those for adults.

In the United States today we have better probation services for adults than juveniles. This is basically due to the fact that adult probation is primarily a state administered-financed function, whereas juvenile probation is primarily a county administered-financed function. In about three dozen states adult probation is state administered whereas only about one dozen states administer juvenile probation. Does the American public and taxpayers want it this way? Should not juveniles have at least as good services as those provided for adults?

In light of woefully inadequate juvenile probation services nationally, together with excessive detention from two to four times more than it should be, we must give serious consideration to release of juveniles on money bail.

There are instances in which both juveniles and adults are involved in the same offense. The juveniles frequently are detained and the adults released on bail. This, rightfully or wrongly, lets the juveniles that "there isn't any justice". Further, the adults may get shorter sentences, a not uncommon practice. If commitment is effected to a state training school program, the juveniles are generally committed "until 21 years of age unless discharged sooner." Again, this "smacks of injustice" to the juveniles involved. Whether an injustice has been created is not the important issue. What is important is what the effect has been on the thinking and attitudes of the youngsters and how they will be returned to the streets upon discharge.

Release on money bail the same as adults can have a positive effect from the standpoint of "pulling the family together" at a time of crisis. At least the youngster knows that he is worth the money which was put up for bail, something which he may not have known before. Secondly, it may condition the parents to at least taking greater interest in him until the case is disposed. Thirdly, it could mean saving him from future delinquency and possible crime because of the absence of "school for crime" situations in the detention facility.

I want to emphasize that I am not satisfied with the adult bail system. Various communities have moved ahead to develop summons release programs at the point of arrest. Others have developed release on own recognizance programs. Down through the years we have been jailing poor people who, experience has proven, are more honest than the people released on money bail, judging by the fact that they show up more frequently in court.

However, even though both juvenile and adult detention and jail release programs should be based on merit rather than money, we must provide the safeguard for those programs which "substitute official neglect for parental neglect".

*Recommendation.*—I, therefore, strongly encourage the Senate Subcommittee on Juvenile Delinquency to promulgate legislation which will protect the rights of juveniles by affording them money bail.

#### VI Public information and citizen action

The greatest single need in the entire field of delinquency and crime handling is for a better informed and involved public which will then support sound policies and provide the monies to do the job. As recommended by me in 1960 when I testified before this same Committee, LEAA monies should not be granted unless the administrators in charge of the programs have been trained in public information and citizen action. As pointed out in effect, by the Congressionally

created Commission on Correctional Manpower and Training, "Corrections is operating in a virtual vacuum."

We have waited for years for correctional administrators to become more attuned to citizen involvement and action but it has not been forthcoming fast enough.

*Recommendation.*—I urge the commission to add a rider to LEAA funds requiring the training of correctional administrators and other officials in the general administration of justice field in the principles and practices of public information and citizen involvement and action.

We are going to recess until 2 o'clock at which time Senator Cook will be presiding.

AFTERNOON SESSION (2:05 P.M.)

Senator Cook (presiding). The Juvenile Delinquency Subcommittee of the Committee on the Judiciary will come to order.

This afternoon we have a distinguished list of witnesses whom I will introduce at the time they testify. I might say to begin with that it has been stated by many experts in the field of criminology that America's best hope for reducing crime is to reduce juvenile delinquency and youth crime. To prevent and control juvenile delinquency in this country we must first educate ourselves as to the nature of the delinquency and the scope of the problem.

It is our hope that this subcommittee, by virtue of the extensive hearings which we are now involved in, will be able to develop legislation which will substantially contribute to the decrease of juvenile delinquency in America.

As Senator Birch Bayh of Indiana stated when these hearings began, there is a dramatic need to take decisive action in this area.

And our first witness this afternoon is the Honorable Kenneth S. Harper, who is presently Secretary of State of the Commonwealth of Kentucky. He has been closely connected with the problems of juvenile delinquency for the last several years by virtue of his service as the assistant commissioner of the Department of Child Welfare and Chairman of the Kentucky Crime Commission's Delinquency Committee.

And I might say that prior to that he was a member of the State legislation from northern Kentucky, and obviously in that capacity came across many of the problems that State legislatures face in regard to detention and the whole problem of juvenile offenders. He has done a great deal of work in that capacity in regard to the solution of these problems, at least as far as the Commonwealth of Kentucky is concerned.

#### STATEMENT OF HON. KENNETH F. HARPER, SECRETARY OF STATE, STATE OF KENTUCKY

Mr. HARPER. Thank you very much, Senator Cook. It is indeed a pleasure and an honor to be invited to testify before this distinguished committee, and I might add that I appreciate very much the comments you made with regard to my previous activities before assuming this present position. Aside from my governmental duties I might add that I am also the father of five children, four boys and a little girl growing up in an urban community, and certainly I am concerned about their future.

Senator Cook. I might interrupt you at this point and say that the Harper family and the Cook family should get together because I have four girls and a boy.

Mr. HARPER. See you after the meeting. I would like to comment prior to making my statement that I will be generally touching on the approach of the crime commission in the State of Kentucky with work in the juvenile delinquency area and its assistance to the State and local programs and funding of these projects.

I would like to mention also that my initial contact in the area of juvenile delinquency came as a result of my work with local community prevention programs, especially with the local institution designed to assist boys, young boys 13 through 18, who either for the want of a home, no family at all or because of the environment in which they lived it was necessary to, you might say, intercept and give these youngsters a new environment in which they could grow and mature into fine, productive young citizens before they were ever caught up in the juvenile justice system as we know it today.

My firsthand knowledge about the problems of dependent and neglected, particularly delinquent children was increased significantly during the time that I spent with the Department of Child Welfare, and my interest in the field of delinquency prevention and control certainly did not end when I left the department. I found that the concern for youngsters in varying kinds and degrees of trouble was one of the most rewarding and agonizing concerns I had ever experienced.

I still serve as chairman of the Kentucky Crime Commission's Delinquency Committee—a committee that had led the way in establishing the principle that, in Kentucky at least, if we are going to effectively come to grips with the problems of crime in this country, we must find ways to prevent and control delinquency.

With funds provided by the Federal Government—originally through the Law Enforcement Assistance Act and currently through the Omnibus Crime Control and Safe Streets Act—Kentucky's Crime Commission was established in 1967 as an independent and bipartisan agency. It retains that independent status today. It has the support of both major political parties as evidenced by the fact that the last General Assembly provided over \$1 million a year to match Federal action funds under the Safe Streets Act and it has become the catalyst, really the catalyst, for constructive change in the entire criminal justice system of the State.

In the police field, the Commission is taking substantial steps toward consolidation of major functions such as records, communications, purchasing, training, and the like. It has enabled the State police to offer badly needed central services to local law enforcement through a State crime laboratory, uniform crime reports, an organized crime intelligence unit, and a computerized criminal justice information system which ties into the FBI's National Crime Information Center. Innovative patrol operations, legal advisers to the urban departments, and a medical examiner program to assist police and coroners will all begin during the current year as a result of Crime Commission study and funding.

In the courts field, Kentucky's Crime Commission has completely revised the more than 350 statutes that now make up the State's sub-

stantive criminal law. The revision will be distributed to bench and bar this fall and introduced at the 1972 session of our General Assembly.

A plan for court reform, including redistricting, is being worked out and, during the coming year, the Crime Commission will expand the court of appeals administrative area, provide law clerks and training to judges, encourage the use of student interns in criminal matters, and increase the resources of both prosecution and defense in the State's largest urban area.

I mention these efforts and directions only to emphasize the following point: In Kentucky, the safe streets program has taken a comprehensive approach in dealing with the criminal justice system and while police and courts have been assisted, adult and juvenile corrections have been emphasized. Approximately 40 percent of the action moneys available to the Commonwealth as a result of the Safe Streets Act has been directed to corrections—from the first year to the present. Delinquency Prevention and Control received 24 percent in fiscal year 1969 or better than \$91,980; 21 percent in fiscal year 1970 or \$601,471; and 19 percent in fiscal year 1971 or \$1 million.

Admitting that no one seems to have found any satisfactory remedies for the youngster committing delinquent acts, the Crime Commission has received the support of both police and judges for innovative projects. If anything, the Commission has prompted and prodded a progressive Department of Child Welfare into yet more promising areas. For example, we have planned and financed:

Three group homes as halfway in and halfway outhouses. We are talking about postinstitutional and preinstitutional group homes, group homes that are designed to give the courts in the local area some options before they actually are committed as a delinquent to Department of Child Welfare Institution, and then those postinstitutional homes to help the youngster in the transition between that institutionalization and returning home, returning to his neighborhood or job, school, what have you.

Four Youth Service Bureaus to divert youth from the traditional court processes.

A community school remains open in Louisville on weekends and at night providing recreation and counseling.

Ex-offenders are being used in high delinquency areas of three cities to supervise newly located offenders.

A day treatment center will soon open as another alternative to incarceration.

Emergency shelter care has been arranged in 10 counties previously using dilapidated jails to detain arrested youths.

Training and research units have been bolstered in the Department of Child Welfare.

A major program with funds for 50 additional probation officers will be initiated this year.

Through the design and funding of these programs, the Crime Commission is attempting to give judges options previously unavailable to them—substantial supervision in the community, group homes, youth service bureaus, and day treatment centers will all relieve the urge to commit youngsters who can be more effectively dealt with in the community. Our efforts will assist the Department of Child Wel-

fare in closing its last large juvenile institution (Kentucky Village in Lexington).

The Crime Commission's blueprint for Kentucky is contained in a short publication entitled "Delinquency in Kentucky," and Senator, I would like to call your attention to this report. I have brought sufficient copies for the members of the committee, and if more are needed they can certainly write to the Kentucky Crime Commission for those. But, this is the blueprint of action with regard to delinquency in Kentucky, and I think it is a most comprehensive report, and I do commend it to your attention.

Senator Cook. I want you to make sure we get those copies, and we will see to it that every member of the committee receives copies.

(The Report referred to prepared by the Kentucky Commission on Law Enforcement and Crime Prevention, entitled "Delinquency in Kentucky," dated 1969, was submitted for the record, marked "Exhibit No. 15," and can be found in the files of the Subcommittee.)

EXHIBIT NO. 15

Report prepared by the Kentucky Commission on Law Enforcement and Crime Prevention, entitled "Delinquency in Kentucky," dated 1969.

Mr. HARPER. We will do so. This is, incidentally, a publication being used as a resource document, as I am told, in numerous other States, and another indication of the fact that the Safe Streets program in Kentucky has given youth crime first priority.

We have implicitly agreed with the National Crime Commission's Report in 1967 which said: "America's best hope for reducing crime is to reduce juvenile delinquency and youth crime."

The Juvenile Delinquency Prevention and Control Act of 1968 (Public Law 90-445) expires on June 30, 1971. It was designed as a comparison bill to the Omnibus Crime Control and Safe Streets Act. Many persons questioned then the necessity of providing planning and action funds to the States for general law enforcement, on the one hand, and delinquency prevention on the other. Some argued there was no way to address the crime problem under the Safe Streets Act and ignore delinquency. But a basic distrust by juvenile officials of the Department of Justice in particular and police officials in general kept the two acts separate. Appropriations under the Juvenile Delinquency Act have remained nominal (\$5 million in fiscal year 1969; \$10 million in fiscal year 1970; and \$15 million in fiscal year 1971) when compared with Safe Streets Act (\$63 million in fiscal year 1969; \$268 million in fiscal year 1970; and \$480 million in fiscal year 1971). And whatever the problems with the Department of Justice—sometimes the officials of LEAA think they are administering a categorical rather than a bloc grant program—they have not compared with the bungling and mismanagement of the Juvenile Delinquency Act by HEW.

Finally, I think the past 3 years in Kentucky have shown that police and prosecutors are both willing and able to work with juvenile administrators in designing and funding projects for the prevention and control of delinquency. The Juvenile Delinquency Act should, therefore, be merged with the Safe Streets Act so that a comprehensive effort to reduce both youth and adult crime can be centralized in one State agency that will no longer be required to meet guidelines of both HEW and the U.S. Department of Justice.

CONTINUED

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One precondition of this arrangement, of course, will be the need to increase both planning action funds available under the Safe Streets Act. I have no hesitancy in closing in saying that progressive delinquency programs will receive a substantial share of whatever is made available for improvement of Kentucky's criminal justice system.

Thank you very much, gentlemen, for allowing us to appear and make our statement with regard to the Kentucky program.

Senator Cook. Mr. Harper, I want to thank you very much. One of the first questions I think I would like to ask you is to expand on your statement on page 6: "And whatever the problems with the Department of Justice—the officials of LEAA think they are administering a categorical rather than a bloc grant program—they have not compared with the bungling and mismanagement of the Juvenile Delinquency Act by HEW." I wish you would expand on that.

Mr. HARPER. I think quite frankly, Senator, what we are saying here is that you can not separate the two programs. You can not attack the problem of juvenile delinquency strictly through social agencies, and as a result you cannot administer another program that is coming in from the Justice Department with regard to youth crime and adult crime as well, and have some different approach to getting the funds necessary to do the job. HEW I think is too hung up with so many, you might say specifics, that they are so departmentalized that you really cannot get the type of action as quickly as you need it.

You must be so specific in the type of application that you make in order to get a program funded that I think they must be evaluated, quite frankly, by the quality of the program, by the pound rather than the product. I do not think we have the flexibility under HEW that we can get and we have had under the Safe Streets Act. In other words, we can say here is a problem area, and this is what we think we need to do in order to solve that problem. Now, there are no experts in this particular field. The problems are so complex, they are so varied that maybe what we think today needs to be done in order to solve that problem is specific, but by the time we get the money and get the funds and get the qualified staff necessary to work on that particular problem we find that there are some other angles that we need to explore. And yet, we can not do that under the Juvenile Delinquency Act, and the money that is received under the Juvenile Delinquency Act just is not sufficient, and that is why I think if you put the two together you will get a far better package and much more flexibility, and that is what we need in this area of delinquency today.

Senator Cook. What you are really saying then is that under the Safe Streets Act what you have tried to do in the commonwealth is to work a dual program?

Mr. HARPER. Right.

Senator Cook. And as a result of this you have actually tried to circumvent the problems that you faced under the Juvenile Delinquency Act?

Mr. HARPER. Right.

Senator Cook. By utilizing funds that came from the Justice Department?

Mr. HARPER. And it has worked very satisfactorily, yes. That is just exactly what we are saying, and it has worked well.

Senator COOK. Well, in essence, are you really saying that the amount of money that you have been able to set aside through your Safe Streets Act, has been comparable to the amount of money that you have received under the Juvenile Delinquency Act, has it been larger—

Mr. HARPER. Oh, larger.

Senator COOK. Much larger?

Mr. HARPER. And more flexibility because a large portion of our funds is put into corrections and I sit on the executive committee of the Kentucky Crime Commission, and those who are concerned with police activities also are naturally concerned with getting their funds for this particular area, but they all recognize, they recognize all of them the need to attack this problem of juvenile delinquency as a first or an extremely high priority, so they have been receptive to putting money in this area, because they know that it is going to alleviate some of the problems they will face later on in the adult criminal justice system.

Senator COOK. Well, in essence then, Mr. Harper, are you saying that the amount of money that you are able to channel into the solutions of juvenile problems under the Safe Streets Act is merely supplemented by money that comes from HEW, which really is supposed to be the prime resource for juvenile funds?

Mr. HARPER. Right. It is merely supplementary and nothing else, and I think that, you know, it would be far better if they were put together. It is supplementary only. We get the major portion of our money, the action money really from safe streets.

Senator COOK. Well, let us suppose that we combine the two, we combine the safe streets and juvenile delinquency. Do you think that there still should be some separation of funds within the framework of that? I mean, for instance, I am referring let us say to some cities or some States that are not as farsighted as this. Do you think that then you may find a decrease in funds in many States, in many organizations that will really make the juvenile delinquency facility second class, and devote all of its funds to the Safe Streets Act without a combining of the juvenile problem?

Mr. HARPER. I cannot say for certain, Senator, how other States might react. I do know that juvenile delinquency officials in other States are beginning to recognize and take this same kind of position that we are taking. Now, not perhaps every State but perhaps by such actions we can prod the officials of other States to begin looking at this problem as a whole problem, because you just cannot separate them, and perhaps maybe the first year or so you might run into some circumstances such as this, but I just think that it has to be done. I think this is the way, this is the route to go, and you have got to start sometime. If you continue to separate them, then I think people are going to continue to want to live with it that way.

Senator COOK. Well, let me ask the real question that calls for a bold answer. Do you feel the Congress itself made a serious mistake when it established the Safe Streets Act under Justice, and then turned around and established a juvenile delinquency program under HEW?

Mr. HARPER. At first I did not think so, but now I do.

Senator COOK. And that they should be combined?

Mr. HARPER. That is right.

Senator COOK. Do you have the figures available as to how much money the State received under the Juvenile Delinquency Act, let us say, in any of the fiscal years that you are talking about?

Mr. HARPER. No; I do not. I am just giving you the figures that, you know, the percentages that we gave to juvenile delinquency. I do not have the other figures with me. I can get this for you and will submit them at a later date.

Senator COOK. Would you please?

Mr. HARPER. Yes.

Senator COOK. Mr. Speiser, do you have any questions?

Mr. SPEISER. Yes; just a few, if I may.

Mr. Harper, a number of witnesses who have appeared before the subcommittee have raised questions about the fact that juveniles who are truant or runaway are often incarcerated with juveniles who are delinquent, those who have committed acts that would be considered crimes if they were adults, and the question has been raised about not only the propriety but the harm that is done by incarcerating those juveniles together. And the question I have is: Would you be in favor of a limitation on LEAA and dispensing of its funds in creating or funding institutions in which juveniles who are truant or runaway, or some category other than delinquent being housed with those who are delinquent?

Mr. HARPER. It would be difficult I suppose to separate in some instances the situation, but, of course, I feel very strongly that there is harm in housing these youngsters who are merely truant with those who would be considered you might say hard core delinquents or the like, and we are trying to develop those community programs that will intercept these youngsters so that they do not become a part of the criminal justice system, so they are not incarcerated in, as I say, the D.C.W. institutions—the Department of Child Welfare—who has the responsibility for the institutions with the exception of a few local institutions in Kentucky for delinquents, and I do not feel that these youngsters should be housed together. Now, if there is some way to effectively separate them out with regard to funding, I would consider that, but I have not given any thought to that particular approach. But, I do think we need to separate the youngsters and not house them and incarcerate them with the hard core delinquent.

Mr. SPEISER. In your statement you very commendably emphasized the attempts in the State of Kentucky to provide community treatment for juveniles rather than institutionalization wherever this is possible. I wonder whether you would be in favor of a limitation of LEAA in its dispensing the funds in placing limitations on them going into brick and mortar institutions, large State institutions?

Mr. HARPER. I think I mentioned before, Mr. Speiser, that the thing about the LEAA program, the Safe Streets Act was that we have the flexibility to deal with all phases of this problem, and while brick and mortar is not necessarily the answer, I still think that you have to have the flexibility in the funding so that you can provide a wide range of services, be it community services or State facilities, or whatever the case may be.

I just hate to see specific limitations put in some of these areas, because I think you need the flexibility. Juvenile delinquency is so com-

plex, and changes from one place to another, and I just think you tie it down too tightly that way.

Senator Cook. If you do not mind, I would like to ask a question in that same regard. In essence are you saying that LEAA funds give you an opportunity to establish your own priorities, whereas the juvenile delinquency funds do not?

Mr. HARPER. That is right.

Senator Cook. Or in other words juvenile delinquency funds are completely restricted and do not give you that degree of flexibility.

Mr. HARPER. We need flexibility. That is the word as far as I am concerned. We need flexibility, and I think some of the other gentlemen and ladies that will be testifying here with regard to the local programs, and the State department of child welfare will indicate that also, that flexibility is most important.

Senator Cook. Go right ahead.

Mr. SPEISER. There are a number of States though that have not had the imagination or the interest in having a range of solutions, and the initial inclination for many States is to replace existing institutions with bigger and better and larger institutions. A difficulty that seems to have come from that, as disclosed by the hearings of the subcommittee is that once you build bigger and better and larger institutions you use them.

Mr. HARPER. That is right.

Mr. SPEISER. And if one thing has come out quite clearly, it is that for the vast majority of youngsters institutionalization is not only not an answer, but it is a definite harm to them. And the question I am raising with you that in the light of that do you not think that some kind of limitation—

Mr. HARPER. Well, in the light of that, and I see what you are driving at, but the point is Kentucky has been very fortunate, and as I mentioned in my report we are phasing out, and you will hear more about that today, phasing out our warehouse for kids, which is Kentucky Village, and we are not going to rehabilitate in a warehouse, but we are going to a small institutional program. But, there are those who finally get through the system who must be or should have some kind of institutional treatment. I would just like to say that perhaps that is part of our hope of being here today and making our testimony is that maybe we can get some other States to take a look at the Kentucky program, to take a look at the progress we are making and the approach we are taking, and perhaps direct their feet in that manner. We cannot be their conscience, and we cannot, you know, be that sort of thing. But, we think we have got the best approach, naturally.

Mr. SPEISER. I think that it is commendable as you have spelled it out. The problem is that in other jurisdictions they do not have that appreciation of the necessity for building up noninstitutional approaches for handling juveniles.

And as an example, just on Friday there were plans considered for changing the juvenile receiving home which had been ordered closed by a decision of the chief judge of the superior court because it was a bad institution. It was supposedly a temporary detention center, and it ended being a semipermanent institution. It also is too large, and has all the disadvantages of a maximum security center for detention purposes to which juveniles are initially sent. The initial plan was to have

a \$6 million and I believe 110 maximum child temporary detention center. The plans that were presented on Friday instead of \$6 million were \$14.3 million, and instead of 110 it was up to 250, I believe. Again, the Oedipus Complex in operation, and here where there have been a constant public awareness of the disadvantages of institutions that same mistake is repeated over again, and perhaps we need to import the enlightened leadership of Kentucky into the District of Columbia. But, how do you prevent that from occurring?

Mr. HARPER. I think you have to take each and every case on its own merits. If you handcuff people statutorily, then you are handcuffing another State who is moving in the right direction, and so you have to take each State's program. LEAA has to use some judgment, not just what is in the statutes, and this is the thing that would concern me, is handcuffing all of the States with statutory requirements and not giving LEAA and the people of LEAA some judgment in this matter. I think to exercise some judgment, give them some kind of guidelines if you wish, but do not handcuff them so that they do not have that flexibility. That is the thing I am trying to say.

Senator Cook. I think at this point it might be interesting to put into the record, Mr. Speiser, for the edification of all really, that in the Commonwealth of Kentucky actually more funds are spent on community supervision of juveniles than are spent on juvenile institutions. Last year the State of Kentucky on community supervision spent \$4,476,000, and on juvenile institutions spent \$4,112,000, which meant that we spent \$364,000 more on community supervision than we did on institutions, which I think is a commendable statistic, really.

Mr. HARPER. Three years ago I think you would find that the figures were the reverse.

Mr. SPEISER. I have no further questions. Thank you.

Senator Cook. Mr. Meredith, minority staff counsel.

Mr. MEREDITH. Mr. Harper, since Kentucky is now moving to community supervision of delinquents rather than incarceration of them, you mention on page 5 that 50 additional probation officers will be needed this year. Now, do you foresee any difficulty in getting qualified personnel in the area of probation officers?

Mr. HARPER. Yes, I think there will be probably be some difficulty in lining up a sufficient number of qualified people, but we are working on that also, and I will leave that question, quite frankly, to some of the others that will testify here. Mrs. Huecker and John Wall, and Commissioner Perkins can answer that because I think they are going to be dealing directly with that. But, certainly the need is there. We will have to do some searching to find those 50 additional probation officers well qualified.

Mr. MEREDITH. Thank you.

Senator Cook. Mr. Harper, we want to thank you very much. I understand you are flying out this afternoon.

Mr. HARPER. Thank you very much. I certainly enjoyed being here and appreciated your invitation.

Senator Cook. Thank you very much.

(The prepared statement of Kenneth S. Harper is as follows:)

PREPARED STATEMENT OF KENNETH F. HARPER

Mr. Chairman, Members of the Sub-Committee on Juvenile Delinquency. It is indeed a honor and privilege to be invited to testify before the distinguished

members of this Committee. By way of identification, I am Kenneth F. Harper, Secretary of State of the Commonwealth of Kentucky. Prior to assuming this office, I served as the Assistant Commissioner of the Kentucky Department of Child Welfare. As a 3-term member of the Kentucky General Assembly, I served as a member of the Health and Welfare Committee and handled other legislative matters pertaining to youth problems. Aside from my governmental duties in this area, I am also a father with 5 children—4 boys and a small daughter who are growing up in an urban community.

My initial contact with the problem of juvenile delinquency came as a result of my work with community delinquency prevention programs. My first-hand knowledge about the problems of dependent, neglected and particularly delinquent children was increased significantly during the time I spent at the Department of Child Welfare. And my interest in the field of delinquency prevention and control did not end when I left the department. I found that concern for youngsters in varying kinds and degrees of trouble was one of the most rewarding and agonizing concerns I had ever experienced.

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I mention these efforts and directions only to emphasize the following point: In Kentucky, the Safe Streets program has taken a comprehensive approach in dealing with the criminal justice system and while police and courts have been assisted, adult and juvenile corrections have been emphasized. Approximately 40% of the action monies available to the Commonwealth as a result of the Safe Streets Act has been directed to corrections—from the first year to the present. Delinquency Prevention and Control received: 24% in FY 1969 (\$91,980); 21% in FY 1970 (\$601,471) and 19% in FY 1971 (\$1,000,000).

Admitting that no one seems to have found any satisfactory remedies for the youngster committing delinquent acts, the Crime Commission has received the support of both police and judges for innovative projects. If anything, the Commission has prompted and prodded a progressive Department of Child Welfare into yet more promising areas. For example, we have planned and financed:

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- (3) A community school remains open in Louisville on weekends and at night providing recreation and counseling.
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- (5) A day treatment center will soon open as another alternative to incarceration.

(6) Emergency shelter care has been arranged in 10 counties previously using dilapidated jails to detain arrested youths.

(7) Training and research units have been bolstered in the Department of Child Welfare and,

(8) A major program with funds for 50 additional probation officers will be initiated this year.

Through the design and funding of these programs, the Crime Commission is attempting to give judges options previously unavailable to them—substantial supervision in the community, group homes, Youth Service Bureaus and Day Treatment Centers will all relieve the urge to commit youngsters who can be more effectively dealt with in the community. Our efforts will assist the Department of Child Welfare in closing its last large juvenile institution (Kentucky Village in Lexington). The Crime Commission's blueprint for Kentucky is contained in a short publication entitled "Delinquency in Kentucky"—a publication being used as a resource document in numerous other states, I am told, and another indication of the fact that the Safe Streets program in Kentucky has given youth crime a first priority. We have implicitly agreed with the National Crime Commission's Report in 1967 which said: "America's best hope for reducing crime is to reduce juvenile delinquency and youth crime."

The Juvenile Delinquency Prevention and Control Act of 1968—Public Law 90-445—expires on June 30, 1971. It was designed as a comparison bill to the Omnibus Crime Control and Safe Streets Act. Many persons questioned then the necessity of providing planning and action funds to the States for general law enforcement, on the one hand, and delinquency prevention on the other. Some argued that there was no way to address the crime problem under the Safe Streets Act and ignore delinquency. But a basic distrust by juvenile officials of the Department of Justice in particular and police officials in general kept the two acts separate. Appropriations under the Juvenile Delinquency Act have remained nominal—\$5 million in fiscal year 1969, \$10 million in fiscal year 1970, and \$15 million in fiscal year 1971—when compared with Safe Streets—\$63 million in fiscal year 1969, \$268 million in fiscal year 1970, and \$480 million in fiscal year 1971. And whatever the problems with the Department of Justice—the officials of LEAA think they are administering a categorical rather than a bloc grant program—they have not compared with the bungling and mismanagement of the Juvenile Delinquency Act by HEW.

Finally, I think the past 3 years in Kentucky have shown that police and prosecutors are both willing and able to work with juvenile administrators in designing and funding projects for the prevention and control of delinquency. The Juvenile Delinquency Act should, therefore, be merged with the Safe Streets Act so that a comprehensive effort to reduce both youth and adult crime can be centralized in one State agency that will no longer be required to meet guidelines of both HEW and the U.S. Department of Justice. One precondition of this arrangement, of course, will be the need to increase both planning and action funds available under the Safe Streets Act. I have no hesitancy in saying the progressive delinquency programs will receive a substantial share of whatever is made available for improvement of Kentucky's criminal justice system.

Priority funding of urban areas by KCC—fiscal year 1969 (only year where funding is complete):

Local funds available.....	\$293,951
Louisville's share based on population (11.2%).....	32,922
Actual awards to Louisville (40.9%).....	120,336
Local funds available.....	293,951
Louisville and Jefferson County share based on population.....	63,492
Actual awards to Louisville and Jefferson (45.1%).....	132,036

Our next witness is Mrs. Gail Huecker. Mrs. Huecker is presently executive director of the Metropolitan Social Services Department in Louisville, and I must confess that it took us quite a while to get a Metropolitan Social Services Department in Jefferson County. I am pleased to say that Gail Huecker came to county government when I was in charge of it, and she has been continually involved in social work in the Commonwealth, in Louisville, for many years. She has her master's degree in social work and has added and contributed a great deal to the soundness of the program. I must confess that in all fairness to her that the Metropolitan Social Services Department is almost a local HEW, and that juvenile delinquency in Jefferson County, although it constitutes a part of her overall duties and responsibilities, is probably one of those duties that causes her as much anxiety as any other facet of it. Mrs. Huecker, we are delighted to have you here before the committee to testify today.

**STATEMENT OF MRS. GAIL HUECKER, DIRECTOR OF METROPOLITAN SOCIAL SERVICES DEPARTMENT, LOUISVILLE, KY.**

Mrs. HUECKER. It is indeed a pleasure to be here, Senator Cook. I am glad you did mention the fact that I came back to the county for employment during the period of time you were there. I think I would be remiss not to mention the fact that it was because of your leadership that we were able to establish a comprehensive agency in a large metropolitan area that needed a new technique to deliver service to people in need, and also to have here with us today Judge Ray Snell who helped to bring this about, and John Wall who was the first leader in this new and creative program.

Senator COOK. Well, I did not ask for all of that. You are nice; thank you.

Mrs. HUECKER. It is true. I wanted to say those few statements before I went into my presentation, because it is a pleasure to be able to talk about a metropolitan area.

As the representative of a typically large metropolitan area attempting to address the problems of the delinquent with all too few resources available, I propose to support the notions of revenue sharing with responsible local control so that programs may be more responsive to locally identified needs. Even though I have been requested to speak in relation to the specific needs and problems of juvenile delinquency programs, I would be remiss and not honest if I did not first address the fact that all of the programs in the world to cure delinquency and the strongest, most educated law enforcement agencies are for naught, in my opinion, unless the country's leadership listen to the cry of the CBS documentary on hunger in America; and the recent documentary, "This Child Rated X," Report of the President's Crime Commission, 1967; the Kerner Report, 1968; which clearly speak to the lack of adequate housing, the lack of adequate health care, the lack of meaningful work with adequate wage attached to it, the lack of differential educational programs to meet the needs of children with special educational problems, and the lack of sufficient moneys for 25 million Americans to provide sustenance for their families.

These conditions breed crime and delinquency, as well as a significant segment of our population with physiological and emotional

problems, as a result. Instead of addressing these problems using Federal, State, and local moneys, we continue to emphasize control and punishment of those people whose problems are created by our own society. To react to the above mentioned reports and problems, means to reorder our national priorities and to enforce the changes in social institutions providing services, and it also means the existing self-perpetuating, proliferation of bureaucracies must be halted with a redistribution of national wealth directed toward new national priorities. In the words of Birch and Gussow:

"For poor children are not merely born in poverty; they are born of poverty, and they are thus at risk if defective development even before their births."

For you to accomplish this goal the following steps must be taken:

1. Provide funding directly to the responsible local governmental units so that more money is expended on the client group.
2. Support adequately existing programs that have demonstrated an ability to reduce delinquency.
3. Reorder our national priorities so as to emphasize the worth and dignity of every individual.

In order to amplify the points which I am making in relation to funding and responsible local control and responsiveness to local problems, I would like to describe the social service delivery system of Metropolitan Social Services Department (MSSD). MSSD is a consolidated agency providing comprehensive service to the residents of Jefferson; Kentucky's most populous county.

Traditionally, Jefferson County, with its larger tax base, has been forced to provide social services for its own residents while contributing its share of taxes to support State services, at the same time not receiving its population share of these services. A State legislature dominated and controlled by predominantly rural concerns and problems has not been helped to appreciate the needs which are unique to a metropolitan area or to attempt to answer them.

The programs of the Metropolitan Social Services Department are directed toward the concept of assisting communities within the inner city to cope strategically with their problems. Our agency is not a welfare program and is not a delinquency program, but is a total mobilization of governmental resources for the benefit of the citizens of the community.

This was a statement of John Wall, prepared for a speech in 1968.

We are a merged agency which incorporates the responsibilities and functions of three agencies known as the Jefferson County Children's Home, the Jefferson County Juvenile Court, and the Jefferson County Welfare Department.

Four institutions are supported: A dependency shelter, with average population of 30; a detention center for delinquent youth, average population 95; Ormsby Village Treatment Center, housing 130 adjudicated delinquents: boys and girls between the ages of 13 and 18; Southfields Residential Treatment Center for 20 sophisticated males—ages 15½ to 18—based on guided group interaction and a work program.

In addition the department provides probation services to the juvenile court protective services to children in their own home and foster care services. At the present time, two programs are operated by funds obtained through the Kentucky Crime Commission—one a group

home for the pre-delinquent male (average population of eight), and the other a community based youth service bureau, located in the area of highest delinquency in the city and housed in the local community action commission office.

We hope to dramatize with this pilot project the ability to spin youth out of the criminal justice process reaching families at a level of prevention by providing programs effective in deterring delinquency before the child becomes involved in delinquent patterns.

Although the Jefferson County judge and the county commissioners, who are the administrators and the budget priority determiners, have provided MSSD with \$3.7 million making it second only to the county police department in annual appropriations. I think this clearly evidences the concern of the taxpayers and voters of Louisville and Jefferson County for the people who reside there.

With this appropriation these funds are totally inadequate to deliver the kind of service necessary to process the 7,738 annual police referrals, even though two-thirds of the \$3.7 million are related to juvenile delinquency programs, we are operating a first aid station hoping to resolve immediate crisis. In addition to the 7,738 police referrals, a total of 31,093 service cases were processed by MSSD. These cases were served by a staff of 319 people, 171 of whom were involved in institutional service only.

Even though the picture is negative, in terms of number of staff, related to families served, MSSD is much better able to deliver comprehensive services to families in stress than when three separate autonomous organizations with restrictive eligibility requirements operated not only to the exclusion of the client, but also fighting for the same tax dollar to fund their program at budget hearings. The merger has consolidated administrative service costs and has provided families with one worker, who can bring to bear all agency as well as other community resources.

This brings me to the second point concerning Federal funding at the local level to provide more effective programs. Jefferson County has suffered as a result of State programs operating in the local community with policy and decisionmaking resting in the State capitol.

Let me describe in greater detail the program of the MSSD to give you an idea of the benefits of local comprehensive planning. Our research department gathers demographic information from other local agencies—I.C. Police Department—Planning and Zoning.

MSSD has established a long-range comprehensive plan for social welfare and specifically for the prevention and rehabilitation of delinquents and families in stress. Fifteen planning service committees have been lineated for the purpose of establishing priorities in the deployment of personnel and program development to meet the needs of residents within each of these communities. The boundaries of the communities are coterminous with those of the Louisville and Jefferson County Planning and Zoning Commission for the purpose of physical and economic development.

In each of the planning service communities, service teams of MSSD staff are deployed depending on assessment of the incidence and extent of social pathology in the area. Service team assignment will depend on two major factors:

(A) The size of each team is determined by the number of families whose members are exhibiting social problems or otherwise reflect vulnerability to stress.

(B) Team members are selected from existing MSSD staff with emphasis on matching special skills or expertise with predominant service needs in an area. For example neighborhoods with roving gangs of delinquents might require more male probation officers, while those areas with high dependency rates would require a larger number of family counselors.

Although the information is available as to the number of staff needed, budget limitations have prohibited the employment of the needed numbers. In addition, problems arise in planning when the State is providing fragmented programming in the area, new programs are being established without identifying actually who is totally responsible for what. We are working cooperatively in an attempt to delineate responsibility, but problems occur.

As an example let's look into what happened in the priority setting of moneys expended through the Kentucky Crime Commission established under the Omnibus Crime Control and Safe Street Act of 1968. It was hoped that the historical pattern for funding specifically to rural communities by State legislators would not be followed, however, 1970, with \$2.9 million coming to Kentucky through action grants, Louisville and Jefferson County received \$650,000 of which 56 percent went to police related programs with 36 percent going to juvenile delinquency programs. These are appalling figures in view of the fact that 40.7 percent of all of the State's identified delinquents reside in the Louisville metropolitan area.

No regionally operated delinquency related programs were implemented. It appears that there was no systematic approach to service delivery and the Federal moneys contributed to a further fragmentation of service.

I think this in effect supports what Mr. Harper has been trying to point out in relation to the ways the moneys came under two direct or separate organizations in its funding pattern.

Only the provider of money can incorporate controls and systems of accountability to see that the tax dollar is equitably distributed and demand accounting as to how the money is used and evaluations as to the effectiveness of its use. It bothers me that to combat a problem which has been with the Nation since the term juvenile delinquency evolved, larger appropriations will only be directed toward a creative innovative program.

There are many professionals at the local level who know that programs already in existence have demonstrated competence in deterring delinquent behavior. But moneys are not available to expand the existing programs or to "beef up" existing needed resource.

I should like to point out the detention center, since you have already mentioned the brick and mortar attitude that we all have, as one that has existed since 1930 and is used to detain children picked up on police referral. This needs honing up and with moneys available to establish community based programs we would use this facility less frequently and as a result not reinforce delinquent patterns that have been exhibited by our youth.

As an example, the detention center operated by MSSD, as well as most across the Nation, breed bitterness, hostility, and asocial patterns

which develop into crime careers. Normally the centers have poor physical plants, and are inadequately staffed and programmed. Children are often housed for long periods of time while waiting psychological evaluation, or the location of a service that can handle their problems.

In dealing with children it is like playing Chinese checkers with no goal since there is usually no resource for certain specific problems—like the social promotion in the school classroom—we shove the child into another setting where he will meet defeat. Many of the delinquent children dealt with are mentally retarded or emotionally disturbed, but we have no facility to hold or to treat them. To effectively deal with children charged with delinquent behavior we need adequate detention facilities where the first step to further treatment is humane and individualistic handling so as to prevent the problems cited.

The community-based programs show great promise for those individuals who are not in need of custody since true social education, or reeducation, can only take place in the environment where the individual must ultimately function.

In closing I would like to reemphasize my stand that the existing layers of bureaucracy which waste tax moneys and hamper the delivery of services to the delinquent population must be removed and replaced by a system which makes funds available to responsible and I underline responsible, local Government where planning and implementation responsive to local problems can take place. I have discussed one local program which has demonstrated the effectiveness of this approach. The MSSD program needs help. This model could be transferred to other localities but both take massive infusions of funds. This must be done soon before what has been developed is irretrievably lost due to loss of staff. I thank you.

Senator Cook. Mrs. Huecker, I do not quite know where to begin. First of all I think that you brought out a point that has frustrated all of us at one time, and obviously still frustrates you very much, and that is, in allocating funds, to State governments, major local governmental agencies that are autonomous are really being given the least contributions, because they have done the most about solving their own problems. Is that not what you are really saying?

Mrs. HUECKER. This is exactly what one is saying, that moneys are used for new and creative programs in small jurisdictions because larger jurisdictions have begun to meet the problems.

Senator Cook. Well, do you think there ought to be some type of a system established whereby the funds available could not go below a certain percentage level, if, let us say, a community such as Louisville or Jefferson County was the unfortunate recipient of let us say over 40 percent of the juvenile problems that exist in the State?

Mrs. HUECKER. I think like Mr. Harper, I would not like to see any specific community hamstrung with percentages in allocations. I think it is the responsibility to build into any program with Federal funding accountability to the funders so that those programs which have been implemented can receive the support necessary, because they are delivering a service to that total community. Do I make myself clear?

Senator Cook. You make yourself very clear. As a matter of fact, this has nothing to do with the subject matter we are discussing here, but I would like for you to comment on it in the record because I think it is important.

Let us take a welfare family in Louisville or Jefferson County, which is eligible for State aid. Give me some indication of how long it takes your agency to get that family on State aid, keeping in mind that many counties throughout the Commonwealth of Kentucky do not have the problem of getting such families on State aid, because they have no welfare program in their own counties at all.

What is the lag? Do you know approximately?

Mrs. HUECKER. The lag is between 30 to 45 days before the regular check, the establishment of eligibility and meeting of all of the criteria, which means that the local government through a general assistance program is spending close to a million dollars for staff and direct grants to people, awaiting certification for categorical assistance through the State program.

Senator Cook. In other words, are you saying that the timelag is 45 to 60 days?

Mrs. HUECKER. In categorical assistance, but we carry many families who are not eligible for the State/Federal program 6 months to a year.

Senator Cook. I am trying to come up with the difference between the time it takes for someone to receive welfare in an urban community, any urban community in Kentucky that has a funded welfare department, and a community in Kentucky that does not have a funded welfare department?

Mrs. HUECKER. Oh, I would think that the lag would probably be 30 days longer, because they live in the metropolitan area, and because of the number of cases being reviewed, versus a small community where there is one worker and maybe five to 10 or 15 new cases per month in small rural communities because of limited number of cases certification takes place more rapidly.

Senator Cook. Now, let me ask you what your association has been with the State LEAA program, and how you have fitted your programs into that, into their programs and into their funding?

Mrs. HUECKER. We have received the two funding packages and there were other programs that were written by our department that were presented, but we felt that we had to withdraw because of needed local matching funds, and we felt that we could not extend the program within our community any further, that there were essentials that we had to deliver in the way of services—probation and so forth, and we could not give up staff time for the matching moneys that were essential. And by that I mean, an after-care program for those individuals leaving our institutions.

It is just a matter that I feel that there needs to be a closer cooperative overall State planning. I know that Commissioner Perkins is going to speak later in relation to the institutions that are operated on the State level. It is unusual for a county to operate four institutions of its own, which is a very costly undertaking, and I think that we could have a greater cooperation in the use of facilities and funding patterns in the State for institutions.

Senator Cook. Would you name, for the record, the institutions that you operate separately as county facilities?

Mrs. HUECKER. Well, of course, we are responsible for a detention facility for delinquent youths and we have an average of 90 children there; a dependency shelter with an average of 30 children, Ormsby

Village Treatment Center, which houses 130 adjudicated delinquent males and females, and Southfield which I am sure you will hear more about, based on the guided group interaction with 20 adjudicated delinquents in residence at any time.

Senator COOK. Do you have in your mind, Mrs. Huecker, the overall costs of just running the four institutions? It is a tough question to ask you I know, maybe you can put those figures in the record.

Mrs. HUECKER. I will be glad to put those figures in the record.

In relation to the figures requested by Senator Cook the operation of the four institutions cost for the fiscal year 1969-70 \$1,031,860:

Ormsby Village Treatment Center	\$543, 890
Detention Center	339, 162
Sunshine Lodge	86, 711
Southfield	62, 097

I think another figure in relation to my opening remark, as I think it is something that we do have to address when we talk about a comprehensive program, one gets a better view of the problems one is dealing with, and in our budget presentation last year, we pointed out that in families which are our highest risk dependancy families, we are allocating one dollar and one penny per day for food, shelter, and clothing to keep a child in a home where his mother might have been deserted, or where a parent may be ill, but the Nation is willing to spend \$13 or \$14 to \$15 to house a child in a rehabilitative institution.

Senator COOK. This is a very stark figure. Are you saying in regard to the four institutions that the county operates that there are no matching funds of any kind from either the State or the Federal Government?

Mrs. HUECKER. Not to my knowledge, nor has any program for funding been brought to my attention.

Senator COOK. You are going to make me work Mr. Perkins over when we talk about that dollar that we got from the State government for giving them a local institution for the State to utilize.

Mrs. HUECKER. Well, we have cooperated in other areas, which I am sure he will point out.

Senator COOK. All right. I am fully aware of it, and I believe you.

Now, let me ask you, Mrs. Huecker, since Mr. Speiser brought the question up to Mr. Harper, when does a juvenile come to the attention of the department? We are talking about truants and institutionalization of truants along with those I would refer to as hard core juvenile delinquents. Just exactly how is it operated at your level? Are they incarcerated together? In other words, what is your program in this regard?

Mrs. HUECKER. They are housed together, and they are put together in our detention facility which is extremely inadequate. However, and I am sure Judge Suell will speak more to the point of what is happening in our juvenile court with the Gault decision and the arraignment of all juveniles within 24 hours, more children are leaving the detention facilities on an at-home basis until the case is heard.

But, there is no doubt that this is one of the greatest disadvantages that we face in having to house the youngsters. And in answer to what Mr. Speiser was saying earlier, I would not at all support the building of a large conglomerate detention facility, but would hope that any community that is facing the problem we are facing would have moneys available to develop alternative kinds of care for children, in foster

care homes, or group homes in the community for housing these young people until their problems can be worked through or until the point of judication, rather than congregating them in a detention facility. Frequently it is the only thing available, and as a result we have children with emotional disturbances, truancy problems, as well as full blown felons all together.

Senator COOK. There is no attempt to separate them within the internal operations of the facility?

Mrs. HUECKER. The internal attempt to separate is in relation to size and danger to one another, and not based on problem presentation.

Senator COOK. Mr. Speiser.

Mr. SPEISER. Mrs. Huecker, what percentage of the juveniles who are initially detained in the detention center are subsequently released by being placed on probation or some other noninstitutional type of affair?

Mrs. HUECKER. We have a working arrangement with our juvenile judges, and the only children who are detained when brought to the detention center on a police referral are those who would be a danger to themselves or a danger to the community as evaluated by the social worker at the point of intake. The children who unfortunately continue to be housed in this facility are those whose parents cannot be reached. We contact the parents immediately and try to probate the child to appear in court the next day.

Mr. SPEISER. But on the vast majority of police referrals are the juveniles detained even if it is just overnight or those who are subsequently released to the parents or for many there is a determination made?

Mrs. HUECKER. I can provide you with accurate statistics in relation to this. Maybe Judge Suell can answer this when he comes. I would say at least 60 percent of the children are in overnight, at one time or another.

Mr. SPEISER. That seems to be reflected in your statement, because I think you referred to 7,738 police referrals, and you mentioned that in 1969, detention care was provided to 5,787 admissions to the detention center.

I assume that these roughly cover the situation?

Mrs. HUECKER. Right.

Mr. SPEISER. I suppose about 60 percent. In your view do you think that that is a proper percentage for putting juveniles in the detention center, even if it is for only overnight?

Mrs. HUECKER. No. I think the percentage could be much smaller if we had alternative resolutions; that is, group homes.

We have only one group home in Jefferson County operated for the pre-delinquent use, and we need group homes for the girls who are run-aways or have behavioral problems. We need group homes for the young men who may leave home or who are involved in truancy.

We have no other alternative until we can locate families. We operate a foster care home, with 240 children in Foster Care Services, but we have not had the financial resources to develop a more sophisticated type of foster home where children can be taken when picked up by the police at the point of screening.

Mr. SPEISER. Who makes the determination as to whether or not they should be put into a detention center overnight?

Mrs. HUECKER. If the child has not been charged with a felony or is not a danger to himself or to the community, the social worker at that point of intake has the option to make the decision and normally, the option is to parole the child to appear in the court the next day.

The problem comes when we cannot reach an interested relative or the family of the child to release the child at that point.

Mr. SPEISER. Does the police department have a responsibility to attempt to reach parents of children who are considered truants or runaways or nondelinquents?

Mrs. HUECKER. We have a youth bureau within the city department of police. We do not have a youth bureau in the county, but both police departments make every attempt to contact parents before bringing them to the detention facility.

Mr. SPEISER. How long do children remain at the detention facility? What is the longest period of time that a child has been kept there?

Mrs. HUECKER. Well, we are talking about two different things. When you talk about a detention facility—

Mr. SPEISER. I am using it in terms of a temporary detention rather than one who has been adjudicated and sent to some so-called training facility or something of that kind.

Mrs. HUECKER. We do not have statistics on the average length of stay, but usually if it is a felony or something that needs psychological work up it can average 3 weeks from the point of bringing him in to the point of trial. But, there are many children housed in our detention facilities who are before the court and stay there sometimes a month or 2 months while the professional staff are attempting to find a resource in the community that will accept the child.

Mr. SPEISER. Do you think a juvenile who is truant should ever be locked up?

Mrs. HUECKER. No. If this is the only problem with the child.

Senator Cook. But you would limit that to initial truants, would you not? It gets to be a problem if you have a delinquent who is there for three, or four, or five times on the basis of delinquency. Are you saying that regardless of the circumstances that they should not be incarcerated? As you know, we will have problems, where you get what are called chronic repeaters, and this requires a little bit more time, requires a little bit more on the part of the department, obviously, and a great deal more in depth into the child himself, relative to the problem.

Mrs. HUECKER. I agree with what you are saying. This is true, but I think all of the studies that have been done with children can be done in alternative placement to a detention facility.

I think frequently if we look at the children as chronic truants and we call them chronic truants, the kids who will not adjust in school and we, in effect, the schools have been unable to provide the kind of program and learning setting that the child needs.

And we keep labeling him because we do not have answers.

Mr. SPEISER. Mrs. Huecker, would the detention center be called the maximum security facility; are there locks?

Mrs. HUECKER. I think it would be considered so if it were not for the fact that it was built in 1930 and it is falling apart so we cannot call it maximum security because the windows can be pushed out, but we look upon it as maximum security.

Mr. SPEISER. But it is locked?

Mrs. HUECKER. Right, and the tragedy is because of the inadequacy of the facility, many of our people who are aggressive and hostile are transferred to the jail for detention because we cannot handle them in this facility, and as a result they are thrown in with the even more hardened group of people.

Mr. SPEISER. Are they put in with adults, in the jail?

Mrs. HUECKER. I understand there is a separate walk for the juveniles.

Mr. SPEISER. Is there a State law forbidding the incarceration of juveniles with adults in Kentucky?

Mrs. HUECKER. The Senator says yes.

Mr. SPEISER. Going on to another part of your statement in which you believe that the first step in accomplishing the goal that we seek to provide of funding directly to the responsible local governments that more money is expended to the client group.

Are you suggesting that change be made in the Law Enforcement Assistance Administration so that funding can be made directly to local groups rather than through the State planning agency?

Mrs. HUECKER. I think that probably I am suggesting there might be two ways that this could be done, dealing with metropolitan areas in a different manner, and in view of the fact that Louisville, Lexington, and Covington are the major metropolitan areas, and we are dealing with a small rural jurisdiction in the rest of the State, and I do believe that the money should be funded directly to where responsible programs will be, where the money can go direct, and this is in relation to the cost of heavy administration to supervise and deliver the service.

Mr. SPEISER. But are you not suggesting that the governmental units such as the one you are associated with are in a better position to make this kind of judgment and should be in a position rather than going through the State agency to make the application directly to the Law Enforcement Assistance Administration, but get the funds directly and make whatever adjustments are necessary with LEAA?

Mrs. HUECKER. I am making that suggesting, but I would never negate the fact that no local community should go direct without being involved in whatever comprehensive plant is being developed at the State level.

You know, an input in the communication, but I do feel that direct local funding would be more advantageous in this particular instance.

Mr. SPEISER. Have you received any funds from the Juvenile Delinquency Administration and the Department of Health, Education, and Welfare?

Mrs. HUECKER. No.

Mr. SPEISER. Are you familiar with the program?

Mrs. HUECKER. Yes, and I think that here again, as my remarks were, in creative and innovative programs, I think most of the moneys in that bill are more for new and different programs and we have seen many new and different programs which have proven their merit, and because we did not have local funding to continue them they have died after 2 years.

Mr. SPEISER. If that administration within HEW were able to fund ongoing programs rather than just innovative ones, would you think that it would be a more sympathetic Federal agency in which to get

funds than from the Law Enforcement Assistance Administration, which as you may have heard in the past, has been criticized because of its emphasis on law enforcement and on hardware programs?

Mrs. HUECKER. Well, it is difficult to make a judgment about being sympathetic and this sort of approach.

Mr. SPEISER. Well, Health, Education, and Welfare has had a Children's Bureau, for example, for 50 years, and it has had a prior program on juvenile delinquency prevention and control, and I wonder whether that would not be at least one agency that ought to have a continuing interest in this field, rather than leave it all within the Department of Justice, where the money is, I will grant you, at the moment?

Mrs. HUECKER. I think that I would feel that if the moneys, you know, were used with a review of some kind of accounting on the part of those agencies that receive it, not just a continual support of programs that are ineffective and are not meeting the needs, I think that we fail in this way when we supervise the spending of moneys at the local level on occasion.

Mr. SPEISER. Do you think that both HEW and LEAA have not lived up to their responsibilities in evaluating many of the programs that they have funded?

Mrs. HUECKER. I think this is probably one of the most important failures or weaknesses. I think that the need is for an evaluation and objectivity from outside. I think it is difficult for any community to evaluate its own programs in view of the fact that we have lots of investment in the status or investment in the way things are going at the present time, and I would suggest that there be a different kind of evaluation and a scrutiny of the programs.

Mr. SPEISER. The Juvenile Delinquency Act of 1968 will expire on June 30 of this year, unless it is extended.

Would you be in favor of having it extended for a year to see if whatever difficulty it has can be worked out, and whether it could be changed to cover the kinds of things you have just suggested by funding on-going programs as well as new and innovative ones?

Mrs. HUECKER. I think I would agree with the remarks made by Mr. Harper, that I would prefer to see what could be done to improve the juvenile delinquency bill where it is, because I think the statistics pointed out that 56 percent of the moneys that did come to the local community went for hardware and for the police education, which I think are very much needed. Do not misunderstand, but I think that our juvenile programs are the important things that are going to deter delinquency, and that we need help in those areas.

Mr. SPEISER. Thank you very much.

Senator Cook. Mrs. Huecker, while you are on the subject, it does not do a great deal of good though to have separate programs such as the LEAA and the juvenile delinquency program if, in fact, the Congress is going to appropriate \$480 million for an LEAA program and \$15 million for a Juvenile Delinquency program, does it?

Mrs. HUECKER. I thought from the way Mr. Speiser was speaking that he was going to assure us that there were sufficient funds to carry it out for the 1-year test.

Senator Cook. Well, I think it looks rather bad on its face when you operate a department on \$3.7 million and the entire juvenile

delinquency program throughout the United States operates on \$11.3 million more than that, which really, in essence, means that the reason that it is not going to be responsive is that it does not have the resources to be responsive, does it?

Mrs. HUECKER. No.

Senator Cook. What you are really saying is if the juvenile delinquency program is going to be extended at all, then it should be at least extended with a realistic appropriation, so that at least a local agency such as yours need not fill out a program, need not go to the work and the effort of staging a program when it knows that if it is going to ask for a million dollars, and there is only \$15 million there, then it is not even really going to get even a small part of that million dollars.

Is that not true?

Mrs. HUECKER. I would hope that all of my statements were made in the pleasure of the fact that it is purposeless to keep any bill if it is not going to be funded to the point of being effective and helpful to the community.

Senator Cook. And the problem really is, it seems to me, that when the HEW budget is made out, which by the way is almost some \$30-odd billion, that it is rather ridiculous that the Department which handles juvenile delinquency gets \$15 million of that \$30 billion? Is that not really what we are talking about?

Mrs. HUECKER. That is truly what we are talking about, because we have said our children are our wealth.

Senator Cook. And that regardless of how long we want to keep it within the framework of one department or another there really is going to be no value in it if we are not going to properly fund it. I take it that one of the points that you are making about the desire of favoring a revenue sharing program is that in all revenue sharing programs that have been introduced in the Congress so far, even though a great deal of authority is vested in State government, that a tremendous amount of funds bypass State government and go directly to local communities where local communities can establish their own set of priorities, and these priorities need not mean that you have to come up with new and innovative programs as far as the agency is concerned but instead you can use certain of the present programs which have proved to be successful. Is that not really what we are saying?

Mrs. HUECKER. This is what we are saying.

Senator Cook. And that the congressional approach has really been a negative approach, not a positive approach at all?

Mrs. HUECKER. Certainly not positive to local communities who are investing the moneys that we are paid.

Senator Cook. Thank you, Mrs. Huecker, very much. I appreciate your being here.

Mrs. HUECKER. Thank you.

(The prepared statement of Mrs. Gail S. Huecker is as follows:)

PREPARED STATEMENT OF GAIL S. HUECKER

As the representative of a typically large metropolitan area attempting to address the problems of the delinquent with all too few resources available, I propose to support the notions of revenue sharing with responsible local control so that programs may be more responsive to locally identified needs. Even

though I have been requested to speak in relation to the specific needs and problems of juvenile delinquency programs, I would be remiss and not honest if I did not first address the fact that all of the programs in the world to cure delinquency and the strongest most educated law enforcement agencies are naught, in my opinion, unless the country's leadership listens to the cry of the CBS documentary on Hunger in America,<sup>1</sup> and the recent documentary This Child Rated X,<sup>2</sup> report of the President's Crime Commission, 1967,<sup>3</sup> the Kerner Report, 1968,<sup>4</sup> which clearly speak to the lack of adequate housing, the lack of adequate health care, the lack of meaningful work with adequate wage attached to it, the lack of differential educational programs to meet the needs of children with special educational problems, and the lack of sufficient monies for twenty-five million Americans to provide sustenance for their families.

These conditions breed crime and delinquency, as well as a significant segment of our population with physiological and emotional problems. As a result, instead of addressing these problems using Federal, State and local monies, we continue to emphasize control and punishment of those people whose problems are created by our own society. To react to the above mentioned reports and problems means to reorder our national priorities and to enforce the changes in social institutions providing services, and it also means the existing self-perpetuating, proliferation of bureaucracies must be halted with a redistribution of national wealth directed toward new national priorities. In the words of Birch and Gussow "For poor children are not merely born into poverty; they are born of poverty, and they are thus at risk of defective development even before their births."<sup>5</sup>

For you to accomplish this goal the following steps must be taken:

- (1) Provide funding directly to the responsible local governmental units so that more money is expended on the client group.
- (2) Support adequately existing programs that have demonstrated an ability to reduce delinquency.
- (3) Reorder our national priorities so as to emphasize the worth and dignity of every individual.

In order to amplify the points which I am making in relation to funding and responsible local control and responsiveness to local problems, I would like to describe the social service delivery system of Metropolitan Social Services Department (MSSD). MSSD is a consolidated agency providing comprehensive service to the residents of Jefferson, Kentucky's most populous county. Traditionally, Jefferson County with its larger tax base has been forced to provide social services for its own residents while contributing its share of taxes to support State services, at the same time not receiving its population share of these services. A State legislature dominated and controlled by predominately rural concerns and problems has not been helped to appreciate the needs which are unique to a metropolitan area or to attempt to answer them.

The programs of the Metropolitan Social Services Department are directed toward the concept of assisting communities within the inner city to cope strategically with their problems. Our agency is not a welfare program and is not a delinquency program, but is a total mobilization of governmental resources for the benefit of the citizens of the community. We are a merged agency which incorporates the responsibilities and functions of three agencies known as the Jefferson County Children's Home, and the Jefferson County Juvenile Court, and the Jefferson County Welfare Department.

Four institutions are supported—a dependency shelter (with average population of 30); a detention center for delinquent youth (average population 95); Ormsby Village Treatment Center (housing 130 adjudicated delinquents—boys and girls between the ages of 13 and 18); Southfields Residential Treatment

<sup>1</sup> Hunger in America, CBS documentary 1968.

<sup>2</sup> This child rated X, documentary 1971.

<sup>3</sup> The President's Commission on Law Enforcement and Administration of Justice—"The Challenge of Crime in a Free Society", U.S. Government Printing Office, Washington, 1967.

<sup>4</sup> U.S. Riot Commission Report, Report of the National Advisory Commission on Civil Disorders, copyright 1968, the New York Times Co.

<sup>5</sup> Herbert G. Birch, Ph. D. and Joan Dye Gussow, Disadvantaged Children, Health, Nutrition, and School Failure, Harcourt, Brace & World, Inc. and Greene & Stratton, Inc., 757 Third Ave., New York, N.Y., 10017, 1970. PG. IXXII.

<sup>6</sup> Wall, John, speech presented to the Child Welfare League of America, Pittsburgh, Pa., 1969.

<sup>7</sup> MSSD\* juvenile court, 1969, volume I and MSSD planning service communities, office of research and planning, Louisville and Jefferson County, Delores S. Delahnty, director, exhibits 1, 2, 3, as well as statistical information used in the preparation of this paper.

Center for 20 sophisticated delinquent males (ages 15½ to 18) based on guided group interaction and a work program.

In addition the Department provides probation services to the juvenile court protective services to children in their own home, and foster care services. At the present time, two programs are operated by funds obtained through the Kentucky Crime Commission—one a group home for the pre-delinquent male (average population of eight), and the other a community based youth service bureau, located in the area of highest delinquency in the city and housed in the local community action commission office.

We hope to dramatize with this pilot project the ability to spin youth out of the criminal justice process reaching families at a level of prevention by providing programs before the child becomes involved in delinquent patterns.

Although the Jefferson County judge and the county commissioners, who are the administrators and the budget priority determiners, have provided MSSD with \$3.7 million making it second only to the county police department in annual appropriations, these funds are totally inadequate to deliver the kind of service necessary to process the 7,738 annual police referrals, even though two-thirds of the \$3.7 million are related to juvenile delinquency programs, we are operating a first-aid station hoping to resolve immediate crisis. In addition to the 7,738 police referrals, a total of 31,093 service cases were processed by MSSD. These cases were served by a staff of 319 people, 171 of whom were involved in institutional service only:

1. At the end of 1969, 677 children were receiving protective services or foster care, in addition 288 new cases were accepted for service by the protective and foster care department; 4,185 cases were receiving financial assistance grants, and/or social services from the financial assistance department; the diagnostic and evaluation unit interviewed and/or tested 1,181 referrals; 547 delinquents were placed on clinical probation or received service from the community treatment unit.

2. The child support section handles 721 new child support cases, 2,369 recurrent cases and 288 paternity cases.

3. One must consider that during 1969, detention care was provided to 5,707 admissions at the detention center, 651 dependent and neglected children received temporary shelter at the sunshine lodge, 163 youngsters were committed to the Ormsby Village Treatment Center, and 55 male delinquents were placed at Southfields.

Even though the picture is negative, in terms of number of staff, related to families served, MSSD is much better able to deliver comprehensive services to families in stress than when three separate autonomous organizations with restrictive eligibility requirements operated not only to the exclusion of the client, but also fighting for the same tax dollar to fund their program. The merger has consolidated administrative service costs and has provided families with one worker, who can bring to bear all agency and community resources.

This brings me to the second point concerning Federal funding at the local level to provide more effective programs. Jefferson County has suffered as a result of State programs operating in the local community with policy and decision-making resting in the State capital.

Let me describe in greater detail the program of the MSSD to give you an idea of the benefits of local comprehensive planning. Our research department gathers demographic information on all clients served as well as incorporating information from other local agencies—i.e., police department—planning and zoning.

MSSD has established a long-range comprehensive plan for social welfare and specifically for the prevention and rehabilitation of delinquents and families in stress. Fifteen planning service committees have been lineated for the purpose of establishing priorities in the deployment of personnel and program development to meet the needs of residents within each of these communities. The boundaries of the communities are coterminous with those of the Louisville and Jefferson County Planning and Zoning Commission for the purpose of physical and economic development (see attached map—exhibit). In each of the planning service communities, service teams of MSSD staff are deployed depending on assessment of the incidence and extent of social pathology in the area. Service team assignment will depend on two major factors:

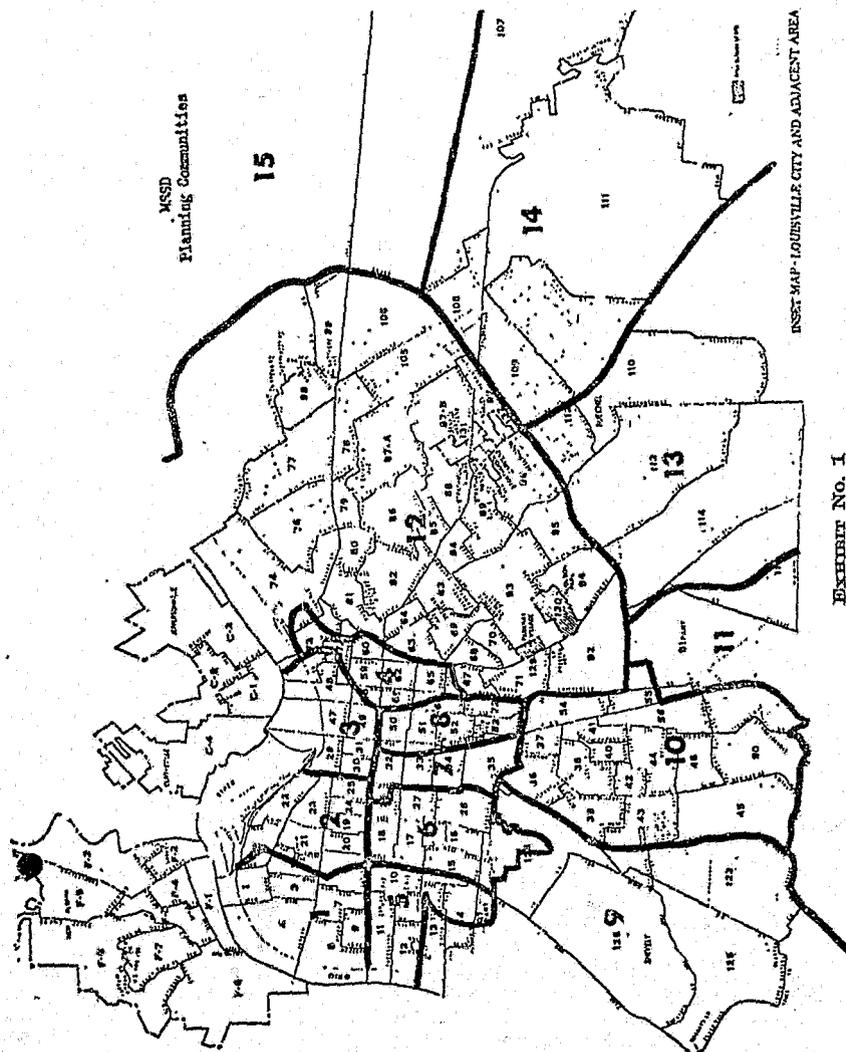


EXHIBIT No. 1

PLANNING SERVICE COMMUNITY 2  
Downtown West



1. PSC Boundaries: north by the Ohio River, east by the Pennsylvania RR, south by Broadway, west by Kentucky and Indiana Terminal RR Tracks.
2. Number of Juveniles: 

TOTAL	WHITE	NEGRO	MALE	FEMALE
927	453	474	404	168
Total Referrals	572*	280	291	168
Individuals				
3. Mean No. of Referrals in 1969: 1.6
4. No. of Adult Referrals: 156
5. Financial Assistance Case Load, May 1970: 223
6. Child Support Case Load, May 1970: 375
7. Age (Individuals): 

	White	Negro
Unknown	0	0
1-5	16	24
6-8	11	16
9	9	10
10	9	11
11	8	10
12	17	23
13	23	31
14	45	38
15	51	43
16	46	34
17	42	45
8. Living Arrangement of Juvenile: 

	Male	Female
Unknown	5	2
Mother & Stepfa.	23	17
Mother Only	174	74
Home of Relative	27	18
Institution	6	3
Both Parents	130	36
Father & Stepmo.	8	1
Father Only	23	7
Poster Family Home	5	2
Independent	1	8
9. Source of Referral: 

County Police	35
City Police	629
Merchant Police	74
Parents	36
Spouse	0
Other Relatives	20
Individuals	52
School Dept.	24
Social Agency	58
Ex-Spouse	0
10. Number of Siblings: 

	White	Negro
0	43	49
1	142	142
2-3	232	105
4-6		
7-9		
11. Receiving Public Assistance: 

	White	Negro
Yes	68	146
No	212	145
12. Total Number of Referrals: 

1	287
2-5	350
6-10	193
11-30	98
13. Mean Age at Referral: 

Male	13.4
Female	12.4
14. 5 Main Reasons Referred: 

Dependency	128
Disorderly Conduct	108
Shoplifting	99
Unauthorized Use of Auto	58
Unmanageable Behavior	56
15. Present School Status: 

	White	Negro
Pre-School	18	26
Attending	193	228
Completed	0	0
Withdrawn	66	34
Unknown	3	3

\* Denotes 1 race unknown.

EXHIBIT No. 2

Planning Service Community 2

- 927 referrals - 15.8 per cent decrease in 1969
- substantial decrease in percentage of Negro referrals
- still remains, despite the slight numeric decrease, the community containing the largest number of referrals - (12.5 per cent of all referrals to Juvenile Court)
- decrease in delinquency referrals
- this community unlike most inner-city areas contains almost equal proportions of white and Negro referrals which belies the racial homogeneity of particular census tracts within it
- the mean age for males is 13.4 and for females, 12.4
- largest percentage of white school dropouts of all communities. About one-fourth of the whites referred have withdrawn from school.
- almost half of all referrals live in single parent homes
- very few referrals from parents or schools and the single largest number of referrals made by City police of any Planning Service Community
- half of the Negroes referred and 24.3 per cent of the whites were from families who received public assistance
- evidenced less pathology than in 1968, in that this area contained less referrals from single parent families, less recidivism, and fewer families receiving public assistance
- rate of delinquency per 100 population has decreased to 4.2 persons per 100

EXHIBIT No. 3

(A) The size of each team is determined by the number of families whose members are exhibiting social problems or otherwise reflect vulnerability to stress.

(B) Team members are selected from existing MSSD staff with emphasis on matching special skills or expertise with predominant service needs in an area. For example neighborhoods with roving gangs of delinquents might require more male probation officers, while those areas with high dependency rates would require larger numbers of family counselors. Although the information is available as to the number of staff needed, budget limitations have prohibited the employment of the needed numbers. In addition, problems arise in planning when the State is providing fragmented programming in the area, new programs are being established without identifying actually who is totally responsible for what. We are working cooperatively in an attempt to delineate responsibility but problems occur.

As an example let's look into what happened in the priority setting of monies expended through the Kentucky Crime Commission established under the Omnibus Crime Control and Safe Streets Act of 1968. It was hoped that historical pattern had been followed—1970, with \$2.9 million coming to Kentucky through action grants, Louisville and Jefferson County received \$650,000 of which 56 percent went to police related programs with 36 percent going to juvenile delinquency programs. These are appalling figures in view of the fact that 40, 7 percent of all the states identified delinquents residing in the Louisville metropolitan area. No regionally operated delinquency related programs were implemented. It appears that there was no systematic approach to service delivery and the Federal monies contributed to a further fragmentation of service.

Only the provider of money can incorporate controls and systems of accountability to see that the tax dollar is equitably distributed and demand accounting as to how the money is used and evaluations as to the effectiveness of its use. It bothers me that to combat a problem which has been with the Nation since the term juvenile delinquency evolved, large appropriations will only be directed toward a creative, innovative program.

There are many professionals at the local level who know that programs already in existence have demonstrated competence in deterring delinquent behavior. But monies are not available to expand the existing programs or to "beef up" existing needed resource. As an example, the detention center operated by MSSD, as well as most across the Nation, breed bitterness, hostility, and asocial patterns which develop into crime careers. Normally the centers have poor physical plants, are inadequately staffed and programmed. Children are often housed for long periods of time while waiting psychological evaluation, or the location of a service that can handle their problems.

It is like playing Chinese checkers with no goal since there is usually no resource for certain specific problems—like the social promotion in the school classroom—we shove the child into another setting where he will meet defeat. Many of the delinquent children dealt with are mentally retarded or emotionally disturbed, but we have no facility to hold or to treat them. To effectively deal with children charged with delinquent behavior we need adequate detention facilities where the first step to further treatment is humane and individualistic handling so as to prevent the problems cited.

Community based programs show great promise for those individuals who are not in need of custody since true social education, or reeducation, can only take place in the environment where the individual must ultimately function.

In closing I would like to reemphasize my stand that the existing layers of bureaucracy which waste tax monies and hamper the delivery of services to the delinquent population must be removed and replaced by a system which makes funds available to responsible local government where program planning and implementation. I have discussed one local program which has demonstrated the effectiveness of this approach. The MSSD program needs help. This model could be transferred to other localities but both take massive infusions of funds. This must be done soon before what has been developed is irretrievably lost due to loss of staff.

Senator Cook. Now we will have Judge Raymond L. Suell.

**STATEMENT OF RAYMOND L. SUELL, FORMER JUVENILE COURT JUDGE, JEFFERSON COUNTY, KY.**

Mr. SUELL. Senator Cook, Mr. Speiser, Mr. Meredith—

Senator Cook. May I say something nice about you before you start?

Mr. SUELL. Please do.

Senator Cook. Mr. Suell is a practicing attorney in Louisville, Ky. I again have to take some degree of pride in saying that I appointed him as the juvenile court judge of Jefferson County in 1962 and he served until 1970, I might say longer than any other juvenile court judge in the history of Jefferson County. He is presently serving as a member of the Jefferson County Crime Commission, the committee on juvenile delinquency, and is an extremely active member of the National Council of Juvenile Court Judges. As a matter of fact, I think that the first expenditure that our administration made was when it started sending its juvenile court judges to schools all over the country, and Judge Suell insisted that he was entitled to go to learn how to do the job, or otherwise he did not want to be a juvenile court judge.

Ray, it is nice to have you here.

Mr. SUELL. Thank you, Senator. The questions have been so interesting that I wish we could get on with the questions. But perhaps I had better go through my prepared text, and then I hope you will give me a chance to respond to some of your very interesting questions.

The vision that produced the juvenile court was magnificent. A place where wayward children could be brought, not to be punished, but through the wisdom and benevolence of the kindly judge, to be guided away from a life of crime. In recent years we have become increasingly aware that this beautiful dream is largely unfulfilled. That the benefits of this enlightened concept of individualized justice often fail to reach the youth who need it the most. Recent Supreme Court decisions have forced us to face the reality of our failures in juvenile court. But, are we willing to face still another reality? That rather than resolving our problem of juvenile delinquency, our courts as they are functioning may very well be reinforcing delinquent behavior? That we may be harming more children than we are helping?

Our juvenile justice system is one of our proudest achievements. An enlightened approach to the resolution of our children's problems with their community. A privileged, confidential, perceptive inquiry into what a young person is, not just what he has done. The application of the best in psychological and sociological techniques to assist this wayward youth in dealing with his problems. Remedial and rehabilitative treatment programs designed to assist him in becoming a functioning contributing member of society.

Perhaps typically, our younger generation has the more accurate awareness of how the juvenile justice system really works.

There are over 3,000 juvenile court judges in the United States, each of whom is committed, in his own way, to fulfilling the promise of the juvenile court. Each judge has his pet programs, his particular problems, his own theory on how to "cure" delinquency. Each judge fully intends to accord every child brought before him that individually tailored solicitous care and regenerative treatment demanded by the juvenile court philosophy. He only commits a child to an institution for his own good, and then for an indeterminate period of time until he has learned to deal with his problems.

What of our youth?

Over 50 percent of our juvenile court referrals are first offenders. Often they are "accidental" delinquents, guilty of being in the wrong place at the wrong time. These youngsters never come back. Whatever

remedial effect their court experience has on them can only be estimated. Whatever damaging effect the labeling of delinquent has on them only time will tell.

The real delinquency population of our courts are often a part of a tenuous sort of subculture, alienated from the law and society by circumstance. They know our courts. They know that the first few times they appear in court they will be reprimanded and released. That eventually they will be placed on probation with stern warnings. They know the probation officer won't have time to see them until they are picked up again. They know that this revolving door policy of in again, out again, and in again leads to commitment eventually. They can predict the institution and length of stay almost to the day.

These youth know the realities of the system from their own experiences and that of their peers. They know nothing of the philosophy, only what really happens. They know that there are only so many police officers, only so many probation officers, so many institutional beds. They know that the system is operated by individuals, and which ones can be conned.

We all know that despite our scientifically improved methods of crime detection, despite our improved delinquency treatment methods and institutions, despite our system of social services and our increased knowledge of the behavioral sciences, juvenile delinquency continues to increase year after year.

This is not to say that we should abandon the dream of our juvenile court; it is still a great vision, but we must face reality. Improving our programs and institutions is not enough. We have to examine the courts themselves. The juvenile court is the focal point of society's intervention into the lives of the delinquent and his family. Society may advise, society suggest, and society counsel, but to impose sanctions we must use the judicial process. Otherwise our free society will be jeopardized.

It is important for the juvenile judge to remember that he may not impose his own particular brand of culture and morals on anyone unless they happen to represent the collective conscience of his community within legal guidelines. No judge is immune from the suggestion of omniscience his judicial isolation fosters, but juvenile judges are particularly susceptible. Functioning in an informal setting, working with a staff usually appointed by himself, hearing cases of troubled youth and bewildered parents, in an area of law long neglected by the legal profession, who is able to challenge or even question his decision or philosophy?

The Federal requirements of legal rules with constitutional safeguards to juvenile court proceedings may well be the solution to that court's own identity crisis. This is the first step in developing an effective juvenile justice system. But, it must be fully implemented in spirit as well as in name. In the Jefferson County Juvenile Court, we required each child to have legal counsel, furnished an exact copy of all charges made against him, provided for confrontation with accuser, cross-examination of witnesses, privilege against self-incrimination, and he was not subjected to court sanctions until the charges were proven beyond a reasonable doubt.

The result has been positive. It is as important for a youth to know he has had a fair trial as it is for him to receive one. Institutions

receiving our commitments reported a high acceptance or treatment. No claims of having been railroaded or framed. They know they have had a fair trial.

We found it necessary to use some of our funds for research data collection on the children and families using our court so we could begin measuring the effectiveness, or lack of effectiveness, of what we are doing.

We often hear that 90 percent of our delinquents live with their mother only. Our statistics show 30 percent live with only their mothers. We think of our delinquent youth as all coming from welfare families. Only 20 percent coming to our court come from families on public welfare. We must learn the real effects of our programs.

In any community, the most visible person in the juvenile justice system is the juvenile court judge. He usually molds public opinion as to the value of a particular treatment made, or community attitude. If he believes in a program, he can make it work. If he believes children are persons entitled to the protection of the law, then due process in his court can be a reality.

No individual has the capacity to maintain objectivity unless his perspective is put to test. The use of trained legal counsel in juvenile court hearings accomplishes this need. Unless the burden of proof can be sustained, the court has no right to intervene in the life of a child or his family. Once adjudicated, unless a proposed commitment or treatment plan can meet the test of criticism by trained advocates, perhaps it should not be imposed. With our increasing awareness of the psychological and sociological harm the wrong or inappropriate handling of a juvenile can produce, perhaps we should begin admitting we don't really have an answer for all our youngsters' problems.

We have an inclination to believe that in some way each child who finds his way into our juvenile court system needs to be modified or altered in some way else he or society will be greatly endangered. What about the estimated 80 to 85 percent of the youthful offenders who are never apprehended? They seem to grow out of their delinquent propensities much as we of past generations outgrow our youthful mischievousness. This is not to say that we don't have dangerous, disturbed delinquents in our society, but we must be very sure not to place the wrong label on an incidental delinquent, the product of being in the wrong place at the wrong time. No matter what laws we write concerning secret hearings, the child is automatically branded delinquent, by adjudication in our courts, no matter how slight the offense.

Once I had a mother call me up and ask me to waive the privilege of secret hearing in juvenile court because her son had been locked up by an ambitious police officer in town who found an old law on the books that makes it unlawful for anyone under the age of 18 to smoke, and he was locked up for smoking, and I had to give her a copy of our statutes so that she could prove to all of her friends that he was not a bad boy, that he was just smoking. Employment opportunities are diminished, the schools brand him a troublemaker, the police seek him out as a suspect.

Many times this delinquent-prone youth has a very low concept of self-worth and grave doubts about who he is. His court appearance

confirms all his negative feelings about himself, and society contributes by attaching the delinquency label; as though psychologically predestined, he proceeds to behave and act in accordance with the way he thinks a delinquent should act. No matter whether the judge is harsh or lenient, he increases his alienation to the law and society. If treated harshly, he feels, perhaps rightly so, he was dealt with unfairly. He no doubt knows of others who have committed similar offenses and received no punishment. If the judge gives him another chance, he becomes convinced he is a great con artist who can talk the judge out of anything.

We need to take a serious look at the psychological research being done with children in the field of operant conditioned and behavior modification. These studies suggest that in trying to change anti-social behavior, continual reprimands and punishment for undesirable behavior actually reinforces that behavior. It has been described as the nagging wife syndrome. On the other hand, change can be brought about by ignoring the undesired behavior and rewarding or reinforcing the desired behavior.

There is a heavy responsibility on the court to only accept jurisdiction over those cases which need official judicial intervention. Cases where there is a serious threat to the youth or the community without intervention, those youths who are dangerous must be identified and removed from the community. If punishment or the threat of punishment can reasonably be expected to effect a degree of rehabilitation, it should be used. If not, there is no justification for the imposition of punishment.

Of the children referred to our court in Jefferson County, 40 percent were referred for noncrimes behavior problems, school problems; these children should not be in court, should not be scarred by the delinquency label. There has been a suggestion that changing labels to "children in need of care" would solve administrative problems for agencies and institutions, but it would not alter the fact that these children should be dealt with on a social agency level in the community without court intervention. Another 30 percent of the children referred to our court were for minor offenses which could have been handled in the community. When we were young, such minor infractions of the law were dealt with in our neighborhoods by our families and the police officer.

It seems to me we need to develop and support community alternatives to court referral, youth service bureaus, neighborhood centers, school programs for acting out students. There are almost 200 children, and 43 of them are for behavioral acting out against teachers and other students, and 160 children for truancy problems. That is 200 children committed to institutions for school-related matters. It seems to me that we can resolve these in the school setting.

The juvenile judge must be realistic about his role. He cannot be the cure-all, end-all for a community's juvenile problems. He must focus on that unfortunate group of delinquents so extreme in their hostility and behavior that they require institutional placement, secure facilities to protect both the youth and the community. He must be willing to admit that the court has nothing to offer many of the youth caught up in our rapidly changing society.

He must be a judge, not an amateur psychologist practicing his awesome authority on those families summoned before him. He must hear all the evidence available, both for the community and the child, as to the offense and as to the cause, as to what alternatives are realistically available and the probable consequences of each, and then having weighed all these factors, resolving doubts in favor of the child, he must enter a judgment which he and the child can live with the rest of their lives because they must.

Senator Cook. Thank you, Judge. I think one of the first things that hit me, and I would like for you to enlarge on it, was the paragraph:

We often hear that 90 percent of our delinquents live with their mother only. Our statistics show 30 percent. We think of our delinquent youth as all coming from welfare families. Only 20 percent come from families on public welfare. We must learn the real effects of our programs.

Now, I would like for you to expand on these statistics.

Mr. SUELL. In trying to get an idea of what can be reasonably expected in a hearing such as this I went through some information I received from Charlie Owens, director of the Kentucky Crime Commission, from a report of another subcommittee on the Congress, and I noted in there that an expert had testified that 90 percent, at least 90 percent of the boys that came before his court had no fathers, lived only with their mothers, which intrigued me. I looked at the statistics at the metropolitan social services department, and counting fosters and stepfathers there is a male, identifiable figure in the home in 70 percent, and 30 percent lived with their mother alone. I think my concern is that the general public has conceptions about the juvenile delinquency population and too often the judge that accepts a position in the juvenile court takes with him the misconceptions about the population which he sees that reinforces his expectancy and he proceeds on that erroneous hypothesis. I think we need to take stock of where we are. We need to divert some of our funds to determining what types of children we are handling, what types of children do get back the most frequently, what types of family problems are associated there, because we too often act only on impressions and attitudes. The same way with welfare families. You can do anything with a statistic, and you can take a situation and say of course what percentage of our population is actually on welfare, and when you take the percentage of population on welfare and the percentage of youth that go on to be juvenile delinquents, then it is not such a startling figure. But, by the same token too many people in our community think any child before the juvenile court is a welfare recipient. In fact that is not so.

Senator Cook. I must confess I think your 20-percent figure is more shocking than your 30-percent figure. The American public has rather accustomed itself to feel that all juvenile delinquents come from a particular standard in society which they either refer to as poor or as welfare. So, I honestly feel that it is shocking, at least to me, that only 20 percent of those that come before your court are from welfare families.

Mr. SUELL. That is correct.

Senator Cook. Now, let me get to another remark because I think this is interesting, that of the 200 young people referred to your court

from the school system 160 were referred as a matter of truancy. Now, this almost runs counter to all of the great remarks we hear about counseling that goes on in school. Apparently the counselors are in the same position that probation officers and policemen are. They finally say that they aren't going to fool around with this youngster any more, but do they actually use it as a means of occasionally threatening parents, that your child will wind up in juvenile court?

Mr. SUELL. I think that this is something we have dealt with over the years. I have to give credit to the local school system. I got some figures from F. O. Baker, who is the juvenile delinquent consultant for the public schools, and those figures were gathered together in the preparation of a program by the school board to develop an alternative to referral to court. He is attempting to develop junior high school type facilities regionally in the city to take these 200 children, work with them in the school setting, either then committing them or referring them to the court. But, the point that I believe is important is that Congress could well seek out methods of encouraging the judges to look at their case loads and to quit trying to give the answers to the school system's problems. When they decide that they have got more than they can handle, or any other segment of the community, I think that the judges really have a responsibility to tell the school that the problem of a child attending school is a problem you must learn to deal with, and I am no longer going to pull your chestnuts out of the fire. I think that the phrase delinquency was probably very marvelous at the time it was coined to keep the children from being branded as criminal, but I think now they are about as well off being branded as criminal. I think that school problems, these noncrimes have absolutely no place in a juvenile court, and that there is no reason or justification for involving the child in that kind of a setting. If you have to impose sanctions, impose sanctions on the family and the parents, impose sanctions on whatever area of the community that directly affects that problem, but do not bring the child to court and brand him a delinquent.

Senator Cook. Well, I do not really mean to argue with your first premise, but I am not sure what Congress has to do with it in the first place. I think the State legislatures want to establish a system for their schools within the law that deals not only with the operation of your courts which are not under any Federal jurisdiction at all, and the school systems, which in their daily operations are not under Federal jurisdiction, and hopefully between the reflection of those two systems this problem could be eliminated. But, I think we have a serious problem if, for instance, Congress were to say that truancy does not constitute a matter of delinquency.

Mr. SUELL. I did not mean to suggest that, Senator. My suggestion is that, if I can copy a phrase of one of the previous witnesses, the purse strings are very effective. I think the crime commission, for instance, dangling the carrot in front of the city of Louisville, the police department and Jefferson County and saying here is this money which has been allocated for implementing a consolidation of your police forces, and certainly the Federal Government is not going to tell you to consolidate or not, but if you want this money you are going to have to consolidate before you get it. I think that this technique of suggesting directions for the courts to go is very effective, and is the same type of technique that encourages training of policemen and up-

grading of police tactics, which is the same kind of thing that can increase the awareness of juvenile courts and their roles. I am not suggesting legislating that they have jurisdiction over them. I think it is an attitudinal thing. We have had some marvelous explanations of programs and the way these problems can be dealt with. We have had discussions of detention and procedures by which these children can be arraigned readily, and it is just too much talk and too much on paper, and it is the attitude of the people who are involved in this system whether it works that way or does not work that way.

If you have a program by which a child can be readily detained, if a worker does not want him arraigned right away, if he wants to keep him in detention, there is no problem about dissuading the judge that he has to be kept in detention. The judge that presides over the job, it is his attitude as to whether the child will be released earlier or whether he decides he should cool for a while, and all of these are factors.

I am suggesting perhaps with training grants, perhaps with educational institutes, perhaps with any type of technique which is available to encourage those persons in the responsible decisionmaking positions with our juvenile courts to really, honestly look at what their capabilities are, and quit fooling themselves about what they are able to do that we will end up delineating responsibility and authority and leaving some of the school's problems to the schools.

Senator Cook. Well, I am not disagreeing with you, and I am not going to belabor the point, but I say to you again that it is by statute an offense if the child does not attend school.

And just let us assume that in your previous role as a juvenile court judge you just took the hard position that you were not going to hear any truancy cases. Then obviously someone would test your responsibility under the law, and not under any Federal law but under State law, and I think one of the things that we are really discussing as a part of these hearings, judge, is whether we should make funds available on a priority basis to local communities to solve these problems and to coordinate these programs rather than to make these funds available because we wave a carrot in front of somebody and say you have got to abide by rules and regulations before you can get any of this.

I think and Mr. Speiser has alluded to it, that truants and what you call hard-core juveniles, if you wish, should not be incarcerated together. If it is your attitude and the attitude of many other people that they should not be incarcerated at all, that they should not be tried in the same type system or same type court, then this becomes a matter of saying that this is a priority of ours and this is what we are going to accomplish.

But, I would think that the first accomplishment in that regard is to repeal a State law and not worry about the fact that any Federal regulation might be imposed to supercede it.

Mr. SUELL. I think I agree with you, Senator, and we are not disagreeing, but I am putting emphasis on attitudes. My emphasis is on the fact that we have 3,000 juvenile court judges in the United States. I see all sorts of programs going into institutions and all sorts of planning going into the development of programs for handling the child after he has already been through the system.

I am concerned about developing attitudes on the juvenile bench that will be conducive to the types of things that we all agree on, but we do have happen because no matter how much we agree to it on paper, too often the individual approach by the judge negates what he says in his philosophies.

Senator Cook. Now, if that is the case—and let us go back to the 3,000 juvenile judges, give us what you consider in your own mind the best program, the best approach, and I am sure that this is going to encompass not only Congress but a lot of other things, but give us your ideas, give us your suggestions as to what you think. For instance, this committee could write in recommendations to the full Judiciary Committee on an expanded LEAA, what this committee could put into the law in relation to the extension of Juvenile Delinquency or funding of the Juvenile Delinquency program.

Give us what you think ought to be done. Let's you and I trade places.

Mr. SUELL. How much time does the committee have?

Senator Cook. As much time as you want, Judge, and you know it. Seriously, this is what we want in the record. We want suggestions as to how we may make it a better bill, how we get at the problems you talk about, or for instance, do we go through the same path and re-write another extension bill and return to the same problems.

Mr. SUELL. Well, I think that in reference to the LEAA and the Juvenile Delinquency Act, my own impression of what has occurred with relation to both of those acts is that Juvenile Delinquency Act was conceived and introduced as a very optimistic approach toward beginning to really deal with juvenile problems. It had the unfortunate timing of happenstance to come at a time when our whole country became very sensitive to civil rights disorders and violence, and consequently the Safe Streets Act came about and got all of the money. The ability of the Kentucky Crime Commission and Juvenile Delinquency Committee to utilize Safe Streets' money in juvenile delinquency projects I think is very commendable.

I think it is the reason it is working that way, and that is where the action and the money is.

As far as the Juvenile Delinquency Act is concerned, it could very well be helpful if it traded budget places with the Safe Streets Act, but I do not know that it is realistic to assume that that can happen. And I think that we have to look at what the advantages are of carrying the two acts along.

Senator Cook. Let me interrupt at this point. Do you think it is of any value, is it of any value locally, either in regard to philosophy or in regard to funding, to extend a program for another year if you are only going to fund it for approximately \$15 million?

Mr. SUELL. No. My estimate of Kentucky's experience with the Juvenile Delinquency Act has been that the funds have been—the first year of the Juvenile Delinquency Act funds were so limited that we were utilizing them for program development only at the State level. The second time, why, the funds were used for a couple of programs, and less than 10 percent of the Federal moneys brought into the State for juvenile delinquency have come from the Juvenile Delinquency Act.

The other 90 percent has come from the Safe Streets Act.

I would say that if you are not going to fund it any more than that, then let us quit playing games, and let us be honest and say that we are not going to put any money, we are not going to make it effective and let us just admit that we are not going to do it.

I think there is merit to treating juvenile delinquency problems under the Justice Department or Safe Streets Act because there is a difference between the Children's Bureau affairs which have to do with children in the community, children in society, and then children who have become identified as being agonistic with the law.

I think that there is enough of a breaking point that there may be merit to having the approach to the resolution of these problems from a Justice-oriented origin.

I think that you might achieve more credibility with your police departments, more credibility with the whole judicial system from that approach.

I do not have a preference except that the moneys under Safe Streets, I think—

Senator Cook. Are you saying from the standpoint of local agencies they are going to have to work with the programs that are devised, that there is more of a feeling of association with LEAA programs than there is with the juvenile delinquency program?

Is it by reason of their departmentalization, No. 1, in Justice, and the other in HEW, that there is this type of skepticism?

Mr. SUELL. I do not know whether it is particularly personalities involved in the program. There is no way I could say.

I would suggest this, as far as extending the Juvenile Delinquency Act: I think that, you know, I used an unfortunate phrase of dangling a carrot, and I think that the worst possible thing that can be done is to hold out another hope and then not come through.

If you are going to just barely fund a Juvenile Delinquency program for a year, then what can you do? We have all experienced demonstration programs that go marvelously, and then they are cut off. It would seem to me if Congress is not willing to commit itself to a direction for a period of time—and I am talking about years—then we at the local level are better off having nothing.

I think my experience with the Safe Streets Act money was the feeling, the mood of everybody involved that this is going to be the thing, that the funds are going to keep coming and keep growing and this is going to give us the vehicle for ongoing programs.

You do not have to worry about having it pulled out from under you next year. I think that has a lot to do with my confidence in that source of funds.

If you could build that in this Juvenile Delinquency Act then fine, I think the emphasis is terrific.

I say if you cannot program, if you cannot project it for 5 year periods, then it really is not fair to the local communities.

Senator Cook. Are you saying to me, then, because the LEAA has more adequate funds and is more adequately financed, that there is more of an attitude of actual accomplishment, that there has been more funding of honest, ongoing programs, and that there has not been this experience under the Juvenile Delinquency Act because of its inadequate appropriations?

Mr. SUELL. Yes.

Senator Cook. Mr. Speiser.

Mr. SPEISER. Would you say that the Juvenile Delinquency Act of 1968 never really had a chance?

As you may know, it did not have a director for 2 years. The request for appropriations to Congress, although the act provided for \$75 million for each of the three—well rather for \$25 million the first year, and \$50 million the second, and \$75 million the third, or a total of \$150 million, the request for appropriations for the HEW, the administration, was only for a total of \$49.2 million, a third of what was authorized by the act itself, and from the fact that it did not have a director, and maybe did not have any direction, Congress only gave it \$30 million.

So, would you not say from those facts that the Juvenile Delinquency Act never really had a chance to show whether or not it should operate or could operate?

Mr. SUELL. No question. The limited contact I have had with the Juvenile Delinquency Act has been that it is sort of a stepchild. I have tried to emphasize the need for judges to be realistic, and being realistic about the Juvenile Delinquency Act, it is difficult for me to see how they could, how it could possibly start out now and catch up, you see, because in competition for funds in these domestic areas, with the Safe Streets Act continuing to grow and continuing to demonstrate a degree of success in many areas in what it is trying to do, I think it has got broad community support, and broad support among the people.

It is something they can readily measure. This is one of the unfortunate things, to have realistic program go to try to prevent and head off delinquency is that it is nearly impossible to measure.

I do not see how you could have, or really could sell Congress to adequately finance a Juvenile Delinquency Act at this time, but if you can do it, please do.

Mr. SPEISER. Well, what I am referring to is hanging in the wings, is the fact that Senator Bayh has introduced a bill, part of which is to extend the life of the Juvenile Delinquency Act for 1 year with \$75 million as an appropriation, which was the same as should have been appropriated for this past fiscal year with the understanding that this is really to see whether something can be done to revitalize or not revitalize but vitalize the Juvenile Delinquency Act rather than have it expire because of a lack of attention and lack of focus.

Does this not seem to be a justifiable gamble on the part of the Congress rather than to have the act that started out with such high hopes just expire from sheer lack of attention?

Mr. SUELL. I would say that if I had to make a decision as to whether to apply for funds under the Safe Streets Act or under the Juvenile Delinquency Act, that I could not apply to both, then I would not gamble on the Juvenile Delinquency Act unless Congress was willing to write in indications of multiyear funding.

What can you do if you attract a grant into your local program for a year, but go out and hire staff and then know that you have not only no assurance, but perhaps a good chance that you are not going to be able to have them next year?

Mr. SPEISER. Agreed, but that would seem to indicate that if the Juvenile Delinquency Act were to be extended, that the extension really is to consider what changes should be made in it to take care of the

problems that you just suggested, that life is temporary, and to put all of the effort that goes into the development of plans for local projects.

It really is not worth it if all you can be assured of is that you will have it for 1 year. But something should be done to consider whether or not some fundamental changes are to be made in the act, operating it out of HEW rather than lodging it in the LEAA or the Justice Department.

Mr. SUELL. I am afraid I am biased by some awareness of HEW programs under some of their other funding where large sums of money are placed into an area with the practical admonition to find some way to spend it right quick, and that is what I see happening to an extent with the Juvenile Delinquency Act, and under those circumstances—

Mr. SPEISER. Would you say there has been proper evaluation and control of LEAA moneys that have been expended?

Mr. SUELL. I would say in Kentucky there has been.

Mr. SPEISER. If, in fact, the Juvenile Delinquency Act were extended, would you put a heavy emphasis on evaluation and control of the funds or grants that are made under the act?

Mr. SUELL. Sure.

Mr. SPEISER. Let me go back to one of your points that you made about handling truants.

One of the witnesses this morning—and this may go to something that you, Senator Cook, phrased, about where about the Federal hooks—and Morton Cohen who worked in New York as a lawyer in the juvenile court with juvenile matters for a number of years and is now up at Harvard as a fellow, suggested that it might be a Federal crime to incarcerate a child for failure of school attendance.

Such failure is not and should not be criminal. It is another of those victimless acts which society punishes—this time compounding its error by dealing with children and presuming that the fault lies solely in them.

He suggests:

The power of Congress to pass such legislation lies within the 14th amendment which states in section V thereof that "The Congress shall have power to enforce, by appropriate legislation, the provisions of the article."

He refers to the fact that where most institutions are incarcerating juvenile civil offenders, given the brutality and the rest, is constitutionally true, and absent decent treatment techniques, which no one seems able to provide, is a denial of equal protection and due process.

What do you think of the suggestion?

Mr. SUELL. I see no justification for Federal interference into that, but I agree with Senator Cook, it is a State matter.

Senator Cook. Well, let me say this, I do not think it is a bad idea. I will be very frank.

Mr. SUELL. I disagree with you, then. I disagree if you think it is a good idea.

Senator Cook. I have to say that sounds like a suggestion that one would have to do a little research on and see whether under the Constitution, Congress would have this power and this authority.

I am not really quite sure whether it would or would not fall within the framework of the 14th amendment. My only point is that I think your suggestion as compared to this, an outright suggestion of con-

gressional action, is the idea that somehow or another by reason of funding, that one might be able to dangle a carrot, and not by the direct action of Congress itself within the framework and power bestowed on it by the Constitution, which I think are two altogether different matters.

Mr. SUELL. I will give way to your constitutional expertise.

Senator Cook. Do not do that.

Mr. SUELL. I do not think Congress has any power to enact such legislation or could justify the enactment of such legislation.

I think truancy laws, and, in other words, saying do not incarcerate in a detention facility for truants, to be a Federal offense would unnecessarily have to go along with another such Federal act having to do with runaway children, and another such act having to do with incorrigibles, the children beyond the control of their parents and so forth, and where you are talking about 50 percent of the children who come before the court, and I just do not think we are ready for a Federal juvenile court.

Senator Cook. Let me extend this a bit because I think the premise would be all right. If you are going to take in jurisdiction only, make it a Federal jurisdictional matter. I can see school superintendents all over the country saying all right, what kind of Federal facilities are you going to give us to handle this, and what kind of Federal bureaucracy are you going to establish to handle truants, because we are not going to handle them, ourselves.

Mr. SUELL. Well, I agree with you, Senator, and I am glad you raised that point because I think we have to make a delineation between legal guilt and sociologic guilt. I think the juvenile court as a judicial function has no business in sociological guilt. I think it has to deal with the legal relationship between the child and his community and the society. I think that is where we make one of our mistakes.

We try to resolve and deal with these nonlegal matters in juvenile court.

Senator Cook. I think what you have done, then, is to establish from the juvenile court's point of view, or at least yours, that truancy is not a legal wrong, truancy is not a wrong for which there should be legal action which subjects a young person to appear before a juvenile judge.

Mr. SUELL. That it should not be, correct. That is my position, and as you pointed out, the Kentucky Legislature just 6 or 8 years ago made an habitual truancy act within the jurisdiction of the court.

Senator Cook. And the schools have taken advantage of it?

Mr. SUELL. Yes, and the statute also provides the school shall maintain a truant school, and I do not know of any school.

Senator Cook. I do not know of any such school in the whole State of Kentucky. I do not think there is one.

Mr. SUELL. So the legislation in and of itself does not solve the problems.

Senator Cook. Let us get back to some of the things Mr. Speiser was First of all, let me make it clear I am not here as an advocate of talking about on the continuation of the Juvenile Delinquency Act, abolishing the Juvenile Delinquency Act, and I think Senator Bayh ought to be commended for introducing legislation to extend it, but I think within the process of this committee and the process of the

judiciary, that some thought ought to be given to this, and let me pose some questions to you:

Suppose an analysis of the LEAA might bring up some problems that have existed. Then do you not think it would be incumbent upon us to introduce legislation to change those inefficiencies by appropriate legislation?

Mr. SUELL. I would say if they are inefficiencies that have their source in the lack of necessary legislation, sure.

Senator Cook. And if the Juvenile Delinquency program could be continued, and if it could be adequately funded under its own title but within the framework of LEAA, and if it could receive let us say an appropriation of \$75 million rather than \$15 million, then do you not think we ought to give this serious consideration?

Mr. SUELL. I think we certainly should, particularly if you are able to have the mood developed that this is only the first year and not the last year of such an act, that there is a reasonable ground to believe that if successful, that this will continue on for a number of years; yes.

Senator Cook. Are you saying from your experience that the attitude of local officials in your position and responsibility have felt that one could not depend on the continuation of HEW grants into the future like they could count on grants, for instance, under LEAA, or is it just the opposite?

Mr. SUELL. No, I would say the experience has been more consistent under LEAA. I think the local communities are not taking the position that they can continue indefinitely, but at least they continue until they have had an opportunity to test the validity of the program and to try to make arrangements to pick up locally.

I think this is the mood and the attitude we are getting about LEAA and, of course, it is because of the progressive funding and the fact it is continued and has continued to grow and it has been very popular.

Senator Cook. Well, in this line, and before John Wall testifies, I want to get into the record and remind you, and remind Mr. Wall that it was in 1960—

Mr. SUELL. Six.

Senator Cook. It was in 1966, right around Christmastime we received a wire that all of our HEW funds were being cut by almost \$2 million as of the first day of the year, and all of us sat down well before Christmas and went through every department, and went through every agency, and went through every program and came up with almost a million dollars worth of funds and services from local government to replace HEW funds that were just summarily cut by a telegram.

Mr. SUELL. I do not remember the year, but I remember the incident.

Senator Cook. And the only point I am trying to make is that when you can get a program such as LEAA, with a great deal of assurance give to local communities that these programs are ongoing and will continue to be funded, then isn't it far better to take your chances with an agency of that kind than it is with an agency that can summarily let you know that half of your programs are going to be cut out?

Mr. SUELL. That is correct. I think the incident that you have described is certainly dramatic. It is not that unusual.

Several times each year we become aware that various HEW programs in the community are being cut back because funds have been terminated or funds have been cut down.

It is a fact of life in that type of funding. I do not mean that it needs to be, but it is.

Senator COOK. Thank you, Judge. I have no further questions.

Have you got any further questions?

Mr. SPEISER. I have a few more.

Senator COOK. Go ahead.

Mr. SPEISER. One other thought on protecting the rights of juveniles might be an amendment to the Federal Civil Rights Act to spell out rights of juveniles, that they are not to be deprived of their liberty without due process of law which, in effect, would require in State juvenile courts that they be given some of the rights to which they are entitled, at least as under the *Gault* decision, and perhaps beyond that.

Would this be a practical solution?

Mr. SUELL. Well, I do not know whether it would be a practical solution or not.

Perhaps some judges and, you know, I understand that particularly rural judges will be more inclined to abide by statutory written law than they will the case law.

Mr. SPEISER. Is it not true that many juvenile court judges are not following *Gault*?

Mr. SUELL. Yes. I attended an institute on the *Gault* decision about a year after it had gone into effect, and I went there to learn how the other courts were functioning within the decision, and I learned that practically all of the courts were still working on how do you avoid adhering to *Gault*. Again this is the attitudinal thing, and it is my impression that the majority of the courts are not, in fact, following the *Gault* decision, and in Louisville, Jefferson County, and many of the Kentucky courts we do.

I do not know that amending the Civil Rights Act is the way to do it, but there certainly needs to be some day to encourage the courts to follow what the law of the land is with regard to the rights of juveniles.

Mr. SPEISER. Would you, whether it is done by Federal law or State law think that the statute should not have the power to incarcerate a juvenile if, in fact, no treatment is given to the juvenile?

Mr. SUELL. This is a growing concept, and I think that the child has the right, should have the right to raise that issue and have it determined that if he is going to be removed from his setting, from his community, if the State is going to take him from his family or his home, then they are doing some other kind of service and promise of providing some service to him and they have then a corresponding obligation to provide that service.

I think so.

Mr. SPEISER. During the time you were juvenile court judge, did you find that you were operating in many cases trying to undo the harm that was done by either the police or agencies or whoever had the power to refer juveniles to detention centers in order to get them out of these detention centers. Either because as you mention the shocking incident in which apparently that is authorized by State law,

but you were not finding that you were exercising the powers as a juvenile court judge but, therefore, you were trying to undo the harm already done on juveniles by being unnecessarily detained?

Mr. SUELL. I think it would be simplistic to say they had been unnecessarily detained. I think their whole confrontation with the police can be a factor.

If the police officer is reasonable and logical in his approach to the young person, well then he gets that type of response.

If it is negative and aggressive, whether a child is detained or brought directly to the court, you still have that to contend with. Detention is not limited to the courts.

I think detention is certainly a problem, and here again we get into the letter of the law and the spirit of the law.

In Kentucky we have a statute which prohibits the detention of any juvenile under 16 in the county jail without a specific order of the court, based on a hearing determining that it is detrimental to his health or welfare, or to others not to be placed in the county jail. In the Commonwealth of Kentucky we do not have but about four detention centers throughout the State.

The rest of the counties put them in the county jail because they do not have detention facilities. It is awfully easy for the judge to look to the mood of the community and incarcerate juveniles in detention to prove that he is cracking down on them, and this shortsighted approach to resolving problems is one of the areas where I have suggested that we increase the delinquent's behavior, that we encourage it instead of really dealing with it.

Mr. SPEISER. Let me suggest when you talk about the carrot, how about a limitation on LEAA funds going to any policy agency or criminal institution where juveniles are incarcerated with adults?

Mr. SUELL. I do not have any objection to it. I do not know how workable it is.

Mr. SPEISER. Well, it would be workable in that either the community is going to have to find some other kind of facility or they are going to stop detaining juveniles at all under circumstances where apparently it is a matter of practice at least in 60 percent of the cases. And I do not know what percentage of the cases in the Jefferson court end up by committing juveniles, but I would imagine that it is far, far lower than the 60 percent of the initial referrals.

Mr. SUELL. Yes, sir. The vast majority of juveniles detained in detention are never even adjudicated to have committed offenses.

Mr. SPEISER. It is dismissed.

Mr. SUELL. They are not found to have committed an offense.

Mr. SPEISER. But they will still have spent some time, and I am not sure how much it is in Kentucky, some time behind some kind of maximum security facility?

Mr. SUELL. That is right. The detention in Louisville is the jail, as a security facility, and they will have spent time either there or in the county jail.

Mr. SPEISER. Is there any move on in Kentucky to limit the power, limit the juvenile court act, which I assume then would also limit the power of police to pick up juveniles or referral of juveniles to the juvenile court?

Mr. SUELL. I keep getting back to this attitudinal thing because we have a statute in Kentucky that requires that the police officer appre-

hending a child must immediately notify the child's family and then release the child to the family.

That is what the statute says to do, unless there is some compelling reason to believe the child may be a threat to himself or the community or he might run away.

And our youth bureau in the city of Louisville has a staff to screen these things, and they release about 50 percent of the children.

Most of the police departments do not release any of the children, they just summarily put them into detention, so the statute says one thing, but the reality is something else. So, this is why I think we need to look at how people feel about the juvenile statute.

Mr. SPEISER. If that is true, that the reality is different than the statute itself, then is not the answer to change the statute and to limit the discretionary power of the police even to think of putting a juvenile in detention facilities until they get to the juvenile court?

Mr. SUELL. I would say there may be a better answer in providing facilities for the juveniles to have the kind of representations that can hold the courts accountable to the statute as it is written.

Mr. SPEISER. How about using another method, that every time they detain a juvenile overnight that it costs them money, as it does, but take the money away in some other fashion?

Mr. SUELL. I cannot conceive of any statute such as that that could be written, that the institutional superintendents could not find a way around.

Mr. SPEISER. Thank you very much, judge. You have been very helpful.

Mr. MEREDITH. I would like to ask one short question.

Senator COOK. Go ahead.

Mr. MEREDITH. You emphasized in your statement and in your remarks here that you have a strong belief in the need for legal safeguards in dealing with juveniles.

Mr. SUELL. Yes.

Mr. MEREDITH. You also say there are 3,000 juvenile court judges in the United States. I would like to know how many of those are lawyers. Do you have any idea?

Mr. SUELL. Less than 10 percent of them are full-time juvenile court judges, and the majority of them have various other responsibilities, either in general trial work, probate work, or what have you.

I do not know the percentage throughout the country. I would say that basically in Northern and Eastern States that the juvenile courts are courts of general jurisdiction, where the judges are likely to be lawyers.

Basically in the Southern States and in some of the Far Western States the judges are in courts of inferior jurisdiction and quite often not lawyers, and I just could not give you a percentage.

Mr. SPEISER. Let me just interject. In the President's Commission on Crime and Administration of Justice, which was in 1967, the statistics they had, I believe, were that 71 percent of juvenile court judges were lawyers and 29 percent were not, but it did not take into account the geographical variations.

Senator COOK. Well, looking at the State of Kentucky, I would have to dispute those figures.

Mr. SUELL. In Kentucky we have 120 juvenile court judges and out of 120 juvenile court judges we have 13 lawyers.

Senator COOK. Well, the reason for this, and I think it ought to go into the record, is because the juvenile court judges in most of the jurisdictions, other than the major urban districts, is the county judge, and under our Constitution in Kentucky he does not have to be a lawyer to be a candidate for county judge, which is an elective office.

Mr. SUELL. That is right; the county judge has many diverse responsibilities, fiscal responsibilities, basically, but this here again I think is an area where there could be inducement to transfer juvenile court jurisdiction to a court of general jurisdiction where you do get legally trained juvenile court judges.

I think this is very necessary, and I think Congress could address itself to that.

Senator COOK. This is one of the very reasons that decisions such as *Gault* are not being followed because in many instances you have juvenile judges who do not have a legal background.

Thank you very much, Judge.

Mr. SUELL. Thank you.

(The prepared statement of Raymond L. Suell is as follows:)

PREPARED STATEMENT OF RAYMOND L. SUELL

The vision that produced the juvenile court was magnificent. A place where wayward children could be brought, not to be punished, but through the wisdom and benevolence of the kindly judge, to be guided away from a life of crime. In recent years we have become increasingly aware that this beautiful dream is largely unfulfilled. That the benefits of this enlightened concept of individualized justice often fail to reach the youth who need it the most. Recent supreme court decisions have forced us to face the reality of our failures in juvenile court. Are we willing to face still another reality? That rather than resolving our problem of juvenile delinquency, our courts as they are functioning may very well be reinforcing delinquent behavior? That we may be harming more children than we are helping?

Our juvenile justice system is one of our proudest achievements. An enlightened approach to the resolution of our children's problems with their community. A privileged, confidential, perceptive inquiry what a young person is, not just what he has done. The application of the best in psychological and sociological techniques to assist this wayward youth in dealing with his problems. Remedial and rehabilitative treatment programs designed to assist him in becoming a functioning contributing member of society.

Perhaps typically, our younger generation has the more accurate awareness of how the juvenile justice system really works.

There are over 3,000 juvenile court judges in the United States, each of whom is committed, in his own way, to fulfilling the promise of the juvenile court. Each Judge has his pet programs, his particular problems, his own theory on how to "cure" delinquency. Each judge fully intends to accord every child brought before him that individually tailored solicitous care and regenerative treatment demanded by the juvenile court philosophy. He only commits a child to an institution for his own good, and then for an indeterminate period of time until he has learned to deal with his problems.

What of our youth?

Over 50 percent of our juvenile court referrals are first offenders. Often "accidental" delinquents, guilty of being in the wrong place at the wrong time. These youngsters never come back. Whatever remedial effect their court experience has on them can only be estimated. Whatever damaging effect the labeling of delinquent has on them only time will tell.

The real delinquency population of our courts are often a part of a tenuous sort of subculture, alienated from the law and society by circumstance. They know our courts. They know that the first few times they appear in court they will be reprimanded and released. That eventually they will be placed on probation with stern warnings. They know the probation officer won't have time to see them until they are picked up again. They know that this revolving door policy

of in again, out again, and in again leads to commitment. They can predict the institution and length of stay almost to the day.

These youth know the realities of the system from their own experiences and that of their peers. They know nothing of the philosophy, only what really happens. They know that there are only so many police officers, only so many probation officers, so many institutional beds. They know that the system is operated by individuals, and which ones can be conned.

We all know that despite our scientifically improved methods of crime detection, despite our improved delinquency treatment methods and institutions, despite our system of social services and our increased knowledge of the behavioral sciences, juvenile delinquency continues to increase year after year.

This is not to say that we should abandon the dream of our juvenile court, it is still a great vision, we must face reality. Improving our programs and institutions is not enough. We have to examine the courts themselves. The juvenile court is the focal point of society's intervention into the lives of the delinquent and his family. Society may advise, suggest and counsel, but to impose sanctions we must use the judicial process. Otherwise our free society will be jeopardized.

It is important for the juvenile judge to remember that he may not impose his own particular brand of culture and morals on anyone unless they represent the collective conscience of his community within legal guidelines. No judge is immune from the suggestion of omniscience his judicial isolation fosters, but juvenile judges are particularly susceptible. Functioning in an informal setting, working with a staff usually appointed by himself, hearing cases of troubled youth and bewildered parents, in an area of law long neglected by the legal profession, who is able to challenge or even question his decisions or philosophy.

The Federal requirement of legal rules with constitutional safeguards to juvenile court proceedings may well be the solution to that court's own indentity crisis. This is the first step in developing an effective juvenile justice system. It must be fully implemented in spirit as well as in name. In the Jefferson County juvenile court we required each child to have legal counsel, furnished an exact copy of all charges, provided for confrontation with accuser; cross examination of witnesses, privilege against self-incrimination and was not subjected to court sanctions until the charges were proven beyond a reasonable doubt.

The result has been positive. It is as important for a youth to know he has had a fair trial as it is for him to receive one. Institutions receiving our commitments reported a high acceptance of treatment. No claims of having been railroaded or framed.

We found it necessary to use some of our funds for research, data collection on the children and families using our court so we could begin measuring the effectiveness, or lack of effectiveness of what we are doing.

We often hear that 90% of our delinquents live with their mother only. Our statistics show 30%. We think of our delinquent youth as all coming from welfare families. Only 20% come from families on public welfare. We must learn the real effects of our programs.

In any community, the most visible person in the juvenile justice system is the juvenile court judge. He usually molds public opinion as to the value of a particular treatment made, or community attitude. If he believes in a program he can make it work. If he believes children are persons entitled to the protection of the law, due process can be a reality.

No individual has the capacity to maintain objectivity unless his perspective is put to test. The use of trained legal counsel in juvenile court hearings accomplishes this need. Unless the burden of proof can be sustained the court has no right to intervene in the life of a child or his family. Unless a proposed commitment or treatment plan can meet the test of criticism by trained advocates, perhaps it should not be imposed. With our increasing awareness of the psychological and sociological harm the wrong inappropriate handling of a juvenile can produce, perhaps we should begin at stating we don't really have an answer for all our youngsters problems. We have an inclination to believe that in some way each child who finds his way into our juvenile court system needs to be modified or altered in some way else he or society will be greatly endangered. What about the estimated 80% to 85% of the youthful offenders who are never apprehended? They seem to grow out of their delinquent propensities much as we of past generations outgrew our youthful mischievousness.

This is not to say that we don't have dangerous, disturbed delinquents in our society, but we must be very sure not to place the wrong label on an incidental delinquent, the product of being in the wrong place at the wrong time. No matter what laws we write concerning secret hearings, the child is automatically

branded delinquent, by adjudication in our courts, no matter how slight the offense. Employment opportunities are diminished, the schools brand him a troublemaker, the police seek him out as a suspect. Many times this delinquency prone youth has a very low concept of self worth and grave doubts about who he is. His court appearance confirms all his negative feelings about himself, society contributes by attaching the delinquency label, as though psychologically predestined, he proceeds to behave and act in accordance with the way he thinks a delinquent should act. No matter whether the judge is harsh or lenient, he increases his alienation to the law and society. If treated harshly he feels he was dealt with unfairly. He no doubt knows of others who have committed similar offenses and received no punishment. If the judge gives him another chance, he becomes convinced he is a great con artist who can talk the judge out of anything.

We need to take a serious look at the psychological research being done with children in the field of operant conditioned and behavior modification. These studies suggest that in trying to change antisocial behavior, continual reprimands and punishment for undesirable behavior actually reinforces that behavior. On the other hand, change can be brought about by ignoring the undesired behavior and rewarding or reinforcing the desired behavior.

There is a heavy responsibility on the court to only accept jurisdiction over those cases which need official judicial intervention. Cases where there is a serious threat to the youth or the community without intervention, those youths who are dangerous must be identified and removed from the community. If punishment or the threat of punishment can reasonably be expected to effect a degree of rehabilitation it should be used. If not, there is no justification for the imposition of punishment.

Forty percent of the children referred to our court were referred for non-crimes behavior problems, school problems, these children should not be in court, should not be scarred by the delinquency label. Changing labels to "children in need of care" would solve administrative problems for agencies and institutions but would not alter the fact that these children should be dealt with on a social agency level in the community without court intervention. Another 30% of the children referred to our court were for minor offenses which could have been handled in the community. When we were young such minor infractions of the law were dealt with in our neighborhoods by our families and the police officer. We need to develop and support community alternatives to court referral, youth service bureaus, neighborhood centers, school programs for acting out students. The juvenile judge must be realistic about his role. He cannot be the cure all, end all for a community's juvenile problems. He must focus on that unfortunate group of delinquents so extreme in their hostility and behavior that they require institutional placement, secure facilities to protect both the youth and the community. He must be willing to admit that the court has nothing to offer many of the youth caught up in our rapidly changing society.

He must be a judge, not an amateur psychologist practicing his awesome authority on those families summoned before him. He must hear all the evidence available, both for the community and the child, as to the offense and as to the cause, as to what alternatives are realistically available and the probable consequences of each, and then having weighed all these factors, resolving doubts in favor of the child, he must enter a judgment which he and the child can live with the rest of their lives, because they must.

Senator Cook. Our next witness is Mr. John Wall. At least to my knowledge Mr. Wall served as superintendent of the Southfields Residential Group Center in Kentucky from 1960 to 1966. During that time he was also an instructor at the Kent School of Social Work at the University of Louisville, and in 1966 he became the first executive director of the Metropolitan Social Services Department in Louisville, and is presently the superintendent of the Edward R. Johnstone Research and Treatment Center in Bordentown, N.J.

I have been associated with John for many, many years, and I want to say that any time you wanted more money out of me you got it.

But, I think it was because of individuals such as John Wall and many of the people that it was my privilege to work with that such things as the Metropolitan Social Services Department really grew

and came into fruition. Maybe it is the county executive's position to be there, to be the guy who takes the brunt at the State legislature, but the catalysts to get these things done really come from the John Walls and the juvenile court judges like Judge Snell, and Gail Huecker and the people you work with who see the necessity for these innovative changes and who really kind of become the major lobbying group to see to it they are done.

So, it is with these remarks that I introduce Mr. Wall to the committee.

**STATEMENT OF JOHN M. WALL, SUPERINTENDENT, JOHNSTONE RESEARCH AND TREATMENT CENTER, BORDENTOWN, N.J.**

Mr. WALL. Thank you, Senator.

Senator COOK. John, glad to have you.

Mr. WALL. Some of the nicer things that have happened in my life have been my association with you.

Senator COOK. Well, thank you.

Mr. WALL. Thank you for the invitation. I accepted Senator Bayli's invitation, or to put it more accurately, I eagerly jumped at this opportunity because I have somewhere convinced someone I might help to build a better mousetrap or at least a more effective mousetrap.

Since I have been invited to speak generally about my impressions I will attempt to touch on those impressions which have generalized meanings and that can be applied regardless of the indigenous problems.

Large massive correctional facilities treating or acting as custodial agents for more than 100 personal residents at any time have a very limited rehabilitation potential and are in effect, jails.

Those persons released from such a facility have served time and are all the worse off for having done so. Institutions of 100 or more are correctional punishment centers regardless of their brochures describing grandiose facilities, staff, and programs.

If the Federal Government must spend the future construction moneys on State or federally operated facilities via subsidies, spend that money on large institutions only in the spirit of care and custody, not one of behavioral change philosophy. Most people sent to a correctional facility today, deserve removal from the community or they couldn't have blundered through the maze of fouled up judicial systems. To get in a correctional facility in this day and age one must literally be asking for it.

Local communities such as Louisville; States such as Kentucky, Indiana, and New Jersey do not have the financial resources to cope or adequately plan for the successful treatment or rehabilitation of the repetitive offender. Social, ethnic, urban, and economic problems being what they are today, make the problem even greater than it was 5 years ago. States and local communities need Federal subsidies much like the interstate highway construction programs of 10 years ago.

Large institutions cannot control staff, cannot effectively combat outside influences in militant philosophies, drugs, the thievery or economics. With the turmoil in today's society, it is imperative that we examine the effect and influence of that turmoil on our institutions. Institutional correctional administrators, and commissioners of child

welfare programs all spend a great deal of their time putting out fires, going from one crisis to another and spending very little time working with people, patients, residents, students, inmates, and so forth, who have the greatest chance for rehabilitation.

Large institutions cannot control staff, cannot effectively combat the community and are not the recipient of the good influences. Administrators are, today, more concerned with how to stop drugs and illegal contraband from entering the institution or how many vacancies they must create in staff in order to compensate for budget deficits, to be even aware of their offender recidivist rate.

The influence of the community is so pervasive that creating and maintaining a conventional environment is impossible. We must begin to systematically close down our large institutions in the future before they become worse purveyors of a sick society than they are today.

In small institutions it is very easy to schedule the programs and staffing in such a manner that the professional, well paid personnel, are spending their time with the resident rather than with other bureaucratic officials, reporters, investigators, budget bureau personnel, and so forth.

At the institution of which I am currently superintendent, our daily per capita cost is roughly \$28. This institution houses 300-500 students, has a staff of over 300 persons, a budget of \$2.9 million per year. Let's contrast that kind of fiscal expenditure with the following.

In a short term small treatment institution for 16- and 17-year-old male delinquents that I was superintendent of for 6 years, the average annual budget expenditure, approximates \$61,000. The \$61,000 went toward the treatment in residency of 60 youths at an average cost per year of \$1,147.64 each.

In the small institution the average length of stay for all boys admitted to the program was 4 months, 26 days. The \$61,000 figure included the normal budget expenditures, depreciation on the building, insurance, and depreciation on automobiles or other capital expenditure items.

The institution I am speaking about is Southfields Residential Group Center in Jefferson County, Louisville, Ky. Southfields has a population capacity of 20 boys who occupy the same building and living quarters. From this expenditure of \$61,000 it was calculated that it costs \$168.65 per day to operate Southfields or an average daily cost of \$8.43 versus the average daily expenditure in a large institution for 300 students of \$28 per day. The annual cost per boy at Southfields was \$1,147.64.

It is my administrative opinion that small institutions are both far more economical in terms of immediate cost, far more economical in terms of construction cost, far more economical in terms of staffing, and in terms of the potential for actual treatment or rehabilitation work with out-of-phase persons.

The field of juvenile delinquency treatment has been experimenting with many models for the past 20 years, ever since the Highfields program of New Jersey was started by Dr. Lloyd W. McCorkle. Since Highfields, many new approaches have been taken, utilizing group situations throughout the country. I would like to call your attention to several models that followup research has proven to be effective. There is the Highfields Experiment, Hopewell, N.J., that has been given wide national and international acclaim.

The Ford Foundation assisted in the building, staffing, and management of the Southfields Residential Group Center. The Ford Foundation also expended moneys for another group center idea, but of a non-residential nature, called the Pinehills Provo Utah experiment. Highfields has proven beneficial in two ways—one, in the treatment of the delinquent offender, and two, in the introduction of models of institutions and programs for treatment purposes. The greatest asset coming from the Highfields experiment, has been the belief that treatment can occur with the delinquent, whereas (prior to 1950), Judges across the country felt that by sending the youth who had some rehabilitation potential to the State reformatories they were sending them to a fate that would have very unpleasant and unprofitable consequences—very unprofitable.

Thus it is my feeling that Highfields was successful in not only introducing the guided group interaction approach, but also in proving that the future lies in small institutions rather than in any large massive institutions.

Construction costs for small residential treatment centers weigh heavily in the area of being of direct benefit not only to the recipient of services but to the taxpayer. Southfields, was built in 1960 at a cost of \$159,000. It is a complete permanent institution with dining, kitchen, bathing facilities, resident bedrooms, and a capacity of 20 residents. In addition to residential quarters for the inmates it also provided ample living quarters for the superintendent and his family, assistant superintendent and living quarters for the cook and maintenance man.

For \$159,000 in 1960 we were able to build a facility capable of treating 60 youngsters on a shorter term basis at a cost of \$8 and some odd cents per day. These same 60 youngsters at that time would have gone to the State Training School called Kentucky Village. There they would have been kept for a period of 9 to 18 months for their initial stay and for an equal period of time for successive stays. Instead, it is entirely possible that the same 60 young men sent to Southfields stayed for 5 and 6 months and did not return to a correctional facility for future incarceration or treatment.

Thus in 1960 when we were able to build 20 bed units for a cost of about \$8,000 per bed, this \$8,000 bed would serve at least three people per year. Contrast this with construction cost at that time in larger institutions of usually \$15,000 to \$30,000 per bed.

Today architects and budget bureau analysts project \$40,000 as a bed cost in building institutions housing 500 or more patients. It is no wonder that the institutional picture is entirely out of step with the resources available.

In building smaller institutions, it is more feasible to house even hostile acting-out aggressive delinquents in a less secure facility. Due to the fact that the administration of the center can influence the lives of the resident rather than the environmental milieu of the center being one of hostility, barbarism, confusion and at times anarchy.

Dr. Lovick C. Miller from the Child Psychiatry Research Center, University of Louisville, School of Medicine was provided with a research grant to study the Southfields institution for 4 successive years. The results obtained at Southfields were comparable to, if not better than, those obtained at Highfields, and showed that the Highfields program can be successfully undertaken in the areas beyond the State of

New Jersey. Dr. Miller found that of the youths who went through Southfields in the 4-year period and graduated or were released from the center, only 11 percent became involved in future delinquent activity that resulted in future incarcerations. Similar results have been obtained through other group programs across the country, and point to the fact that all future programs should be geared to the model now being utilized in Kentucky, that is, the smaller, more treatment minded, easily administered institution.

It has also been my fortunate experience to have become involved in designing new directions for juvenile delinquency programs of a local community nature. In 1965 we were fortunate to receive a grant from the Office of Juvenile Delinquency and Youth Development to run a nonresidential group center called Parkland. It was our intention to work with a group of youngsters who normally would have been sent to the State Training School.

Our OJDYD grant was for a GGI center called Parkland Non-Residential Group Center. Parkland attempted to embody all of the advantages of the small institutional group centers but adding to it the advantages of working with the teachers, working with the school administrators, working with the policemen, working with the community, the community leaders, and the peer groups.

It is not my contention that all delinquents can be treated in the community but certainly all delinquents, regardless of their record do not necessarily need to be removed from the community, even for a short period of time in the best of the group centers.

It was found through research and followup of this program that the program was far more successful with the parents than with the group of delinquent boys. As a result of our experiences with Parkland Non-Residential Group Center we feel that programs designed to deal with the individual within his own community can be effective change agents. We feel that all programs at a community level should deal with the families of the youngster as well as the youngster himself, especially if the youngster is under the age of 15.

In conclusion I would like to state that the field of residential care of delinquents has evolved new organization structures other than the large training school, serving an undifferentiated population of juveniles.

Federal moneys should go toward the serious replacement of large training school institutions and reformatories that house our delinquent youths, however, Federal subsidies have in themselves discouraged the idea of long-range planning.

In my experiences, Federal grants are both a blessing and a problem. It is hard to convince administrators and fiscal, as well as legislative bodies, that a long-range plan can be worked out that has been tied to any Federal demonstration project or subsidy. It is possible that Federal moneys have served to discourage the replacement of antiquated institutional complexes because Federal moneys were not available on a long-range basis but were only available for demonstration type projects that had no tie-in to a transitional phase for a State.

In the past Federal moneys could not be relied on for longer than a 3-year period. We know from our past experiences that the States will not replace massive, large antiquated facilities with small, more treat-

ment-oriented institutions, because the State does not have the money and has not had the money in the past to encourage professional development. If we as a Nation are ever going to be able to get away from our warehousing of "out-of-phase" wayward children, we must be able to bring the child to an environment conducive to some type of humane change that is not subjected to the continued ills of society.

Thank you.

Senator Cook. Thank you very much, Mr. Wall, and I think you are to be highly commended for your remarks, and I just wish for the record that you would explain exactly what Southfields is, how it operates, its environment, its surroundings, so that we can get an idea of the kind of institution we are really talking about.

Mr. WALL. Southfields is a small building at 28th and Timber. It is 20 miles out in the country and about 8 miles back in the timber, and that is about the distance it is from anything else that is going on.

It is an isolated facility. There is no contamination of its program by other factors.

We have four bedrooms, five bedrooms, really, four boys to a room, and they have an office, a dining room and a kitchen, recreational yard, just a small garage and living quarters for a superintendent and his family.

The superintendent, 2 days a week, regardless of his degree, and I had a master's degree when I started, has to cook, on Monday and Tuesday of every week, breakfast, lunch, and supper, and at night from 7:00 to 8:30 you work with one group of 10 boys in a group interaction session. Some people call it group therapy, and others call it other names. We call it the group interaction, and he works with another group from 8:10 to 10:15, and the superintendent puts the boys to bed, goes upstairs to his own apartment, and no one supervises the boys until morning.

This occurs 5 days a week.

On Saturday the building is cleaned. On Sunday there are visits with the families for 2 or 3 hours.

The boys work in a community project, and right now they have been working with the parks in Jefferson County. They have worked at a mental hospital as laborers, and it is not a program geared to training anyone in any vocational skills. It is simply to change attitudes and change the boy's concept of himself. But it is a program where the staff and the youngsters get together, and the decision that a staff member makes about a boy's life are made with the boy.

It is hard to believe that a black youngster from the west end of Louisville would ever let a white man living in the east end make any decisions about him or whatever or would ever believe that he would get a fair shake from a white man, but in a group situation such as Woodburn or Southfields, or the Barkley Boys Camp there is such a bond that grows between the administrators and the people who work there, and the youngster that color makes no difference any more, nothing makes any difference.

You are talking and working together, and the peer group helps make decisions, and the peer groups do the correcting.

I cannot recall in my 6 years' experience at Southfields when I ever

had to lay a hand on a boy, even the roughest, tallest, biggest, most ugly kid.

I never had to do more than raise my voice. The rest of the kids would do everything else for me. They did not manhandle anyone and they did not have to have fights. We had no duking, we had no dope, we had no booze, we did not have to worry about the environment.

We do not have to worry about anyone else bothering us. We do not have to worry about somebody coming in to run the place. The boys would not tolerate it.

You cannot sit down in a group meeting and have your peers criticize you and look you over and challenge your statements and go outside of that room and try to duke a boy or to run him.

The greatest thing is that there are no phonies because you cannot sit day after day, 5 days a week in meetings, and living with someone for 24 hours and not find out who is strong and who is weak and who means what they say because of the environment you can have in a small group center. And you can change people's lives, you can bring about behavioral change, and some of the behavioral contaminants works in your favor rather than against you, but your peer groups will control a very conventional environment if you let them, and it is the only place I have seen it happen.

You just cannot get that kind of environment in a larger institution where the staff works on three shifts. They are worried more about what some other staff member has said about them than they are about doing with the kids. And at Southfields and Barkley and Highfields, Oceanfields, and others, the staff has to be very close with the kids. You cannot be a phony or they will run you out.

But, it is an environment that is conventional and conducive to change and that encourages the kid to drop his drug habits and drop anything and to want to make something of himself and reexamine himself.

You do not have to sit there and keep telling him how bad he is. They will tell him, and he will find out himself.

Senator Cook. You said to me once, a long time ago, that the punishment that the group meted out to its own was much rougher than what you, as the superintendent, would mete out under the same circumstances. Do you recall that?

Mr. WALL. Oh, yes. When you sit with a boy, and say you are one of 10 boys in a group meeting, and after meeting 5 nights a week, or say for 4 weeks, you get to know each other very well, and you begin to make decisions about people that you are with that have real significant meaning, and sometimes they seem a lot rougher to a person like myself.

But, the boy who is really saying you should go here, or he should be given this or that does it because he knows what should be done, and he knows better than we do what should be done with this youngster.

And so, their punishments are sometimes a lot rougher than ours would be for that, but I think they see something that has to be done that we do not see sitting there in our chairs.

Senator Cook. What kind of punishment did they mete out to members of the group?

Mr. WALL. They could do anything, even send them back to the court, recommend that they go to the State training school.

Senator Cook. In other words, you vested that authority in them?

Mr. WALL. I would review their decision, and if I did not agree with them I would try to change their minds. But, other kinds of punishment would be taking their money away from them, recommending they not be paid for the day's wages, recommending that they go out and dig a ditch all day, or going to the pit, is what they call it, and they would send a boy out to dig in the ditch until he wanted to come back to the group and square with them, and they would meet with him every night. But if he did not want to square with them he could go back out and dig all day without getting paid, and whether it rained or snowed, he would be out digging. This is more of what they would do to one another, but not any system of duking, really in trying to deal with the kid's attitude.

He was not going to change, or if he was not going to participate in the group they would deal with it, and it has been a part of a culture, and a real strong part of the culture that they would really get involved with in the decisions.

Senator Cook. Now, make a philosophical comparison, an individual participant comparison and a financial comparison between the institution you are now in and the institution that you left.

Mr. WALL. OK. The institution that I have is a multiuse, multi-purpose facility.

It has a unit for 118 kids, defective delinquents, and these are youngsters with IQ's of 50 and 60 who are fairly long-range kind of placement problems.

They are violent, they are acting out, they have either killed someone or they have raped someone, or they have persisted in continually running away, and there is no place for them.

And I have another unit, a 40-bed unit, a beautiful thing for the blind, multihandicapped, retarded, and I have another unit of about 300 beds for the emotionally disturbed, mildly retarded male and female residents, aged 12 to 25.

In running a large institution like I am doing now, we are putting a lot of money into paving roads, to build a bigger administration building complex, to build a bigger and better classroom, and our heating plant cost several million dollars.

It is a brandnew heating plant. We have a new research unit.

We have about 25 people on staff as maintenance men. We have a large special education department with nine special education teachers.

We have about 304 different staff members, 300 different kinds of students, and the staff goes one way and the child goes another way, and no one is really responsible for the child and really knows the child that well.

The child has to go around the complex looking for someone he really thinks understands him. And this overhead, with all of our specialists costs us \$28 a day. That is a whale of a lot of money, but in a smaller kind of institution we do not need at Southfields, for instance, you know, all of this.

All we had was a superintendent, a cook, a maintenance man, and an intern now and then, and a work supervisor.

So, there are six people, maybe, and you are involved with 20 kids or 60 kids a year.

We have a small heating plant, you know, and all we had was an oil-fired hot-water system, very, very competent system—we did not need a \$2 million plant, and I think if you listen to Mr. Perkins you will find that he is getting away from the large plant because he cannot control it and there are influences from the community.

I would hate to run the Bordentown Reformatory, which at one time was offered to me as a job, because you cannot even control the staff and there are many other problems. You cannot make the environment conventional enough like you can at Southfields or a small youth center where you actually control what goes on and you try to control the way people are approaching the student.

Southfields, I could tell what a staff member was doing with a child, I could tell how he thought and felt about that child, and as you move to a larger and larger facility, you have more staff that come in and you have more people who you cannot control how they think and feel, and once they get civil service status they do not care how you think. They are going to do their job as they see fit, and so the residents, you know, go their way and the child goes his way.

Senator Cook. What were the young men paid for the work that they did?

Mr. WALL. At the time I was superintendent they were paid 50 cents a day, and they now may be making upward of a dollar and a quarter an hour.

Senator Cook. And do they deposit it, or do you handle it, or do they handle it?

Mr. WALL. At the time I was superintendent we handled the money and we were giving them \$3 a week to spend as they saw fit, or they could always save it.

Now, they still get about \$5 a week, and the rest of the money they save until they are graduated from the program, and at the end of the program they get their wages. And, this is really a kind of an incentive that they have got, which is a very creative thing, and it puts the boys in jobs such as in the parks department, and they normally would have paid laborers anyway, and they were having a hard time getting them, and they could pay the boys a dollar and a quarter or a dollar sixty an hour.

I do not know that the Federal Minimum Wage Act was followed in all of the program, but they could induce the boys to stay in the program and not go AWOL because the boy has too much of a financial investment, he has a couple of hundred bucks which he got when he made in the program the right way, and if he sits around long enough he has got to listen to the peer group and he is hooked, you know, he is hooked on money, and it is a very conventional way, and he is finally hooked on something else besides dope, and that is his money, and that is through work.

Senator Cook. Do you have any evaluation of the 11 percent that were later incarcerated? Did you every attempt to make any evaluation on an independent case basis, and obviously it would have to be an independent case basis, would it not?

Mr. WALL. I did not, no. Maybe a lot of the 11 percent would have been kids that I would not have thought to have failed, but I would not know that they were any different from those that did not fail, inasmuch as our police cannot catch every one.

Sometimes it is a matter of accident whether you are caught or not caught. The 11 percent were youngsters who could have gotten into some trouble, but they were not incarcerated or the judge did not feel they should be sent away.

They could have gotten into some small, minor difficulties, but they did not persist.

Senator Cook. Do you pick your candidates for Southfields?

Mr. WALL. Well, I had the good fortune of having a close association with our judges and our juvenile court workers, and so I could interview, go down to the detention center and interview the 14-, 15-, 16-, and 17-year-old youngsters who were in there and ask the court to consider Southfields as an alternative rather than the State training school or maybe something else.

I worked very closely with Judge Suell and Judge Marshall when he was the juvenile court judge, and we could find the kind of kids that needed it, and we felt had a good potential.

Senator Cook. What I am really trying to say is that as far as juvenile delinquents were concerned, did you get the cream of the crop?

Mr. WALL. Well, we got the kids who were tough enough, but who had the potential. We did not take those who we thought were going to fail immediately because they had been in another facility.

Senator Cook. Then you did not take anybody if they had been in another facility?

Mr. WALL. If they had been in another correctional institution, we did not take them.

But, that does not mean we could not have. It has been proven later that we could have.

Senator Cook. This is the point I am trying to get to, if this philosophy is to prevail, if the small off-campus institution, self-run, peer-dominated, is to sustain itself, can it sustain itself at all levels?

I mean, can it sustain itself other than with this kind of choice selection that you exercised?

Mr. WALL. Dr. Perkins will enlarge on it, but yes, it can sustain itself. I think you will have degrees of success, and I think there are larger periods of stay in the smaller institutions, but you have a much greater chance of running a less secure, less expensive facility if it is smaller.

You can, if you get young residents to influence their peers, even if he is a failure of several times, I think he still has something that he wants to work on, and I think you can bring it out in him.

But, if you can have the tougher offender in a smaller group setting.

Mr. SPEISER. With Southfields or is it a maximum security institution?

Mr. WALL. No; it is a very minimal security, and one point is that the doors are never locked, there are no gates, no fences, nothing.

There is no staff member on duty any night except Saturday night, after 10 o'clock. You put the kids to bed at 10, and you wake them up at 6 in the morning, and they will keep themselves there.

Mr. SPEISER. Now, there has been testimony before the subcommittee of the disadvantages of having institutions away from the community in which the juvenile lives because of the difficulty for visiting by parents, or being an artificial kind of situation because when they get out

they go back to the environment in which they lived. Would this criticism be applicable to Southfields?

Mr. WALL. Southfields is 20 miles out so, you know, maybe 28 miles out from the West End of Louisville, but it was certainly no disadvantage.

Twenty-eight miles in this day and age is really just next door.

Mr. SPEISER. Well, except there are some families who do not have cars.

Mr. WALL. It is funny, but I used to think that this was the case, that maybe they did not have cars, but they always have friends who have cars, and if they want to find a way to get in contact with their children, they will find a way.

Mr. SPEISER. What percentage of the parents or families visited?

Mr. WALL. I would say out of 20 say on any given Sunday if we had 20 boys in residence, at least 15 would be out there.

Mr. SPEISER. All right. Were the boys furloughed out?

Mr. WALL. Yes, they would get their furloughs on special weekends from Friday noon until Sunday night at 7. They would get off on furloughs on weekends and so on.

Mr. SPEISER. What was the average length of stay at Southfields?

Mr. WALL. Four months and 26 days.

Mr. SPEISER. What kind of educational program did you have?

Mr. WALL. At the time I was superintendent we did not have an educational program, but since I left my successor has instituted a GED program, and from everything I hear it has been very successful.

Mr. SPEISER. So during the time they were there they did not have an educational program and they fell behind in school, or they were actually dropouts anyway?

Mr. WALL. These are the youngsters who began dropping out at about the fifth grade. They began losing any gratification of school at all by about the fifth grade point and they would go on to the sixth grade, and finally they would get a promotion on into the seventh grade, and they would be truant from school, but they would go on in school to the eighth grade, and actually really drop out there. We felt rather than changing their attitudes about schooling that if they could do something for themselves it would encourage them to go back.

We were lucky enough in Jefferson County that these young men do have a program to go back to for half days once they are released. Now it is expanded with the title I money.

Mr. SPEISER. All remedial money?

Mr. WALL. To bring the teachers on to the staff part time.

Mr. SPEISER. What percentage of the youngsters there were functional illiterates?

Mr. WALL. Not more than 5 percent, 5 percent or less.

Mr. SPEISER. Did you have any type of a solitary disciplinary confinement?

Mr. WALL. No, no solitary or disciplinary. We did not have an isolation room or any confinement. Most of the confinement was in the child's mind anyway, and he was locked in by his peers and the peers' attitudes, and the image that his peers had of him, and they had a great deal of control because he would not run because they would think he was chicken, and he would not run for several other reasons.

If he was a very violent person or very acting-out, you might have to take him down to the detention center, and that was in a minimum of cases.

Mr. SPEISER. Was there any resentment by any of the youth that were there that they were being worked, and that they were a cheap form of labor?

Mr. WALL. No, not at the time I was there. I did not feel that they were. I did not ever. If anyone would make that remark in the group meeting, I think the group would deal with it in terms of: Have you ever worked before, what do you know about work, and would find that he would make that kind of an excuse or a statement because he really did not want to work, and so he was trying to find an excuse.

Mr. SPEISER. Was Southfields dependent on the labor of the youth who were there, to operate because they have a fairly low budget?

Mr. WALL. We would keep one boy home a day to clean up, mop the floors, and so on, but we did not use them to cook, to wash clothes or to do anything like that, and it was not dependent on any kind of labor except for KP duty.

Mr. SPEISER. Thank you very much.

Senator Cook. Mr. Meredith?

Mr. MEREDITH. You mentioned in your statement that you were involved in the Park Land projects.

Now, if I understand you correctly, that is a couple of portable classrooms, is it not?

Mr. WALL. Those were the portable classrooms we got.

Mr. MEREDITH. The young men were only there during the day, and released at night to go home?

Mr. WALL. Yes.

Mr. MEREDITH. How did they compare with Southfields as far as recidivism rates?

Mr. WALL. The recidivism rate with the young men at Park Land was not anywhere near Southfields, but the real benefit of that program was one of working with the parents, getting the mothers who said they had given up on these young men to really begin to feel not only with that child but with other siblings in the family. I think a lot of constructive family work was done, but not so much the targets group, the young men 13, 14, or 15 initially, and the real benefit came to the mothers, not to the youngsters.

There are many cases, and park land was like a lot of other projects that had gone on around the country. It is funded with Federal funds for a short period of time and has to produce a certain kind of results, or it is wiped out.

You cannot continue to play with the model—like, you know, continue your research and experiment until you get the right combination of factors.

Now, you can continue a dilapidated and antiquated correctional facility for 500 kids for umpteen thousand years and change it and reorganize it and do anything you want and you will never make it effective, but the Federal moneys, if we wrote a grant for a certain kind of project, then we had to stay within that project, within the guidelines of the grant that we had to follow, all of the assumptions that we made in terms of what kind of treatment we were going to be conducting in the target group, we could not adapt and change,

and when we found we should have been doing this and that our grant would have been cut off if we did not do something else.

We should have been experimenting with the research model that allows the change rather than one that is tied right strictly to a tight process.

Mr. MEREDITH. Is the project still in existence?

Mr. WALL. The project is out of existence. The funds ran out and the local community did not pick it up. They did not pick it up because it was not as successful as we had hoped. We wanted to work with the school, and we put it right on the school grounds.

We worked with the teachers. We did not do as much work with the teachers as we should have.

We worked with the business community, with the peer groups, policemen and so on. We were getting something going, but the funds were drawing up, and staff members would not stay, and then we could not support it.

Mr. MEREDITH. Do you feel that it was a worthwhile venture?

Mr. WALL. I think in this endeavor I would do it a little differently if I did it again, but I think they are very worthwhile because you really hook the problem, which is the mother or the father, but you can hook the family with it.

Senator Cook. Thank you very much, John.

Mr. WALL. Thank you. It has been my pleasure.

(The prepared statement of John M. Wall is as follows:)

PREPARED STATEMENT OF JOHN M. WALL

Mr. Chairman, Senator Marlow Webster Cook, Members of the Senate Juvenile Delinquency Subcommittee and staff members of the Juvenile Delinquency Subcommittee.

Thank you for the invitation. I accepted Senator Bayh's invitation, or to put it more accurately, I eagerly jumped at this opportunity because I have somewhere convinced someone I might help to build a better mouse trap or at least a more effective mouse trap.

Since I have been invited to speak generally about my impressions I will attempt to touch on those impressions which have generalized meanings and that can be applied regardless of the indigenous problems.

Large massive correctional facilities treating or acting as custodial agents for more than 100 personal residents at any time have a very limited rehabilitation potential and are in effect, fails. Those persons released from such a facility have served time and are all the worse off for having done so. Institutions of 100 or more are correctional punishment centers regardless of their brochures describing grandiose facilities, staff and programs. If the Federal Government must spend the future construction moneys on State or federally operated facilities via subsidies, spend that money on large institutions only in the spirit of care and custody, not one of behavioral change philosophy. Most people sent to a correctional facility today, deserve removal from the community or they couldn't have blundered through the maze of fouled up judicial systems. To get to a correctional facility in this day and age one must literally be asking "for it".

Local communities such as Louisville; States such as Kentucky, Indiana and New Jersey do not have the financial resources to cope or adequately plan for the successful treatment or rehabilitation of the repetitive offender. Social, ethnic, urban and economic problems being what they are today, make the problem even greater than it was five years ago. States and local communities need Federal subsidies much like the inter-State highway construction programs of ten years ago.

Large institutions cannot control staff, cannot effectively combat outside influences in militant philosophies, drugs, the thievery or economics. With the turmoil in today's society, it is imperative that we examine the effect and influence of that turmoil on our institutions. Institutional correctional admin-

istrators, and commissioners of Child Welfare programs all spend a great deal of their time putting out fires, going from one crises to another and spending very little time working with people, patients, residents, students, inmates, etc. who have the greatest chance for rehabilitation.

Large institutions are at the mercy of all of the bad influences from the community and are not the recipient of the good influences. Administrators are, today, more concerned with how to stop drugs and illegal contraband from entering the institution or how many vacancies they must create in staff in order to compensate for budget deficits, to be even aware of their offender recidivist rate.

The influence of the community is so pervasive that creating and maintaining a conventional environment is impossible. We must begin to systematically close down our large institutions in the future before they become worse purveyors of a sick society than they are today.

In small institutions it is very easy to schedule the programs and staffing in such a manner that the professional, well paid personnel, are spending their time with the resident rather than with other bureaucratic officials, reporters, investigators, budget bureau personnel, etc.

At the institution of which I am currently superintendent, our daily per capita cost is roughly \$28. This institution houses 300-500 students, has a staff of over 300 persons, a budget of \$2.9 million per year. Let's contrast that kind of fiscal expenditure with the following.

In a short term small treatment institution for 16 and 17 year old male delinquents that I was superintendent of for six years, the average annual budget expenditure, approximates \$61,000. The \$61,000 went towards the treatment in residency of 60 youths at an average cost per year of \$1,147.64 each.

In the small institution the average length of stay for all boys admitted to the program was four months twenty-six days. The \$61,000 figure included the normal budget expenditures, depreciation on the building, insurance and depreciation on automobiles or other capital expenditure items.

The institution I am speaking about is Southfields Residential Group Center in Jefferson County, Louisville, Kentucky. Southfields has a population capacity of 20 boys who occupy the same building and living quarters. From this expenditure of \$61,000, it was calculated that it costs \$168.65 per day to operate Southfields or an average daily cost of \$8.43 versus the average daily expenditure in a large institution for 300 students of \$28. per day. The annual cost per boy at Southfields was \$1,147.64.

It is my administrative opinion that small institutions are both far more economical in terms of immediate cost, far more economical in terms of construction costs, for more economical in terms of staffing, and in terms of the potential for actual treatment or rehabilitation work with "out-of-phase" persons.

The field of juvenile delinquency treatment has been experimenting with many models for the past twenty years, ever since the Highfields program of New Jersey was started by Dr. Lloyd W. McCorkle. Since Highfields, many new approaches have been taken, utilizing group situations throughout the country. I would like to call your attention to several models that follow-up research has proven to be effective. There is the Highfields Experiment, Hopewell, New Jersey, that has been given wide national and international acclaim.

The Ford Foundation assisted in the building, staffing and management of the Southfields Residential Group Center. The Ford Foundation also expended monies for another group center idea, but of a non-residential nature, called the Pinehills Provo Utah experiment. Highfields has proven beneficial in two ways—one, in the treatment of the delinquent offender, and two, in the introduction of models of institutions and programs for treatment purposes. The greatest asset coming from the Highfields experiment, has been the belief that treatment can occur with the delinquent, whereas (prior to 1950), Judges across the country felt that by sending the youth who had some rehabilitation potential to the State Reformatories they were sending them to a fate that would have very unpleasant and unprofitable consequences.

Thus it is my feeling that Highfields was successful in not only introducing the guided group interaction approach, but also in proving that the future lies in small institutions rather than in any large massive institutions.

Construction costs for small residential treatment centers weigh heavily in the area of being of direct benefit not only to the recipient of services but to the tax payer. Southfields, was built in 1960 at a cost of \$159,000. It is a complete permanent institution with dining, kitchen, bathing facilities, resident bed-

rooms, and a capacity of twenty residents. In addition to residential quarters for the inmates it also provided ample living quarters for the Superintendent and his family, Assistant Superintendent and living quarters for the cook and maintenance man.

For \$159,000, in 1960 we were able to build a facility capable of treating 60 youngsters on a shorter term basis at a cost of \$8. and some odd cents per day. These same sixty youngsters at that time would have gone to the State Training School called Kentucky Village. There they would have been kept for a period of nine to eighteen months for their initial stay and for an equal period of time for successive stays. Instead, it is entirely possible that the same sixty young men sent to Southfields stayed for five and six months and did not return to a correctional facility for future incarceration or treatment.

Thus in 1960 when we were able to build twenty bed units for a cost of about \$8,000. per bed, this \$8,000. bed would serve at least three people per year. Contrast this with construction cost at that time in larger institutions of usually \$15,000. to \$30,000. per bed.

Today architects and budget bureau analysts project \$40,000. as a bed cost in building institutions housing 500 or more patients. It is no wonder that the institutional picture is entirely out of step with the resources available.

In building smaller institutions, it is more feasible to house even hostile acting-out aggressive delinquents in a less secure facility. Due to the fact that the administration of the Center can influence the lives of the resident rather than the environmental milieu of the Center being one of hostility, barbarism, confusion and at times anarchy.

Dr. Lovick C. Miller from the Child Psychiatry Research Center, University of Louisville, School of Medicine was provided with a research grant to study the Southfields institution for four successive years. The results obtained at Southfields were comparable to, if not better than, those obtained at Highfields, and showed that the Highfields program can be successfully undertaken in the areas beyond the State of New Jersey. Dr. Miller found that of the youths who went through Southfields in the four year period and graduated or were released from the Center, only 11% became involved in future delinquent activity that resulted in future incarcerations. Similar results have been obtained through other group programs across the country, and point to the fact that all future programs should be geared to the model now being utilized in Kentucky, i.e. the smaller, more treatment minded, easily administered institution.

It has also been my fortunate experience to have become involved in designing new directions for juvenile delinquency programs of a local community nature. In 1965 we were fortunate to receive a grant from the Office of Juvenile Delinquency and Youth Development to run a non-residential group center called Parkland. It was our intention to work with a group of youngsters who normally have been sent to the State Training School.

Our O.J.D.Y.D. Grant was for a G.G.I. Center called Parkland, Non-Residential Group Center. Parkland attempted to embody all of the advantages of the small institutional group centers but adding to it the advantages of working with the teachers, working with the school administrators, working with the policemen, working with the community, the community leaders and the peer groups.

It is not my contention that all delinquents can be treated in the community but certainly all delinquents, regardless of their record do not necessarily need to be removed from the community, even for a short period of time in the best of the group centers.

It was found through research and follow-up of this program that the program was far more successful with the parents than with the group of delinquent boys. As a result of our experiences with Parkland Non-Residential Group Center we feel that programs designed to deal with the individual within his own community can be effective change agents. We feel that all programs at a community level should deal with the families of the youngster as well as the youngster himself, especially if the youngster is under the age of 15.

In conclusion I would like to state that the field of residential care of delinquents has evolved new organization structures other than the large training school, serving an undifferentiated population of juveniles.

Federal monies should go toward the serious replacement of large training school institutions and reformatories that house our delinquent youths, however, Federal subsidies have in themselves discouraged the idea of long range planning.

In my experiences, Federal Grants are both a blessing and a problem. It is hard to convince administrators and fiscal, as well as legislative bodies, that a

long range plan can be worked out that has been tied to any Federal demonstration project or subsidy. It is possible that Federal monies have served to discourage the replacement of antiquated institutional complexes because Federal monies were not available on a long range basis but were only available for demonstration type projects that had no tie-in to a transitional phase for a State.

In the past Federal monies could not be relied on for longer than a three year period. We know from our past experience that the States will not replace massive, large antiquated facilities with small, more treatment-oriented institutions because the State does not have the money and has not had the money in the past to encourage professional development. If we as a Nation are ever going to be able to get away from our warehousing of "out-of-phase" wayward children, we must be able to bring the child to an environment conducive to some type of humane change that is not subjected to the continued ills of society.

Senator Cook. Dr. George Perkins.

George, it has been a long time. Dr. Perkins served as commissioner for the Kentucky Department of Child Welfare since February 1968 and has had extensive experience in the area of juvenile delinquency during the past several years, serving as a consultant in various workshops for child care personnel in Florida, Georgia, Montana, North Carolina, and Texas. It is good to have you here.

#### STATEMENT OF GEORGE PERKINS, COMMISSIONER OF CHILD WELFARE, COMMONWEALTH OF KENTUCKY

Dr. PERKINS. It is good to be here. It is a temptation at this time, frankly, after hearing four testimonies which I think are so complimentary to sort of say "Me too," let us just get on and do it.

Let us have people with the right attitude, and let us fund the things that have shown they will work and then set about doing them.

I think that is essentially what I am going to be saying, that we believe that is what we have done in Kentucky. I think all too much in the juvenile delinquency field for a number of years we have been not unlike the farmer who was approached by the book salesman who was trying to sell him some books on how to farm better said the farmer, "Hell, you know, I do not need to know how to farm better, I ain't farming half as good as I know how now."

And I think that is what we have been doing in juvenile delinquency. We have seen some things that have worked, and we just have not gone on and funded them to the extent of carrying them into reality.

I do think we have been able to carry out some programs to a greater extent in Kentucky, because we have been able to work out the relationships of using LEAA and the Kentucky Crime Commission on Law Enforcement and Crime Prevention, and the Atlantic Regional Office of HEW, the Bureau of Vocation Rehabilitation, our local school districts. We have pooled these things, the resources, the funding together to bring about the result which I am going to mention here, the outcome of which is being able to phase out the big old State training school, which I think no administrator of a program would really like to have.

We have just been able to do this in Kentucky, and faster than I think most administrators would have been able to do.

But, I think the secret of this has been that we have been able, as you will find in the editorial I have included with some of this testimony to apply this principle of cooperation, if you will, and not sit around and mouth about cooperation, but to go actively out and seek

sources of funding and other agencies so that we can all work together to bring about desirable results, strengthening our system for prevention and treatment of the mounting nationwide problem of juvenile delinquency. In my estimation such strengthening can be achieved only by first confronting and accepting a few fundamental approaches to problem solving.

Once these are resolved, if possible, visible progress can be achieved and the ultimate goals, though not reached instantly as we would like, can be seen as realizable. For most major accomplishments the far-reaching consequences, the most difficult hurdle is the making of the commitment on the part of the leadership involved to work toward particular objectives rather than the attainment of specific goals. I believe that such a commitment has been made within Kentucky on the following: To create a climate of encouraging cooperatively addressing problems of mutual concern. The creation of a management structure (including appropriate input from community persons and consumers services) which to the extent possible, will encourage the continuation of the above climate and provide for efficient and effective administration of programs.

Senator Cook. If I may interrupt you right here Doctor, and say that without objection your entire statement will go into the record, so any time where you might slightly deviate from it do not feel that anything is going to be left out, because your entire statement will go into the record. So, any time you want to digress or any time you want to add anything, please feel free to do so. I want the other witnesses to know that their entire statement will go into the record and the additions will be noted in the record.

(The prepared statement of Dr. George Perkins is as follows:)

#### PREPARED STATEMENT OF DR. GEORGE PERKINS ACCOMPANIED BY WILLIAM RYAN AND EVANS D. TRACY

Mr. Chairman and members of the subcommittee: I understand that the occasion of these hearings is consideration by this Subcommittee of the Senate of numerous alternatives for strengthening our system for the prevention and treatment of the mounting nationwide problem of juvenile delinquency.

So I would like to begin by saying that in my estimation such strengthening can be achieved only by first confronting and accepting a few fundamental approaches to "problem solving." Once these are resolved, if possible, visible progress can be achieved and the ultimate goals, though not reached "instantly" as we would like, can be seen as realizable. Naturally the time required to reach them in any particular community or state will depend on that community's situation on the continuum of movement toward the ultimate objective when the commitment is made.

For most major accomplishments of far-reaching consequences, the most difficult hurdle is the making of a commitment on the part of the leadership involved to work toward particular objectives rather than the attainment of specific goals. I believe such a commitment has been made within Kentucky on the following:

1. Creation of a climate encouraging cooperatively addressing problems of mutual concern by co-opting\* with related state departments and with related local public and private agencies in order to achieve maximum utilization of available resources. (HRCC, HRC Council, Child Welfare Commission, KIPP, County Case Conferences, etc.)

\*Actively and aggressively co-opting of the services and resources of other agencies with mutually-held objectives is quite a different process from the usual (at least mouthed) consecrating to cooperating which is said so easily but being basically a passive attitude normally yields little in visible results. See "A Foreign Vision of the Coming American Revolution," Appendix, Figure 1.

2. Creation of a management structure (including appropriate input from community persons and consumers of service), which, to the extent possible, will encourage the continuation of the above climate and provide for efficient and effective administration of programs (Child Welfare Commission, Citizens' Committees for both Residential and Community Services, etc.)

3. Development of Cooperative Funding to achieve mutually held goals which is bringing greatly increased funds to bear on Child Welfare problems (Department of Economic Security—Department of Child Welfare Contracts for Title IV-A Funds, Vocational Rehabilitation—Department of Child Welfare Contracts, Crime Commission—Department of Child Welfare Programs, Manpower Development and Training Act—Department of Child Welfare Contracts, REED: Department of Child Welfare Contract for ESA Title III funds, Purchase of Care from private institutions, Donner Foundation Contract, etc.)

4. Development of an improved Direct Service Volunteer Program to utilize largely untapped resource of volunteer manpower in a direct and continuing 1-1 relationship with specific clients in need and resultant citizen understanding and support (395 volunteers currently enrolled and expanding daily).

5. Replacement of Kentucky Village by smaller special purpose facilities for committed delinquents with the resultant more effective programs, more efficient operations, and lower per capita costs (Kentucky Village to be phased out not later than December, 1972, with utilization of Frenchburg, Lynwood, Pine Mountain, and Green River Camps and Centers and Northern Kentucky Diagnostic Center).

6. Greatly increased adoption, homemaker, foster care, group home, utilization of private institutions, and other community-based programs as alternatives to state institutional placement, with attendant decrease in total population in the Department of Child Welfare institutions.

	1967-68 fiscal year	1970-71 fiscal year (estimated)
Adoptive placements.....	543	621
Children served by homemakers.....	410	1,133
Children in foster care (Jan. 1).....	818	2,024
Children in group homes (Jan. 1).....	0	20
DCW children in private institutions (Jan. 1).....	57	98
Children in DCW institutions (Feb. 1).....	684	627

7. Development of Program Evaluation and Review Unit within the Department of Child Welfare to:

- Collect substantive data as bases for decision-making
- Utilize Systematic Planning Process for programs and projects
- Conduct Operational (Intramural) Research on effectiveness and costs of programs
- Conduct applied Research in field of Child Welfare, particularly with respect to seeking out and applications of most effective programs

Item 7 above is of course a necessity in order to objectively and credibly conduct the essential evaluation of programs so that available resources can be utilized in the most effective manner. In such evaluations we must of course recognize that:

- We are struggling with some very complex problems which probably are not subject to "overnight solution";
- We should acknowledge from the outset that no one "program" is likely to be the panacea for all the problems or all the individuals involved, for thank God, we were and are created as individually distinct persons, and, therefore, not all members of any group can be expected to respond or react identically to any single approach;
- We should resort to the application of what, to the best of our knowledge, are fundamentally sound concepts;
- We should implement these to the best of our abilities within the resources available to us;
- We should test the results in the best ways we know;
- We should select those approaches which seem to show promise at least with particular groups of individuals or in particular types of situations and implement them more intensively or more broadly in what seem to be

similar or related situations in order to bring about a greater degree of "success" or "success" with a greater number of individuals; and

7. We should simultaneously be constantly on the alert to discern if there are portions of our programs which do not seem to be bringing about the desired results, and if such proves to be the case (as I'm certain it inevitably will), be sufficiently honest to admit such and alter them so they will be more likely to do so, or even abandon them completely in favor of others which seem to hold greater promise.

By such evaluations it is hoped that in time we can overcome the all-too-commonly held viewpoint (and with more than a minuscule element of truth) that "public administration has expressed very little interest in evaluation".

As a second major "confrontation" I believe progress is hampered by the Law's antiquated usage of the very word delinquent, meaning offender or culprit and having come to mean "junior criminal".

Once attached to a youth, the stigma of delinquency actually can become more of a hinderance to his return to normal life than anything he ever did or any hang-up he ever had.

About 40% of the children referred to juvenile courts in Kentucky are accused of behavior illegal for children only. Today, the gross differences between juvenile crime and non-criminal behavior problems are well known. They should be recognized by the language of the law. Categories of children merely "in need of supervision" should be established, enabling us to work with such children without branding them for life as "delinquents".

I would like to bring to your attention the work of the Kentucky Juvenile Defender Program, funded by the Youth Development and Delinquency Prevention Administration of the Department of Health, Education, and Welfare.

This program is providing valuable services to youth in one area of Kentucky. It deserves expansion. Operating in ten rural counties of the Bluegrass region, the Juvenile Defender Program provides legal representation to indigent juveniles. The program seeks to bring the findings of the Gault decision to the rural juvenile court.

In urban areas, representation of indigent juveniles can be assigned to a legal-aid society, but in most sparsely populated areas, juvenile courts continue to operate on the *parens patrie* system, unable to provide juveniles with their legal rights.

Juvenile judges have sought the aid of the program staff to upgrade hearings and suggest viable alternatives to sending youngsters off to institutions. The Defender Program has developed educational devices to inform rural youth and their parents of their guaranteed rights and has aided courts in maintaining accurate records of juvenile court proceedings.

The program has expanded from four to ten counties, but continuing requests for expanded services throughout the state cannot presently be met.

#### Progress in Kentucky

Our department is in the midst of a great moment, a big new opportunity affecting every phase of our work.

As you may know, in 1960, Kentucky established the nation's first total-child welfare department, in that his cabinet-level department was given integrated responsibility for children in both the "dependency" and "delinquency" categories. It is still the only such department.

The basic philosophy of the move was a recognition of the countless inter-relationships between dependency and delinquency, between the individual child's economic-social background and his behavior. Throughout the last decade the work has benefited greatly from this recognition. We have been in a better position to detect and attack home situations where delinquency is developing; we have been in better position to treat children with pre-delinquency behavior problems in the home or in foster homes; and we have been in better position to affect the environment of children in the critical period after they leave our institutions (rather than merely try to ride herd on the youngster in the sometimes overwhelming situation).

Throughout the decade we have also been able to attract many staff professionals who might not have gone into conventional delinquency treatment programs. Ours looks more hopeful, these people say.

Combined funds for the usually-separated functions also have been an advantage. Considerable duplication has been avoided, and there is quite an advantage in being one organization with one set of priorities to meet.

But, as you know, Kentucky is not one of the wealthier states. The Department's annual budget for its operations through fiscal year 1969 were never adequate to do more than deal with crises. We had the understanding and the organization to achieve quality. Our staff generated ideas. But until now we have not had the money to turn those ideas into innovative programs with major impact.

Today, rather suddenly, we do have money, and we are moving. We have developed a series of contracts with Kentucky's Department of Economic Security—the last and largest signed in February, 1971—for mutual funding of services to children and families. With these sources of income, plus the excellent cooperation of the Bureau of Vocational Rehabilitation, the Law Enforcement Assistance Administration, the Atlanta Regional Office of HEW, our Human Resources Coordinating Commission and the Kentucky Commission on Law Enforcement, greatly increased resources will be brought to bear on the problems.

#### *Cutting Institutions Down to Size*

One long standing dream now coming to rapid fruition is to phase out our one large institution—Kentucky Village, a 73-year-old structure at Lexington—and convert our institutional program completely to small specialized treatment and rehabilitation centers.

A groundwork of small facilities is already laid, and we will now be able to make the change-over in the very near future. Kentucky Village already operates as a treatment facility, though under a physical handicap. But in January, we were in position to step up the projection and publicly specify a 1½–2 year program for eliminating the antiquated structure.

Figure 2, in the Appendix, is a chart showing the programmed evacuation, which will be accomplished by moving youths into camps and centers and returning them to their communities. The population now stands at about 138, substantially below the 200 for which it was designed.

Our institutional basis for conversion can be seen on the map, included as Figure 3, in the Appendix, showing our eight administrative areas (identified by capital letters), with ten existing institutions and two others under construction. When the present department was established, only four of the facilities existed: besides *Kentucky Village*, at Lexington, there were the state *Reception Center* and *Kentucky Children's Home*, both at Louisville, and *Barkley Boys' Camp* in Marshall County. The Children's Home was then serving dependent children but has been converted to a facility for emotionally disturbed youngsters. Barkley, operated in cooperation with the Kentucky Department of Conservation, was a starting point for our present small-institution approach.

Facilities established by the present department began with the two other boys' camps, *Woodsvend*, in Morgan County, and *Lake Cumberland*, near the lake, both designed to prepare boys for returning to their home communities. These were followed by *Daniel Boone Boys' Center*, in Boone County, near Covington, a center for younger boys; *Jewel Manor*, Louisville, for younger girls; *Frenchburg Boys' Center*, in Daniel Boone National Forest, for intellectually limited boys; *Lynwood*, at Louisville, a center for older girls; and *Pine Mountain*, in Harlan County, center for older boys lacking home resources. These latter three were acquired by inexpensive lease and trade arrangements with other public and private agencies without expenditure of Capital Funds.

Northern Kentucky Reception Diagnostic Center, at Covington, and Green River Boys' Camp, in Butler County, are under construction.

With each addition to this residential system, our objectives have become more attainable: 1) small-group cottage living in small facilities and 2) specialized placement and treatment.

At first glance it might appear that these would be costly objectives; and frankly we would defend them even if we knew that per capita treatment costs would be higher in smaller institutions. Because we know that the smaller units can help us recover more children from delinquency. The fact is, however, that normal per capita costs actually are lower in our small residential units than in Kentucky Village.

For fiscal year 1969–70, the average cost per child at Kentucky Village was \$4,475, while the cost at Barkley Boys' Camp (average population 35) was only \$3,428; and at Lake Cumberland Boys' Camp (average population 39) the cost was only \$3,198 per child. These comparisons show an advantage of more than \$1,000 a year for each of the small camps over Kentucky Village.

It should be observed also that major savings are realized in an effective use of parole. Our costs for intensive parole average only \$500 annually per child.

The very existence of juvenile delinquency institutions is dangerous. We must

have them for some children, but rather than continue to create more of them, we must devote more effort to improving the quality of those already in existence. We know only too well the injustice and harm suffered by many children just by the fact of being institutionalized. We are determined to identify more and more of these youngsters and develop alternative answers to their needs.

While Kentucky's population has grown and juvenile crime statistics have risen sharply in the last ten years, our total institutional population has decreased, as charted in Figure 4, Appendix.

#### *Putting Communities to Work*

But our means of reducing institutional population are even more important than this symptomatic result. The primary means are delinquency prevention and child rehabilitation through community involvement.

Every delinquent child was born as a member of a community. A child's trend to delinquency is strongly influenced by factors in his community. Key resources for recognizing and arresting the trend are there. If he reaches delinquency, usually his permanent rehabilitation will depend greatly on our achieving some kind of improvement not simply in the child, but in the relations between him and the community. It should, of course, be understood that up front in all of these child-community relations is the family.

Our departmental approach to community involvement can be seen as starting with decentralization. The eight areas shown in Figure 3 more and more will be the means of delivering services to the family and community and bringing about grass-roots involvement. The area administrator is an important key to the process.

Many more people must be employed than before, of course, and this includes a larger staff; but I'm talking about the opposite of flooding the state with social workers. Staff is being recruited with emphasis on special disciplines and the objective of bringing the full range of appropriate skills to bear in proportion to need in all the areas. But the nature of the program will take many staff professionals out of wasteful over-involvement in direct service to clients.

An important factor of community involvement is to place much service delivery in the hands of locally recruited paraprofessionals and volunteers. These people, appropriately selected, trained, utilized and guided by staff, can achieve things with and for children that are impossible to most outsiders, no matter how expert. Paraprofessionals become practiced and able in their services. Our challenge is to stay on top of what is happening.

#### *Projects . . . To Make a Future Possible for "Impossible" Kids*

A very great advantage of being an integrated dependency-delinquency agency is the ease with which we can employ foster home placement as a treatment tool. A highly ambitious community based foster home project is scheduled to start in the Appalachian community of Paintsville next month.

Entitled *Operation Bootstrap*, this is a jointly managed undertaking with HEW's Vocational Rehabilitation Administration and an exciting instance of double-edged community service, to benefit clients of both agencies. That is, (1) juveniles in trouble and (2) deprived adults who are failing to approach their full potential in life.

In the initial program we will place fifty-five local pre-delinquent and post-institutional boys and girls as foster children in the homes of fifty adults qualified by HEW. The children have been identified as needing foster home care as their probable best chance at rehabilitation. The adults will benefit financially, which is one facet of their need. Simultaneously, trained by us as paraprofessionals they will gain skills and gain self-esteem through the important job that they will be doing. For the protection of all clients, we will supervise each home as closely as necessary.

Typical of the thorough planning behind *Operation Bootstrap*, we are preparing taped messages instead of printed texts for training the adults. This bypasses their lack of reading skills. The tapes will be in the Appalachian vernacular to assure full, easy communication.

Another contribution in Appalachian areas is by the *Youth Outreach Program*, funded with the help of the Justice Department Law Enforcement Assistance Administration. Two projects were started in 1970, one as a community-based prevention program for the town of Pikeville and one for the rural counties of Bell, Whitley, and Harlan. The objectives are to determine how much delinquency and youth crime exist, identify the causes, and develop prevention programs.

The guiding principle is to create community alternatives to the old thing of shipping children off to institutions. Early results are very encouraging—we plan to expand the program into other localities.

Citizens committees are working to provide resources to the staff directors. Referrals come from schools, local agencies, and concerned individuals.

Family crisis intervention and counseling is proving effective.

Recreational facilities, new and existing, are being used; and day camps are proving a major help in keeping youngsters constructively occupied through the summer.

Vocational training is integrated with the recreational program. Jobs for older youths are being emphasized, since unemployment and delinquency were found to go hand in hand.

The new programs and projects are too numerous to describe in detail; but the following list will give you an idea of the alternatives we are developing and helping communities develop—alternatives to sending troubled children away to delinquency institutions:

*The Rural Child Care Project*, operated by the Kentucky Youth Research Center, Inc., with funding by HEW, offers a program for the early prevention of juvenile delinquency. This project's efforts at delinquency prevention are in the form of improving family living conditions (including the physical and mental health of the parents) and giving preschool children a head start in the right direction. This is a mature and successful program which will provide a useful model for others in our new Child Welfare Department thrust.

Nineteen day care centers in nine eastern Kentucky counties provide comprehensive day care services for children ages three to six of families who fall within the established poverty level.

Paraprofessional homemakers are employed to teach basic homemaking skills to the parents of the children and assist the families in obtaining needed services such as medical and dental care, counseling, and food stamps.

Social workers supervise the center staff and homemakers and assist the families in organizing projects at the community level.

#### *Data Processing, A Dimension of Creativity*

Just as an army travels on its stomach, a creative program thrives on good statistics. Orderly analyses of needs and results make the difference between success and failure in the long run. We are enlarging and developing our data processing section as an integral part of this new thrust in the field. A Management Information System is being installed, including child case records, a financial data system, and a personnel data system. Statisticians and research analysts have been added to the staff.

Computer capabilities are being developed for such procedures as cost-benefit analysis studies, evaluation of individual project results, and evaluation of individual worker performances.

#### *Youth Service Bureaus*

Operating in Lexington, Madisonville, and Paducah and now being established in Louisville, these are community stimulating and mobilizing agencies, making a broad-front effort to interest citizen volunteers in the problems of youth and to provide support and counsel for troubled youths. "Street workers", are being developed and used—both paraprofessionals and social workers. This program is financed with the help of the Kentucky Crime Commission and Model Cities.

#### *Bullitt County Project*

Somewhat parallel to YSB, but in rural setting, this project uses volunteers in providing counseling, recreation, and employment for troubled and threatened youth. Child Welfare provides leadership, with civic organization and churches providing local resources.

#### *Education Programs*

We provide assistance to the Education Department on its RE-ED School program in Jefferson, Bullitt, and Oldham Counties, funded under Title III of the U.S. Elementary-Secondary Education Act of 1965. Louisville is in Jefferson County, and the other two counties are contiguous. This is a program for emotionally disturbed children, including an education center and residential school, on the campus of our Children's Home, plus five satellite classes in county schools. Also, in the near future, Child Welfare will be cooperating with the Louisville School System on a program of Junior High Alternative Schools. Kids who otherwise would become dropouts will be provided special education, vocational training, and counseling, as an alternative to regular school attendance.

#### *Group Homes*

Typically, six to eight youngsters live in a home, where they are placed either instead of institutional treatment or for halfway-house protection after coming out of institutions. Eight homes are now in operation—two (in Louisville and Covington) funded by LEAA through the Kentucky Crime Commission; one in Owensboro, operated by the Kentucky Department of Mental Health, the local Sheltered Workshop, and Child Welfare; and five operated cooperatively by Child Welfare and local churches or agencies in Frankfort, Henderson, Lexington (2), and Louisville. Now the state Crime Commission has awarded us a grant to employ a professional to coordinate and provide consultation to group homes and develop a plan for the state.

#### *LEAA Project for Hard-to-Place Delinquents*

We are negotiating with LEAA for a grant funding a major project of moving hard-to-place delinquents out of our institutions into specially supervised foster homes. Initially, 100 youths will be placed. Impact areas for this grant will feature two rural and two urban centers.

#### *The Volunteers, as a program*

This organized use of volunteers, initiated in 1971, now involves about 150 regular workers serving regularly in our institutions and 100 with our Community Services Division. Volunteers are organized in teams of five, each team being supervised by a Child Welfare Department social worker. In the institutions, volunteers provide programmed recreation and tutoring; in the communities (Bowling Green, Elizabethtown, Lexington, Louisville, and Owensboro) they have a range of functions.

Aims include the capability of a central register of child behavior problems in the state, based on a case history file for every client.

Evaluation studies of a volunteer program are in process and a study of recidivism of delinquents is under way.

#### *Inroads on Apathy*

The greatest obstacle to high quality delinquency treatment programs always has been public apathy. It is one thing to be shaken by juvenile crime, but quite another to take interest in blighted children. In fact, more than simple apathy, a psychological block is involved. A program of community involvement in treatment will make inroads against this vicious circumstance.

A practical program of paraprofessionals and volunteer workers will forcibly break down the block for many individuals spread widely though the state. Each person who discovers for himself what it is to love and empathize with a troubled child will emanate good effects to others.

I am not so naive as to expect the millennium; but I feel justified in the hope of a measurable improvement in public attitudes. Furthermore, analysis and documentation of results soon will be at our fingertips. We will be able to provide the public with clear dollars-and-cents evidence of the great bargain of intelligent treatment over the high cost of neglect and injustice which past years' total reliance on institutionalization has fostered all too much.

#### MIDDLE AMERICA IS NOT BACK WHERE IT STARTED

The peace rally last week in front of the White House gates was a thin shadow of those massive war marches that used to fill this city. A few hundred pathetic kids and their faded gurus broke some windows and shouted their slogans and then dissolved into the chill dusk. Fifty yards away, the secretaries of Henry Kissinger, the President's National Security Assistant, watched the scraggly crowd for a few minutes, then turned back to their work on the progress reports and the briefing papers about the invasion of Laos. Down the hall, an unruffled Richard Nixon made preparations to fly south to the sun, where he intended to think about the kind of world he wants two years from now.

That night, a great full moon flooded the federal city, bringing with it a sense of calm and beauty that has hardly been noticed in a decade. In the gilded salons of Georgetown, in the musty hideaways of the Capitol, in the big, comfortable homes of suburban Chevy Chase, they talk about what is not happening in this land: the absence of campus upheaval and ghetto terror. There is agreement only about the national calm.

In the White House, they see the cooling as the result of two years of Richard Nixon's special kind of managerial stewardship. The people who run this Administration are less frenetic, they say. So the people who are touched by it

are calmer. It is the absence of a Washington spectacle like Lyndon Johnson, the refusal to make great promises that cannot be fulfilled. Hopes and desires have diminished and are now more in line with reality. There is in this era of quietude, the Nixon thinkers contend, a grudging growth of belief in the President's pledges to end the war, to quietly integrate the Southern schools, at least to try to curb inflation and reduce unemployment. There is in the mood, the men at the White House believe, a turning at last to the celebration of small deeds, the summons that Nixon issued in his Inaugural Address.

They do not discount the fact that the blacks and the kids and the radical left had spent a lot of their energy. "We came in at a good time," insists one Nixon aide. "It had crested, expended itself." Public support dwindled. The participants in violence suddenly saw the dimensions of the horror they had created and, yes, they say in the White House, Vice President Spiro Agnew played a part. He branded outrages as outrages, he condemned the over-indulgent. People turned to look at themselves, began to take hold of their own lives.

The critics of this Administration admit that there is a turning away from the Federal Government, that far off on the horizon is the beginning of something that might be called self-reliance, a new pride in self. But they do not believe that it was the result of any Nixon script, but of the failure of Nixon leadership. Although, our part in Southeast Asia is diminishing, the killing goes on. Unemployment and inflation continue to hurt because the efforts to cure them, while sincere, are ineffectual. Many demands of minorities are ignored. Only in foreign policy does there seem to be a sense of direction. "The Administration," insists Missouri's Democratic Congressman James Symington, "seems almost irrelevant to what is happening."

Somewhere between the sentiment from the White House and that from the Democratic Congress lies the truth. The land is cooler and Nixon has encouraged it. But his leadership has been crowded with contradiction, like vowing to "bring us together," then defiling that ideal with the politics of division practiced by Agnew and himself in the 1970 election. Progress in school integration has been clouded by the absence of any sense of commitment to other black anguish. "Managerial" leadership does not communicate the sense of caring sought by the very young and the very old. It is as if the American people, reared in the age of mesmeric Presidents from Roosevelt to Johnson, expect to be entertained and excited.

They can become equally excited over the positive, tangible results of co-optation if we who are in any position of responsibility will but do it, objectively view the results, not worry about who gets credit (for remember—when you "chose" some other party as a colleague in a project, he also chose you) and then let those people know:

- (1) the benefits which resulted
- (2) how good it feels to have had a part in achieving those results
- (3) invite them to do likewise in their areas of responsibility, whatever they are.

Nor does the disenchantment stop with the White House. Those Congressmen who listen to what the people back home tell them find their own images in jeopardy. The endless harangues by the presidential contenders against the incumbent's policy, the countless congressional hearings that fog and obfuscate as much as they enlighten, have bred disgust. The beautiful liberals who ran this Government for so long and have grown rich from their inside knowledge are now as much a symbol of entrenched and unyielding privilege as the industrialist used to be. If there is a man in Washington who provokes pure awe and respect here and beyond the Potomac, it is Ralph Nader, the curious champion of the consumer. He lives his religion, devoid of greed, filled with candor, beyond influence. He has a mission. He has done it himself.

Both sides in this debate agree that there is a new national humility, perhaps a new respect for plain hard work. In that sacred middle ground of American thought and sentiment there is a good deal of relief and even a touch of welcome-back-to-earth. Those special performers on both right and left who streaked across the political firmament and have now sputtered out never really understood that much of their success came from the abiding tolerance and patience of the people, the firm underfooting of this republic that is often more sensible than its leaders believe. And something else: Middle America is not back where it started. Long hair on a kid who studies somehow is not too bad. Black neighbors who want law-and-order and good schools and healthy bodies are not as sinister as those who parade on campuses with rifles. Middle America has been duped and scorned too many times not to be wary now. But its citizens have

endured, and if nothing else, they face ahead with less fear than before and with a new curiosity about their small worlds.

Apparently, a lot of people across this land have decided that finding out what is happening in their cities and communities is a pretty good idea. From almost all the touring politicians come the nervous reports that they and their political colleagues who are running things back home are undergoing more and more scrutiny.

In my old home town of Greenfield, Iowa, they had a school board meeting a few nights ago to listen to the new salary demands of the teachers. For the first time in years, a solid phalanx of concerned taxpayers from town and farm showed up to listen and to judge. Another thing happened about the same time. They showed the premiere of a movie, *Cold Turkey*, which was filmed in that tiny village, so long deserted by its young people and criticized by its residents, who have felt passed over by modern society. One shot showed the sun rising on the clear and uncrowded prairie, a deep and comforting green. Those people in that little theater in Greenfield, for the first time in a long while, broke into applause for what they had and what they were.

#### A FOREIGN VISION OF THE COMING AMERICAN REVOLUTION

The European's compulsive fascination with what was once called the American Experiment often translates itself into harsh criticism. At a time of so much American self-doubt, one European, however, offers a generously sympathetic vision. French Author-Critic Jean-Francois Revel has taken measure of America in stress and has found there hope not only for the U.S. but for the rest of the world. In his new book, *Ni Mara Ni Jesus (Neither Mara nor Jesus)*, to be published in the U.S. this fall by Doubleday under the title *The New American Revolution*, Revel argues that a "revolution" has already begun in the U.S.—a movement capable of success without violent upheaval. Revel sees not a world revolution against the U.S. as most of the country's leftist critics imagine. Rather it is a beneficial one which America will create. The view of America as a model to others is overwhelmingly unfashionable just now, but that is how Revel views it. The new America, he predicts will generate a new "world revolution."

As Revel sees it, the phenomenon has no relation to the familiar, violent historical event which as happened in Russia, merely exchanges one form of tyranny for another. He asserts that there has been only one world revolution, which he places in the second half of the 18th century with the advent of egalitarian societies. The second world revolution, he says, will have as its goal the establishment of "economic and social equality by and through cultural and personal poetry the guarantee of security through the participation of all in the political decisions, and eventually the creation of a world government.

- (1) the removal of inequalities among men.

Why is the U.S. to be the privileged vanguard of the second world revolution? Because, says Revel, America has invented a new revolutionary method that other nations have been incapable of engendering on their own. That method is dissent, "a revolutionary judo without precedent, an all-enveloping and erratic sedition with which governments cannot cope. For the revolution to succeed, there must be widespread criticism of:

- Injustice in economic, social and racial relationships;
- Inefficiency in management, use of materials and human resources, and wrongful use of technical progress;
- Misuse of political power;
- The state of present-day culture—morals, religion, philosophy, literature and the arts;
- Adverse effects of civilization upon personal liberty.

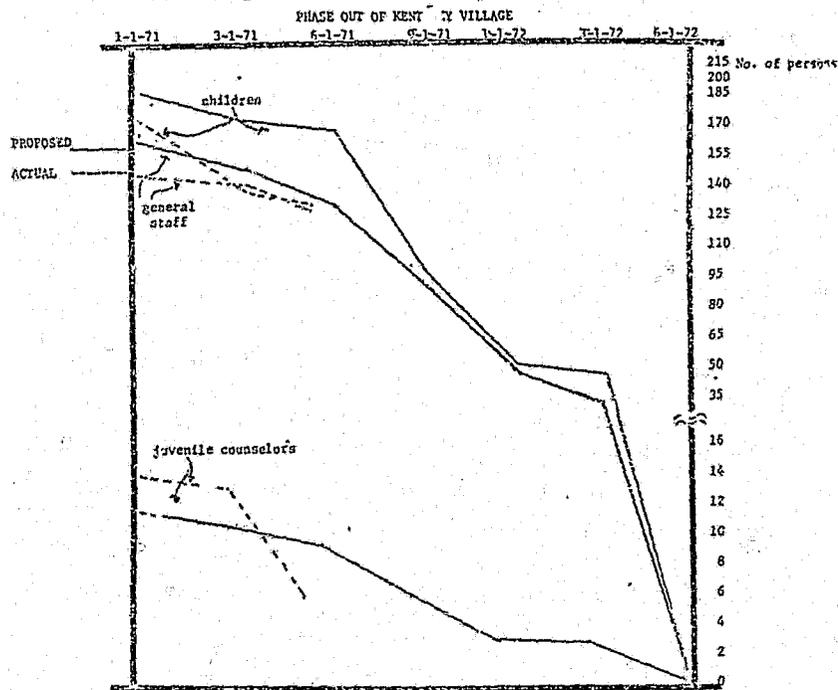
All these criticisms exist today in the U.S., writes Revel, and all are accelerated by modern mass communications, notably television, which does not stultify American viewers but offers them a great variety of political cultural and economic information. "Far from being television's slave, the viewer can use it as a library." Thus it is free access to information, Revel argues, that has created such widespread criticism of the war. "We tend too often to ignore the fact that for the first time in world history, a foreign war—and particularly a colonial expedition and a war that is supposed to be in the interests of national security—is meeting with such strong opposition within the country that is waging the war. . . The transition from internal democracy to democracy in external affairs, or at least to preoccupation with democracy in external affairs, represents a giant step—a step that the United States has been the first to take. Americans were able to make that transition because of the freedom of information in their

country. It means that there has been real progress toward suppression of the right to commit crime in the name of foreign policy.

To overcome war and other world evils, there must first come a change in "political civilization," explains Revel. The pioneer country for this is the U.S. where the signs of change are already visible: "Culturally, it is oriented toward the future rather than the past, and it is undergoing a revolution in mores and an affirmation of the freedom and equality of individuals. It rejects authoritarian controls and hence multiplies creative initiative in art, ways of life, forms of sensibility, allowing for a diversity of mutually complementary or alternative subcultures . . . Finally, an important revolution has the best chance of coming about in a situation where the forces of change are faced with a broad fundamental goodwill, allowing them to gain enormous ground without recourse to a real civil war. In other words, the higher the threshold of absorption of change by the existing system, the greater the revolutionary chances of success. Not violence but co-optation by the Establishment is the surest means to successful revolution in the U.S.

Revel is convinced that the revolution will succeed. Pointing out that it was the European who invented imperialism, Revel concludes: "Today in this America, daughter of our imperialism, a new revolution is rising. It is the revolution of our time. It is the only one which, at the first radical, moral and practical confrontation with nationalism, combines a culture, an economic and technological power and, finally, a total affirmation of freedom for all as opposed to archaic restraints. It therefore offers the only possible way out for today's humanity: acceptance of technological civilization as a means and not as an end and thus—since we cannot be saved either by destroying it or going on with it—to reshape that civilization without annihilating it."

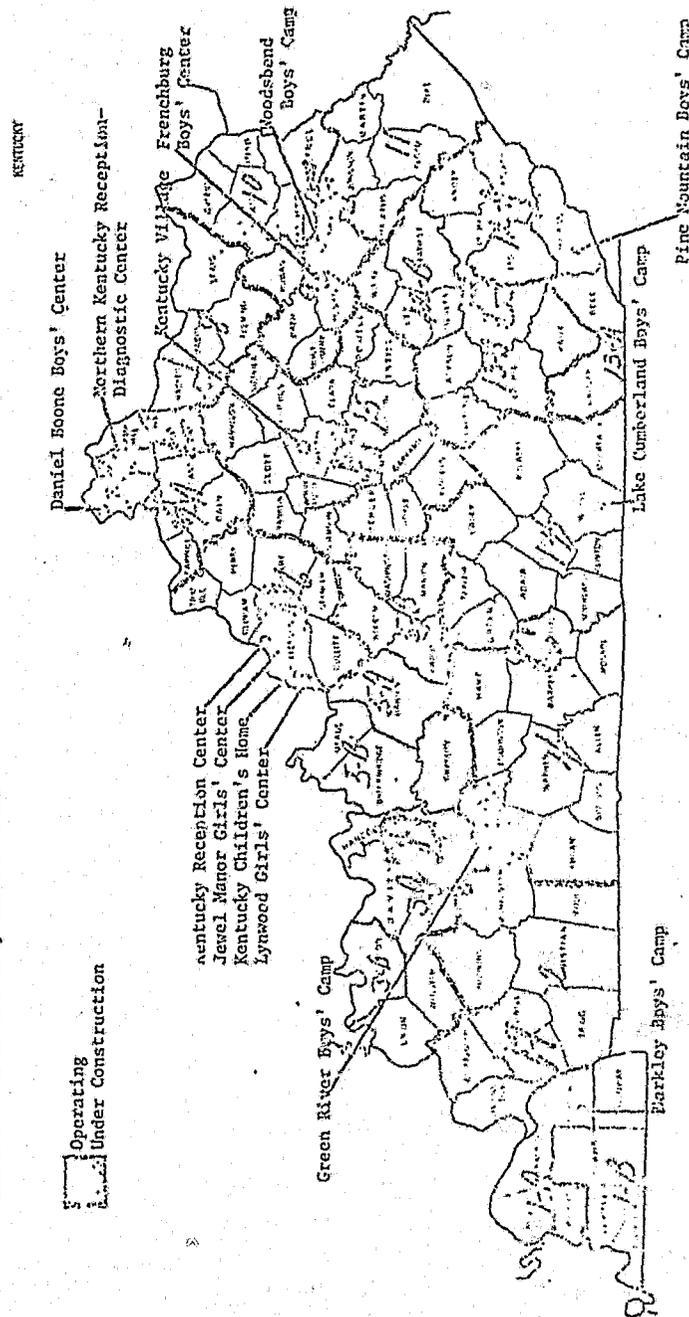
In Paris last week, Revel took note of what he terms the "breathing spell" in the U.S. "This is a period of stabilization," he said. "The radicals, the Weatherman, the Black Panthers have put water in their wine. They're not backtracking, but they now understand better what must be done if they're to be effective. They realize that extremism, pure violence, cuts them off from protesting youth." But the revolution, in Revel's terms, has not been defused. "The left's ideas of five or six years ago have been adopted and are now being digested by large sectors of the American people. An awful lot happened in the past decade. There was a great deal of revising of values, and this is a digestive phase . . . Both the Establishment and the protesters are reflecting about events.

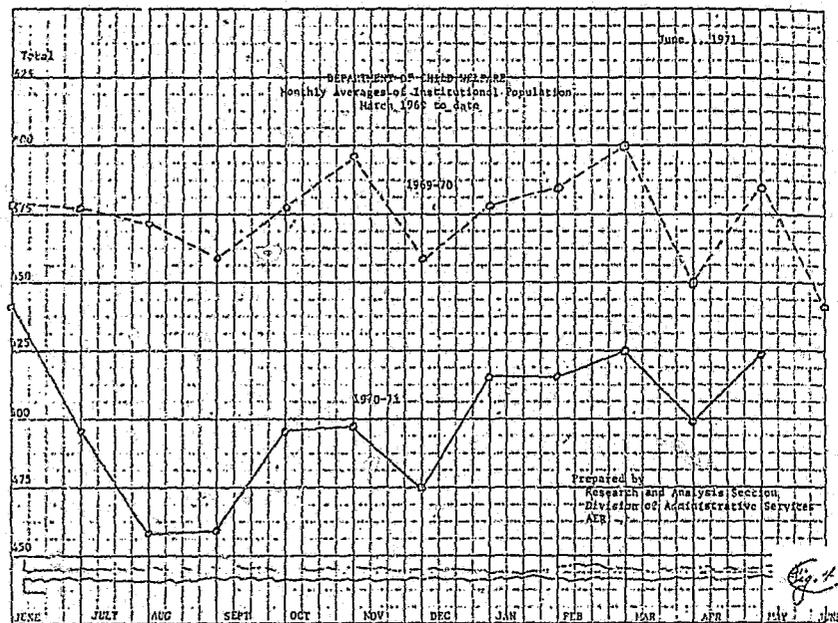


KENTUCKY DEPARTMENT OF CHILD WELFARE  
 Division of Institutional Services

Numbers refer to Community Service Regions  
 Letters refer to Community Service Areas

Operating (solid box)  
 Under Construction (dashed box)





COMMONWEALTH OF KENTUCKY,  
DEPARTMENT OF CORRECTIONS,  
Frankfort, Ky., May 14, 1971.

Mr. GEORGE PERKINS,  
Commissioner, Department of Child Welfare,  
Frankfort, Ky.

DEAR COMMISSIONER PERKINS: The purpose of this letter is to set forth the basis for my views relative to separate detention of juveniles and adults who have been arrested.

When juveniles and adults are detained in the same quarters, the adults tend to have an overriding influence on the juveniles, often transferring abnormal behavior traits. There have been recorded some cases of abuse and assault that have been inflicted on the juvenile by the adult during detention.

In addition, the handling of adults differs from the handling of juveniles in that different interests, methods, training, and personnel are required. Children need trained people who can handle them during their behavior acting-out so that they will not abuse themselves and can be properly placated.

Detention center leadership should be handled by a person trained in juvenile delinquency due to the juvenile's myriad of difficulties and pressures; i.e., family background, being a minor, etc.

Sincerely,

JOHN C. TAYLOR,  
Commissioner.

[From the Courier-Journal, May 8, 1971]

#### HELPING THE JUVENILE OFFENDER GROW INTO A USEFUL CITIZEN

That eye-opening television documentary the other night on reform schools in America was a shocking reminder of our continuing refusal to see the direct link between crime and the unrehabilitated youthful offender. So in Indiana, Illinois and Texas, as the NBC cameras so horrifyingly showed, hundreds of juvenile "delinquents" are packed into huge institutions to be victimized and learn how to become hardened criminals.

"In this nation, we are institution-happy," Supreme Court Justice Abe Fortas said two years ago. "If there is a problem, we sweep it behind walls and say 'punish them.'"

And the problem doesn't have to be very serious, when it comes to juveniles. At the Indiana Boys' School, alma mater of Charles Manson and sixth largest reformatory in the nation, more than half the offenders are there for doing things that wouldn't be crimes if they were adult: running away from home, breaking curfews, truancy or being hard to handle, for example.

#### KENTUCKY AMONG LEADERS

Everybody, including the cooperative and bothered superintendent of the Indiana Boys' School, knows the result. FBI reports show that youngsters under 18 commit about half of all serious crimes. Juvenile arrests have doubled in the past decade, with roughly one million cases expected to be heard in juvenile courts this year. Fifty per cent of those sent to reform school before age 15 eventually return to correctional institutions. Of 2,899 adult inmates of Kentucky penitentiaries in April, 1969, the state's Commission on Law Enforcement and Crime Prevention reported later that year, 1,138 were known to have served time in juvenile correctional institutions.

Part of the answer, say the experts, is twofold: (1) commit only the most difficult cases to institutions, finding alternatives such as neighborhood foster homes or adult counseling for the majority who need help but not a radically altered environment (2) keep the institutions small, close to the youngsters' home communities and staffed by well-paid professionals.

#### SAVE CHILDREN AND DOLLARS

Kentucky—to the surprise of many people familiar with the backwardness of its prison system for adults—has made marked progress over the past decade in approaching these goals. The announcement in January that Kentucky Village, the state's 73-year-old home for delinquent children, will be closed within two years is the most eloquent symbol of this transformation.

As the youthful population of Kentucky Village has shrunk from its one-time high of 1,000 to about 200, many juvenile offenders have been sent nearer their homes to newer facilities and camps—the state now has 14, up from four a decade ago. And the new emphasis on correction rather than confinement means that more and more juvenile courts are seeking home-community alternatives. In Kentucky in 1968, only one child in 12 brought into juvenile court was committed to an institution. The rest went free on probation, usually that of their parents; or after a judge's warning.

Kentucky, in fact, is nationally regarded as one of the three or four most forward-looking states in its use of small-group correctional facilities and the diversity of its approaches to treatment of juvenile offenders. Yet, like most states, it finds this a tempting area to trim at budget time. So we're still woefully short of skilled caseworkers, able juvenile court judges and adequate community programs.

This is improving, though the process is slow. Ten years ago the Department of Child Welfare spent \$1,275,990 on institutional facilities; this year's budget is \$4,112,000. But more significant and encouraging is what has happened to the department's budget for community services—including foster home care, probationary programs and post-institutional rehabilitation of juveniles. This budget has soared from a puny \$825,353 in 1960-61 to \$4,476,000 in the current year—and the department originally asked nearly three times more.

It's cheap at any price. Good probationary care is estimated to cost only 10 per cent of institutional care—which in 1968 in Kentucky averaged \$5,000 per juvenile committed. And the long-term results, with youngsters not sent to the kind of "crime schools" documented by NBC, can mean not only enormous community savings on crimes not committed, but salvation for millions of children who can be guided into useful and productive adulthood—if we'll only give them a hand while there's still time.

INDIANA TEENAGERS TELL OF JUVENILE JUSTICE AT SENATE HEARING

(By James S. Tunnell)

WASHINGTON—It evoked Victor Hugo's great character, Jean Valjean, who spent years in prison for stealing a French sou.

As the boy spoke, the senator leaned forward in his seat, straining to hear.

"It was sort of a prank, that got me in trouble," the boy said. "We were emptying coin boxes at a carwash when one of the boxes dropped and I picked up the coins. But I refused to give back three of the quarters." He got probation for that.

Then being an hour late to school got him 10 days in a cell. And he was assigned to the custody of an older brother he couldn't stand, a brother that had served time in the federal penitentiary at Leavenworth, Kan.

And finally to escape the brother, the boy deliberately smashed \$20 worth of equipment in his high school. As he had hoped, it got him out of the custody of his brother—into the custody of an Indiana correctional institution.

The boy, 16-year-old Sherril Ness, of Rochester, Ind., told his story yesterday to a Senate judiciary subcommittee on juvenile delinquency, chaired by Sen. Birch E. Bayh Jr., D-Ind.

He spoke in quiet, measured tones, and the marble and crystal Senate hearing room grew hushed. He said he hopes "very much" he will get out on parole this month, 151 days after he was sent to Indiana Boys' School, Plainfield, Ind.

Ness, and another Indiana teen-ager, Sharon Rushin of Attica, were the star witnesses at the second day of hearings yesterday.

Alfred R. Bennett, the superintendent of Indiana Boys' School, introduced Ness to the subcommittee as "an example of the type of young man who should never have been sent to Indiana Boys' School."

He said the school is seriously hampered in its rehabilitation work by being cluttered and overloaded with children who don't belong there—those who commit only minor offenses, those who are emotionally unbalanced or mentally retarded, and those who, despite their age, are already dangerous, sophisticated criminals.

The emphasis yesterday was on those who are sent off to correctional institutions for minor offenses. Miss Rushin, 17, pert in a flaming orange dress and flowing blonde hair, told how she had been picked up by the authorities in Attica for violating a 9 p.m. city curfew.

"And I had a can of beer in my hand," she told the committee, "and when they asked what I was doing, I told them that was my business and got smart with them." She landed on probation.

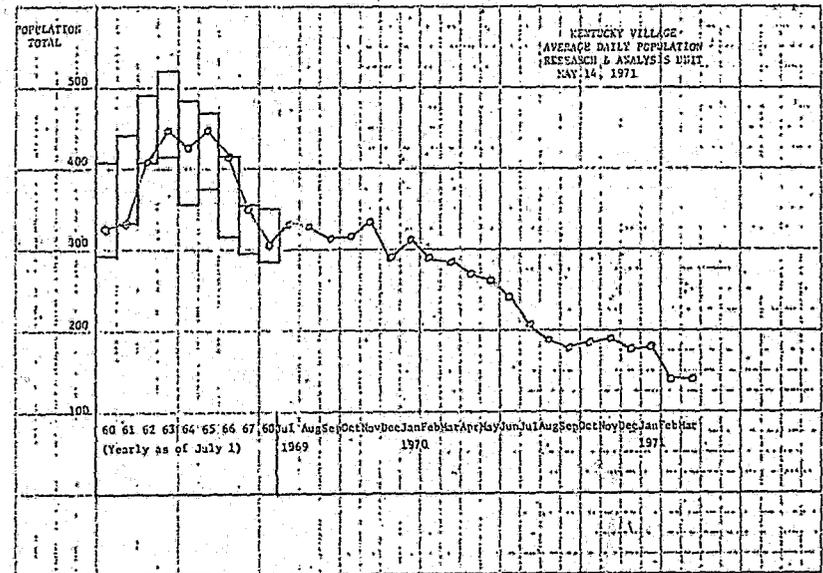
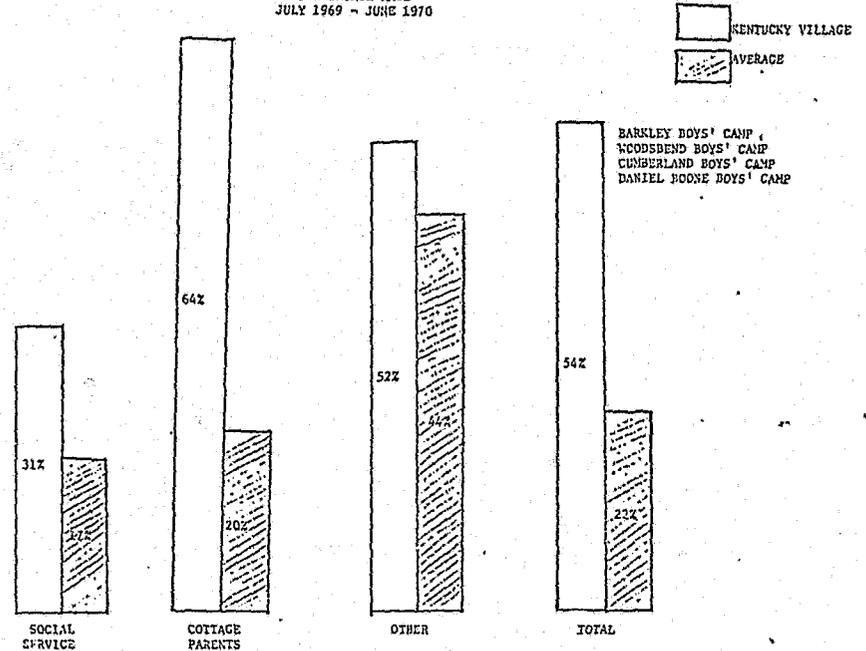
Not too long afterwards, Miss Rushin said she and another girl ran away to a nearby town where they stayed with relatives for about a month. This violated her probation and landed her two years in Indiana Girls' School, Indianapolis. She told the committee she will get out on parole next week.

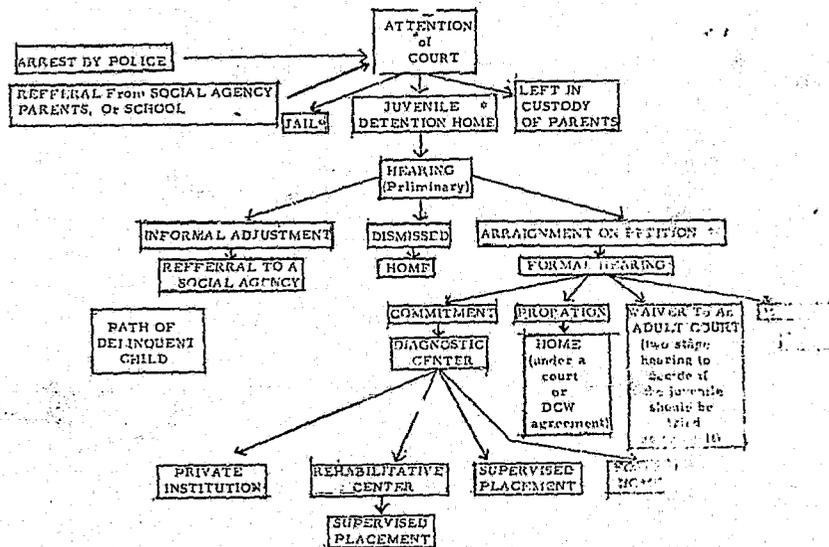
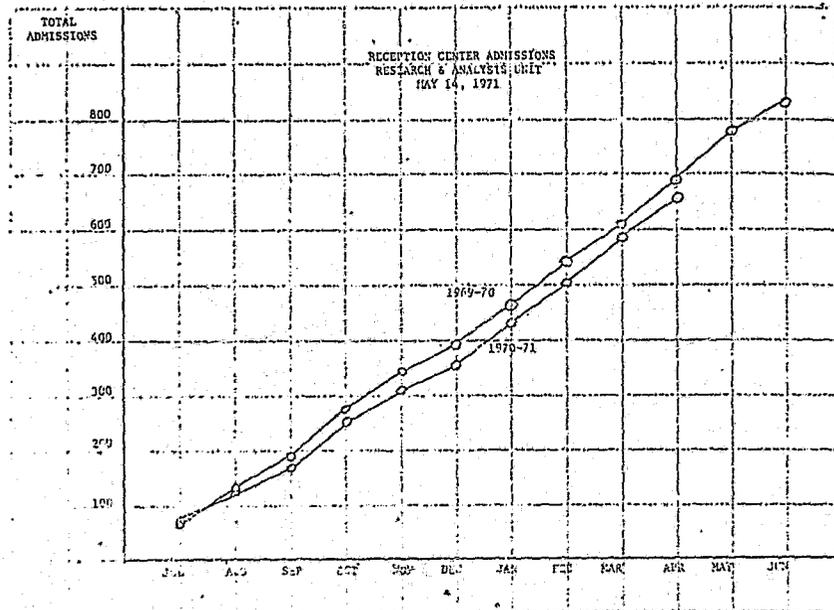
Did she have a lawyer, Bayh asked. No, she said, her parents had asked the authorities about that and they had said there was no need for one.

The hearings will resume today.

Last Friday Bayh introduced legislation to protect juveniles in courts and detention homes. The Indiana Democrat is trying to whip up Senate support, and, though the hearings were well attended by the public, no other senator was there.

PERSONNEL TURNOVER  
PERCENTAGE RATE  
JULY 1969 - JUNE 1970





\*w/ approval of the juvenile judge or council assigned when public offense  
 or commitment to Department of Child Welfare

Addendum: In the elapsed five months since the presentation of this report, the following significant changes could be made to correspond with the current data:

Page 3, para. 1 (chart): the following:

	1967-68 fiscal year	1970-71 fiscal year
Adoptive placements.....	543	621
Children served by homemakers.....	410	1,132
Children in foster care (Jan. 1).....	818	2,024
Children in group homes (Jan. 1).....	0	20
DCW children in private institutions (Jan. 1).....	57	98

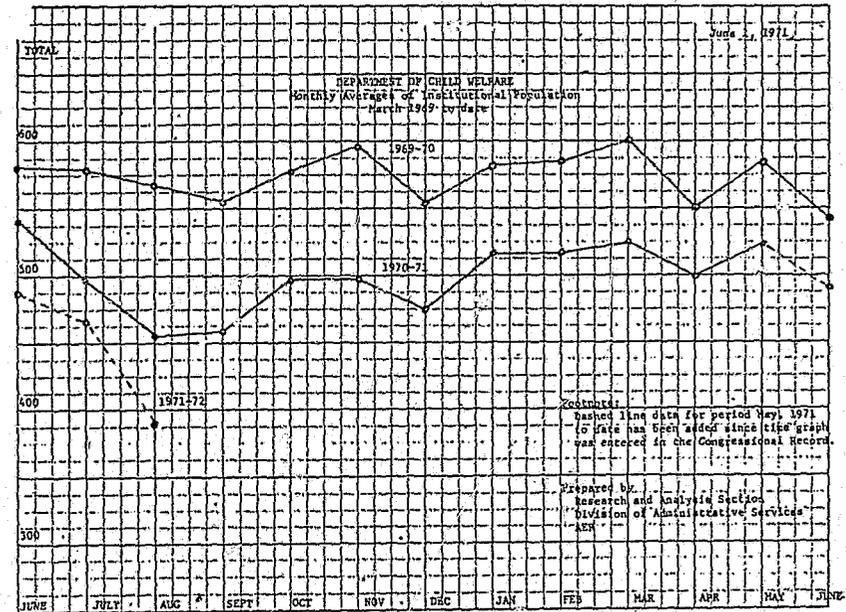
Page 4, para. 6. Resulting from extensive interagency consultation, legislation has recently been drafted, to be submitted to the 1972 General Assembly, in which there is a redefinition of who shall come under the jurisdiction of the court system.

Page 5, para. 1. This program has recently been expanded to include 18 counties with plans being drafted for still broader application. (Oct. 1971)

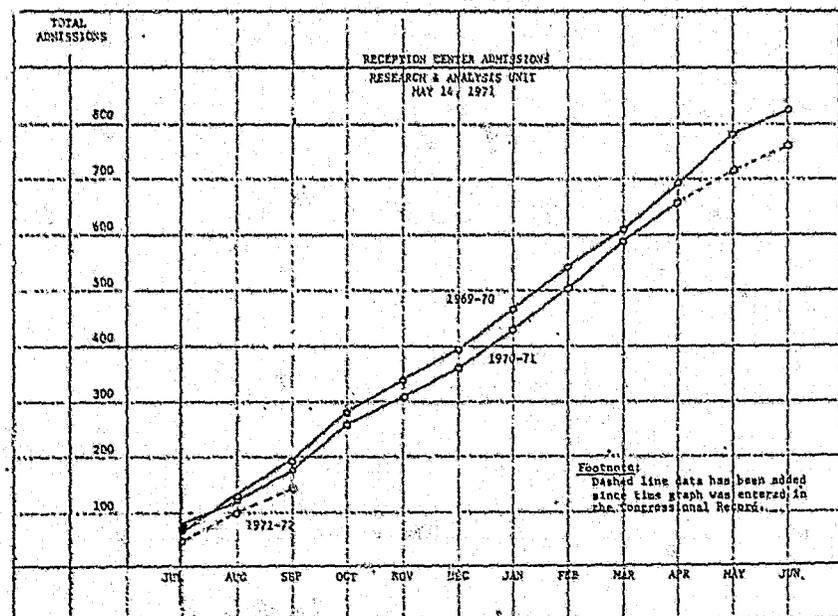
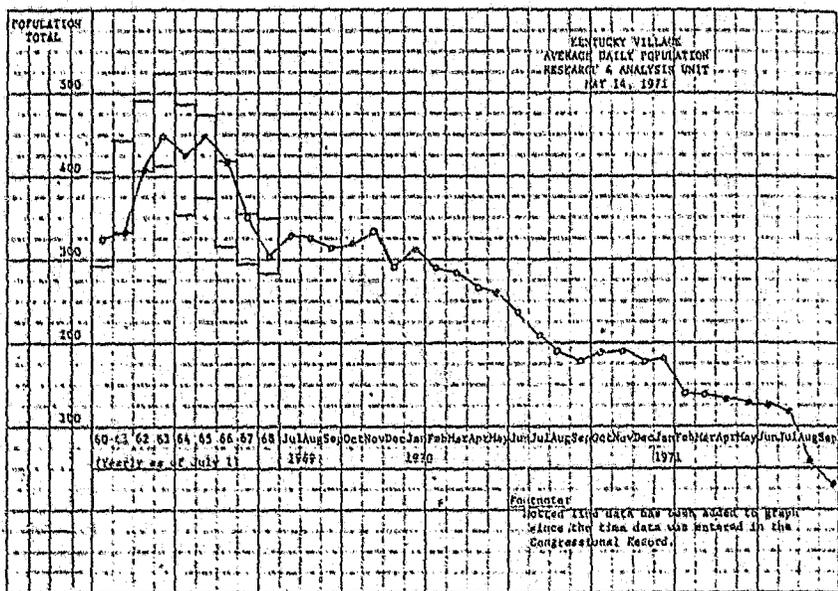
Page 7, para. 2. The dispersal of Kentucky Village's population was achieved well ahead of schedule and this facility was officially closed by Governor Louie B. Nunn October 28, 1971.

Page 14, para. 3. Since this testimony was presented an additional 150 volunteers have been added to the number of those active at the time the report was given (October, 1971)

Also appended are revised charts showing progress since the report was submitted in May. These (attached to addendum) correspond to charts 2, 4, and 5 included in the report.



Prepared by:  
 Research and Analysis Section  
 Division of Administrative Services  
 AEM



Dr. PERKINS. I appreciate that because under each of these separate points I have listed some of the specific structures such as human resources, coordinating commission and these kinds of things which I think are very fundamental parts of what I am talking about. You have to have a structure to bring these things about, and not just sit around cooperating.

And third, the development of cooperative funding to achieve mutually held goals which is bringing greatly increased funds there on child welfare problems.

Four, development of an improved direct service volunteer program to utilize largely untapped resources of volunteer manpower in a direct and continuing, 1 to 1 relationship with specific clients in need, and perhaps even more important than that, the resultant citizen understanding and support of what is going on.

Fifth, the replacement of Kentucky Village by special smaller purpose facilities for committed delinquents with the resultant more effective program and more efficient operation.

Might I say, that when we are talking now about being able to phase out Kentucky Village in a year and a half, this is a commitment which we really made 3 years ago. It has taken us four and a half years to realize it, but we had decided 3 years ago we were going to, and if we had not then we never would have.

Senator Cook. Let me digress here because I guess there has been as many grand jury reports out of Fayette County on why Kentucky Village should be closed, or a new facility should be built as there have grand jury reports about the Jefferson County jail.

Dr. PERKINS. And I just decided that I heard my last one and I did not want any more.

Senator Cook. I remember very vividly discussions of the operations and the serious problems that were presented, and the breeding of crime in Kentucky Village when I was a member of the State legislature, and this was back in 1958 and 1960.

Dr. PERKINS. Sixth, greatly increased adoption, homemaker, foster care, group home utilization of private institutions, and other community-based programs as alternatives to State institutional placement, with attendant decrease in total population in the department of child welfare institutions. And you will see on the top of page 3 there are some of the activities which are resulting in actually lower population in our institutions today than there were before.

And seventh, a development of a program evaluation and review unit within the department of child welfare to (a) collect substantive data as a basis for decisionmaking, and (b) to utilize systematic planning processes for programs and projects; (c), conduct operational, (intramural) research on effectiveness and costs of programs; and (d), to conduct applied research in the field of child welfare, particularly with respect to seeking out and applications of most effective programs.

Item 7 above is, of course, a necessity in order to objectively and credibly conduct the essential evaluation of programs so that available resources can be utilized in the most effective manner. In such evaluations, we must, of course, recognize, and I think this is important for all of us, that the citizens and public recognize first that we are struggling with some very complex problems which probably are not subject to overnight solutions.

Second, we should acknowledge from the outset that no one program is likely to be the panacea for all of the problems or all the individuals involved, for thank God, we were and are created as individually distinct persons and, therefore, not all members of any group can be expected to respond or react identically to any single approach.

Third, we should resort to the application of what, to the best of our knowledge, are fundamentally sound concepts.

Fourth, we should implement these to the best of our ability within the resources available to us.

Fifth, we should test the results in the best ways we know.

And probably most important of all, sixth and seventh, we should select those approaches which seem to show promise, at least with particular groups of individuals or in particular types of situations, and implement them more intensively, or more broadly, in what seem to be similar related situations in order to bring about a greater degree of success or success with a greater number of individuals.

What I mean is, we are so prone to try something for a limited period of time, and if it does not bring about 100 percent success, we discard it and jump over and try something else. Rather, we should determine which individuals the program helps and do more of it.

Seventh, we should simultaneously be constantly on the alert to discern if there are portions of our program which do not seem to be bringing about the desired results, and if such proves to be the case (as I am certain it inevitably will), be sufficiently honest to admit such, and alter them so they will be more likely to do so, or even abandon them completely in favor of others which may seem to hold greater promise. By such evaluations it is hoped that in time we can overcome the all too commonly held viewpoint, and with more than a minuscule element of truth, that public administration has expressed very little in evaluation.

And as a second major confrontation, I believe progress is hampered by the laws' antiquated usage of the very use of the word "delinquent," meaning offender or culprit, having to come to mean "junior criminal." Here I have carried on in what you have already heard, in my estimation, of the need of this establishment of an intermediate category between dependent and delinquent. Whether we call them children in need of supervision or children out of control of parents, but something to avoid the labeling of these truant kids as delinquent.

As you may know, in 1960, Kentucky established the Naton's first total child welfare department. This Cabinet level department was given integrated responsibilities for children in both of the dependency and the delinquency category. It is still the only such department. Its basic philosophy of the move was a recognition of the countless interrelations between dependency and delinquency, between the individual child's economic social background and his behavior.

Throughout the last decade, the work has benefited greatly from this recognition. We have been in a better position to detect and attack home situations where delinquency is developing. We have been in a better position to treat children with predelinquent behavior problems in the home or in foster homes, and we have been in a better position to affect the environment of the child in the critical period after they leave our institution.

Throughout the decade, we have also been able to attract many staff professionals who might not have gone into conventional treatment programs, combined funds for usually separated functions which also has been an advantage, and considerable duplication has been avoided. There is quite an advantage in being one organization with one set of priorities to be met.

It was interesting to me to note the testimony which I understand was delivered before this subcommittee on May 5, by Milton Rector of NCCD, proposing at the Federal level an office of youth's services. I have scanned it very briefly, and it seems to me he was recommending at the Federal level exactly the same sort of thing which we have at the State level here in Kentucky.

We are saying that dependent and delinquent child-family relationships are so interrelated that we need for them to be dealt with by one agency and not have a judge decide what type of problem this is, by what department he commits him to.

One longstanding dream now coming to rapid fruition is to phase out our one large institution, Kentucky Village—and it is always nice to be able to point to some results; this is a 73-year-old structure at Lexington—and convert our institutional program completely to small specialized treatment and rehabilitation centers.

Now, the question was asked here a few moments ago, if a small facility can in effect be self-sustaining, can you get along without the big old warehouse? All I would say is that we are gambling our professional reputation in Kentucky that you can, because we say we are closing down Kentucky Village, and it will not be there.

A groundwork off small facilities is already laid, and we will now be able to make the changeover in the very near future. Kentucky Village already operates as a treatment facility, though under a physical handicap. But, in January, we were in a position to step up the projection and publicly specify a 1½- to 2-year program for eliminating the antiquated structure. You see in the chart toward the front there, the planned phasing out, and actually you will find if you look at the figures closely that we are ahead of schedule. We anticipate we will make it sooner than we thought.

Senator Cook. Now, on this phaseout, what is the result, and where do you transfer?

Dr. PERKINS. Actually, there are very few of the individual kids being transferred. What we are doing is simply not placing them from the reception center there. Consequently, as they go home from Kentucky Village, the population drops. I suspect at the time that we may well come down near the end that we will have just a few left, and obviously we are not going to run a million, or a million and a half, dollar a year institution for 20 kids. We may actually transfer a few, but at the moment we are simply diverting them from the reception center to other places and letting the population at Kentucky Village fall.

Senator Cook. In other words, you are just not replacing them?

Dr. PERKINS. Right.

Senator Cook. Now, what is the average stay at the Kentucky Village facility?

Dr. PERKINS. I would like to turn to Jack Tracy on that. The average stay will be—

Mr. TRACY. About 5½ months; about 6 months for girls.

Dr. PERKINS. This has been reduced. Mr. Wall referred to a longer period of time, and I think this was quite true at the time that he was there. I do not mean to dispute his testimony, but as we have reduced the number, we have been able to reduce the length of stay there, so that I am quite certain that in 2 or 3 years from the time he was there, it was 9 to 10 months.

Senator COOK. In other words, it has become more manageable?

Dr. PERKINS. Right.

Senator COOK. What was the maximum population?

Dr. PERKINS. If you go back far enough, it was something over a thousand. When Mr. Tracy started working there in 1962, there were 522 children there. There were about 360 or 370 when I first came into this position a little over 3 years ago. Now, there are about 140; is that not right, Jack?

Mr. TRACY. That is right.

Senator COOK. Thank you.

Dr. PERKINS. To go on over here, these are the sort of facilities that we are talking about as replacements of this. You will see over in the picture in the right, the Woodsbend Boys' Camp, one to which you have already heard reference. As you see, it is quite a different sort of facility than the big old institution. Facilities established by the present department began with the two other boys camps, Woodsbend and Lake Cumberland, both designed to prepare boys for returning to their home communities. These were followed by Daniel Boone Boys' Center in Boone County near Covington, a center for younger boys, and Jewel Manor, for younger girls, and Frenchburg in Daniel Boone National Forest for the intellectually limited boys to Lynwood at Louisville, a center for older girls, and Pine Mountain in Harlan County, a center for older boys lacking home resources. These latter three were acquired by inexpensive lease and trade arrangements with other public and private agencies without expenditure of capital funds.

The Northern Kentucky Reception Diagnostic Center and the Green River Boys' Camp in Butler are under construction, and this will give us two diagnostic reception centers to service date rather than the present single ones.

With each addition to this residential system our objections have become more attainable. One, small-group cottage living in small facilities and two, specialized placements and treatment. I think this is the point where I would really like to emphasize the strength of what we simply call alternatives. Now, after all, if we would think, remember that we are dealing with individuals and individual people there is nothing which I resent more than someone asking me what is the answer to juvenile delinquency. I not only do not know the answer to juvenile delinquency, but I do not think anybody else does either.

Now, if you will ask me what is the answer to a juvenile delinquent, then I think we can propose some constructive answers. But we cannot suppose that one answer is going to be provided for thousands of juvenile delinquents. What we need are alternatives, and this is basically what this system provides.

The flow chart there in the middle shows really what happens to a kid who comes to the attention of the court. I will not elaborate on

all of it, but the real strength of it is in the fact that you have all of the community alternatives available which are provided by our community centers, and you have heard previously mentioned here that our budget for community services is greater than it is for our institutional services under the direction of Bill Ryan, here, our director of community services. But also where the judge is not faced with the alternatives simply of running a kid home or committing him to the training schools, he has the possibility of probating him to one of our local juvenile counselors. This counselor will get involved with the boy and get him involved in the boys' club, or get him involved in one of the other types of community programs you have heard mentioned here. But, even if he does go on and is committed by the judge as a delinquent, he is not committed to the training school or to any one specific institution. He is committed to the department of child welfare, at which point he goes to the diagnostic reception center, and there our professionals have an untold number of alternatives again.

He may go to any of 11 different institutions which are operated by our department; he may be placed in a private institution; he may be sent back to supervised placement back to his home; he may be placed in a foster home, in which case our people and those before them have not just one or two alternatives, but looking at this kid as a kid, they have got 50 alternatives before them. This is the way we must deal with delinquents, not as a big bunch that you have got to do either this or that with. But, when we can look at them as individuals and say this is the kind of program which is best suited to you, and to help you, then I think we have some possibilities of success.

At first glance it might appear that these would be costly objectives, and frankly we would defend them even if we knew that per capita treatment costs would be higher than smaller institutions because experience shows that the smaller units can help us recover more children from delinquency. And you have already heard Mr. Wall refer to this, and the fact is, however, that the normal per capita cost actually is lower in our small residential units than in the Kentucky Village.

The training school is the most expensive per capita operation we have, and again you have heard this expressed here, that the big institutions, contrary to the ideas of many that it is not an expensive thing to operate. It is the higher per capita cost, and you will see some figures there of some of our camps versus Kentucky Village, and you see that the per capita costs of the small facilities is about \$1,000 a year less than it is in a big training school.

It should be observed also, major savings are realized in the effective use of parole or supervised placement as we prefer to call it; that is, the community alternatives and even if we have one of our juvenile counselors serving as a probation officer or as a supervised placement officer, the costs are 10 percent of what they are to even institutionalize. The very existence of juvenile delinquency institutions are dangerous. We must have them for some children, but rather than to continue to create more of them we must devote more efforts to improving the quality of those already in existence.

We know too well the injustices and harm suffered by many children just for the fact of being institutionalized. We are determined to identify more and more of these youngsters and develop alternative answers to their needs.

While Kentucky's population has grown in juvenile crimes statistics and risen sharply in the last 10 years, our total institution population has decreased, as charted in figure 4 in the appendix.

Now, actually, the appendix got to be the front pages here, for which I apologize, but you will find chart 4 there, and again, before I would pretend to know everything, I want to apologize that on that figure 4 there are some errors in there as far as the numbers on the charts. But, we can correct them, but the total population in all of our institutions together is approximately 100 less at the present time than it was just a year and a half ago.

If those of you who were there want to look at figure 4, actually those figures in the left hand margin should be 300 more and have 300 added to them. It should be 400, 500, 600 and 700 and 800, rather than 100, but you see our population is running along now about 100 less, and that is total institutional population for all of our institutions together. Somehow or another, we just lost 300 kids there in that chart. We would like to sometimes. But, it is not quite that easy.

And now I would just skip on towards the end to reemphasize this matter of apathy and the attitudes of people to which you have already heard others refer.

The greatest obstacle to high quality delinquency treatment programs always has been public apathy. It is one thing to be shaken by juvenile crime, but quite another to take interest in blighted children. In fact, more than simple apathy, a psychological block is involved. A program of community involvement in treatment will make inroads against this vicious circumstance.

A practical program of paraprofessionals and volunteer workers will forcibly break down the block for many individuals spread widely through the State. Each person who discovers for himself what it is to love and empathize with a troubled child will emanate good effects to others.

I am not so naive as to expect the millennium; but I feel justified in the hope of measurable improvement in public attitudes. Furthermore, analysis and documentation of results soon will be at our fingertips. We will be able to provide the public with clear dollars-and-cents evidence of the great bargain of intelligent treatment over the high cost of neglect and injustice which, in past years, total reliance on institutionalization has fostered all too much.

I cannot reemphasize too much this matter of the value of a volunteer program and citizen involvement, not only from the standpoint of the man-hours of work you get from it, but from people who volunteer to work and help you with kids come to have a better feeling and understanding with what you are trying to do.

Thank you so much.

Senator Cook. Thank you very much, Doctor, and your statement is very commendable. I have to say that I am delighted that something that my predecessor started before I got into public office in Jefferson County has moved on to the State level, because certainly it was not mine or my creation by any manner of means. But, let us associate this with some of the things that are presently before the committee. Let us make an analysis of LEAA. What effect has LEAA had on your programs, what kind of funds have you been able to utilize through LEAA, and what kinds of funds have you been able to utilize through the juvenile delinquency program?

Dr. PERKINS. Here—and I think we must again come back to the matter of attitudes and the kinds of people who are involved—we have been able to work very well with our Kentucky Crime Commission. I cannot help but to point out that there has been tremendous help by the fact that Mr. Harper, whom you heard earlier as the chairman of the juvenile delinquency subcommittee at the crime commission at the time, was commissioner of the department of child welfare.

Senator Cook. It kind of helps.

Dr. PERKINS. I happen to be a member of our crime commission, and in other words, this system has worked because the people have gotten together and worked cooperatively. I am somewhat concerned that this same kind of feeling and active cooperation may not exist in other States. I would hope that it would. I think that the problem is what kind of funding and system do we set up that would bring about this type of cooperation.

As far as specific answers to your question: we have received funds for direct operations within our department, funding of certain positions, but we have also taken, living within the guidelines of the Safe Streets Act which said that a certain percentage of the money must be spent with local agencies having statewide responsibility for delinquency prevention programs, have gone out and worked with local agencies.

Perhaps we have not done as much of this in Jefferson County as we really have in other local counties, but in effect we have seen to it that they carried on our proposed programs which, in effect, all work together with this sort of network.

Senator Cook. You have not had it too bad with Mrs. Huecker. She has not quit yet.

Dr. PERKINS. We still speak to each other.

Senator Cook. Let me ask you, Doctor, what do you think the future is of continuing to fund the juvenile delinquency program if we can do no better than get a funding, let us say, of \$15 million, which has been the top amount?

Dr. PERKINS. I think you might as well forget it.

Senator Cook. All right, let us say you forget that because you cannot get adequate funding.

Dr. PERKINS. That is right.

Senator Cook. What do you do with the philosophy? Because you do not forget the philosophy. You have had a philosophy that has been in existence for 3 years. You have spent this money in one way or another way, and maybe it has not done the job it should have done because it has not been adequately financed, but if you are saying all right, let us forget trying to fund it with that funding basis, what do you do with the philosophy and the theory written into the bill?

Dr. PERKINS. Might it be possible to write into the Safe Streets Act guidelines which would say certain percentages of these funds must be spent for a delinquency prevention program?

Senator Cook. Well, of course, I think it could. What would you think of a—

Dr. PERKINS. This, it would seem to me, might help.

Senator Cook. What would you think of the continuation of the juvenile delinquency program if we could get it funded to the tune of \$75 million? Do you think it is adequately set up, do you think it has had

enough program evaluation that if it went from \$15 million to \$75 million that it could properly utilize that \$75 million to some degree of success?

Dr. PERKINS. I think there is a better possibility of it today, because there is at least a head of the office of delinquency prevention now, and who has more interest in going ahead and, you see, I think we were suffering from some very bad timing, that the old Office of Juvenile Delinquency was too closely related to the old HEW philosophy. And I think there is a possibility of it working. I am sorry that I do not know Mr. Gemigrani well enough really, you know, to say whether it will carry on or not. I think there is a possibility of them doing something. Beyond that I could not comment.

Senator Cook. Then if we do that at \$75 million, how do you evaluate the success of the JD program on a national level funded at \$75 million, and the Safe Streets Act which is financed and funded to the tune of \$480 million?

Dr. PERKINS. My personal feeling is that even at \$75 million the results would be so minor as compared with that under the Safe Streets Act that I would question whether it would produce visibly demonstrable results. This \$75 million, let us face it, divided up among 50 States starts to get down to relatively not very sizable programs in any one State.

Senator Cook. The problem is not so much the 50 States, Commissioner, do you not agree, but the problem is once you even get at the 50-State level, then it does not look like very much when you get down to the localities through the 120 counties, or even 20 counties that might need it?

Dr. PERKINS. That is right, and I think we are dealing with a problem of such major significance here that this is not going to be enough to produce demonstrable results which the public wants and the Congress is looking for and should.

Senator Cook. Now, Commissioner, let me ask you another question. Would you rather, as the commissioner, be guided by one set of guidelines in one approach and one request? Does it entail some serious problems for you when you have to make an application to LEAA, and then you have to make an application to JD, and then if there is any way in which they overlap you may be denied funds in one way or another?

What is your position, from a commissioner's point of view?

Dr. PERKINS. Naturally I would rather deal with only one. I would hope that somehow or another, and I see I must repeat that I feel, as far as Kentucky is concerned, that I am quite happy with the way things are going, obviously.

I also quite well recognize that there are many States in the country where the philosophy, the acceptance of good delinquency prevention programs is not as prevalent as it is in the atmosphere in which we are working. I would hope that there might be some way through the Safe Streets Act, if we come down to this alone, or somehow or another creating more assurances that more will be done about delinquency prevention rather than, "let us just keep on with locking them up" philosophy that prevails.

In other words, selfishly speaking, as far as Kentucky, I am not worried at all.

But, I also recognize that we have other States where they do not have quite the same philosophy.

Senator Cook. Do you consider that JD appropriations that you are able to get as merely supplementary to the funds you receive under the LEAA?

Dr. PERKINS. They are somewhat supplementary. Frankly, they have been so much less than what we see from the other that the real impact of what we have been able to do has come under the Safe Streets Act.

Senator Cook. Really what you are saying is if a JD Act should pass, and then the Appropriations Committees of the House and Senate agree to give it \$15 million, as they have in the past, that you would not consider it to be of any consequence to keep that program in existence?

Dr. PERKINS. In my estimation, no.

Senator Cook. Let me say this, because I particularly want this gentleman here to understand what I am getting at, I want to get into this record something that can prove to the Appropriations Committee that if this is done, if they are giving us \$15 million they are really not doing anything and in essence they really would be wasting \$15 million.

Dr. PERKINS. In my estimation, this could even be labeled as damaging with faint praise.

Senator Cook. That is the point. I think we ought to have this in the record, that a commissioner of child welfare—who has to deal with this day in and day out, feels that a program which is passed by the Congress and appropriated \$15 million, has no consequence as to any real solution of the delinquency problem.

Dr. PERKINS. And I think it can even have a damaging effect in that then you have the people dealing with Safe Streets saying well, delinquency prevention is supposed to be taken care of by that over there, so we have no responsibility for doing anything over here.

Senator Cook. In essence, you could suffer?

Dr. PERKINS. That is right. It is as though what you really need is \$5 and I save my conscience by giving you a dime. I feel better about it, but I really had better suffer with my conscience, and I think that we will get more attention under Safe Streets if the other is not there.

Senator Cook. Mr. Speiser.

Dr. PERKINS. I would hope that there could be some real guidelines put into Safe Streets which would insure in all States the sort of treatment under Safe Streets that we have been fortunate enough to bring about in Kentucky.

Mr. SPEISER. Dr. Perkins, do you have a combined State planning agency for the JD Act and the LEAA?

Dr. PERKINS. Yes.

Mr. SPEISER. Would your judgment of the effectiveness of the JD Act and how limited it has been budgeted, would that be affected by the fact that Health, Education, and Welfare never has asked for the appropriations as authorized by Congress when the act was passed in 1968?

Dr. PERKINS. I think very definitely so and, of course, I cannot peer into the minds of the responsible people in HEW as to why this has not been done.

But, I think perhaps to some extent it may be an outcome of the fact that people dealing in welfare in general, which we must recognize as a major portion of the responsibility of HEW, really do not, themselves, see delinquency as closely related to the welfare problem, as I wish they did.

You know, they are dealing totally with the dependency and welfare, and delinquency is something else over here.

Mr. SPEISER. In spite of the fact they have an act that has been entrusted to it?

Dr. PERKINS. Right, and so I think that act has been considered kind of a stepchild to them, and a very minor part of their activities, and delinquency really is not a part they think of as their responsibility.

And I think we have talked to many social workers who have dealt in the welfare field, and they really do not look at the delinquencies as closely related to their work. I think again this come back—and I do not want to too much blow the horn of our State structure in Kentucky—but we have now for 11 years said these things are inter-related and work together.

Mr. SPEISER. Now, is there not also the criticism on the other side, though. For example, that the Law Enforcement Assistance Administration considers juvenile delinquency more of a law-enforcement problem, as evidenced by the fact that there was some discrepancy as to whether it was 11 percent of LEAA's funds or 14 percent were assigned to juvenile delinquency prevention and control?

Dr. PERKINS. That is right. Delinquency has always been the stepchild between, in effect, adult corrections and law enforcement, and in welfare on the other side.

Mr. SPEISER. And is there not the fear though that if you do end the Juvenile Delinquency Act of 1968, and its performance up until now certainly does not give it the right to expect continuation, because I think it has been mishandled, evidenced by a lack of emphasis and a lack of backing, but has there not, however, been a criticism of many of the State planning agencies that they were heavily overloaded as far as their membership was concerned, with law-enforcement people who again focused on law enforcement as a mechanism in the juvenile delinquency field?

Dr. PERKINS. I think that is a very valid criticism; yes. This is true. That is why I say I realize I am dealing in the context of a very favorable structure of the administration of the act within our State.

Mr. SPEISER. Let me go on to just one other aspect of your testimony.

Dr. PERKINS. I might also say that 2 years ago I wrote a very lengthy letter to Mr. Creed Black, who was the Deputy for Legislation at HEW at that time, advocating more adequate funding and a more gung ho program for delinquency there. We did not get much of any place with that.

Mr. SPEISER. I wish your words had been listened to.

In your testimony, you suggested the establishment of a category of children merely in need of supervision. This morning we had as witnesses two attorneys who had been involved in handling juvenile cases in New York. One of them, Miss Sue Ann Shay, referred to the fact that in New York, they do have a category of persons in need of supervision—PINS they are called for short—in which the juveniles who are in that category are treated more harshly, more unfairly, than those who are really charged with being juvenile delinquents.

For example, she pointed to the fact that PINS are not given the procedural due process that those who are charged with being juvenile delinquents are given.

Second, she pointed to the fact that after the petition of referral to the authorities has been made, the rate of dismissal in PINS and neglected children is zero, while the juvenile delinquent has certain constitutional safeguards, and PINS and neglected children do not.

Then she referred to the fact that we have a PINS child who refuses or whose parents refuse to take them home, and there are no private facilities which are available, and the State training school system is often the only alternative, and that 50 percent of the children in the State training schools are PINS. That is 50 percent in the State of New York. So, I am raising the question about creating another category.

Dr. PERKINS. I think you are perfectly right. This is a valid point, that the establishment of such a category alone is no insurance that the problem will be answered.

Mr. SPEISER. Is not there also a problem though, that if we do create the category, that it is not just a question of the institutionalization that brings the stigma to children, it is the fact that they are brought before the juvenile court, no matter what the label is that is given to them?

Dr. PERKINS. I would hope that it might be possible for establishment of such a category to be handled differently than being brought before a juvenile court, but I do think that even if they did come before the juvenile court and they were given a label of being in need of supervision, this would be better than being given a label of delinquent. Now, this may be just playing with words, but—

Mr. SPEISER. Well, Judge Suell testified, and the thrust of his testimony was to cut down the jurisdiction of the juvenile court rather than to enlarge it, and it seems to me it had much merit, what he was saying.

Dr. PERKINS. Yes. I think as far as any particular emphasis on these community programs, all these alternatives are available. Bill or Jack maybe would like to mention some specific ones that might have been missed, for again I think this is relevant, and back again, and I have forgotten, but some time ago we were talking about the judge and restrictions put on a judge as to what he could do.

We have to accept the fact that at least in Kentucky, the judge also has that alternative of committing him as a delinquent, and that if we put too many restrictions on him, if we say he cannot put him in jail, he cannot do this, he cannot do that, but he can commit him as a delinquent and ship him off to there, you may really be forcing him to commit more children as delinquents.

Mr. SPEISER. No; I do not think that was considered in that option to be left open. If you are going to cut it down, you cut it down.

Thank you, Senator.

Dr. PERKINS. Bill, do you have anything in the way of community programs?

Mr. RYAN. They are in the record, and not unless there are specific questions.

Senator Cook. Thank you, Doctor. Thank you very much.

The committee will stand in recess until tomorrow morning at 10 o'clock, and I want to thank all of the witnesses that came today.

I think it was tremendously interesting. You added a great deal to this record, and I will do my best to try to convince my colleagues to read and pay attention to it. Thank you.

Dr. PERKINS. Thank you for the opportunity.

(Thereupon, at 5:50 p.m., the hearing was recessed, to reconvene at 10 a.m. tomorrow, May 18, 1971.)

## JUVENILE CONFINEMENT INSTITUTIONS AND CORRECTIONAL SYSTEMS

TUESDAY, MAY 18, 1971

U.S. SENATE,  
SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY  
OF THE COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee (composed of Senators Bayh, Hart, Burdick, Kennedy, Byrd, Cook, Hruska, Fong, and Mathias) met, pursuant to recess, at 10:15 a.m., in room 318, Old Senate Office Building, Hon. Birch Bayh (chairman of the subcommittee) presiding.

Present: Senator Bayh.

Also present: Lawrence Speiser, staff director and chief counsel; William C. Mooney, investigator; John M. Rector, deputy chief counsel; Mathea Falco, deputy chief counsel; Peter Freivalds, research director; Mary Jolly, chief clerk; Nancy Smith, research assistant; Elizabeth Marten, secretary; Cheryl Wolf, assistant chief clerk; Stanley Ebner, Esq., assistant to Senator Hruska, and Ronald Meredith, Esq., legislative assistant to Senator Cook.

Senator BAYH. We will come to order.

I want to thank you for coming today to let us have your thoughts. David Rothenberg, the executive secretary of the Fortune Society, is here. The Fortune Society is staffed primarily by those who have had experience with the law and is designed to provide a particular type of service to those who are ex-convicts.

Mr. Melvin Rivers, who I understand is the president of the Fortune Society, is here.

And Mr. Danny Keane and Mr. Chuck Bergansky.

We appreciate your being with us.

**STATEMENT OF DAVID ROTHENBERG, EXECUTIVE SECRETARY,  
FORTUNE SOCIETY, ACCOMPANIED BY MELVIN RIVERS, PRESIDENT;  
CHUCK BERGANSKY, EX-CONVICT; AND DANNY KEANE,  
EX-CONVICT**

Mr. ROTHENBERG. Thank you, Senator. I will make the prepared statement, and usually I am comfortable in the impromptu but I have the text that I will read, which is brief, and then the gentlemen will speak of their own experiences.

Thank you, Mr. Chairman for giving us the opportunity to meet with you this morning.

The Fortune Society is an organization which provides an opportunity for the voice of the ex-convict to be heard.

The gentlemen with me have spent over 40 years, between them, in reformatories, prisons, on parole or probation. Their life-style was antisocial.

They were the juvenile delinquents, the truants, the muggers, and eventually the armed robbers. But they have changed their pattern of behavior and, as a result, crime has been reduced by three men.

And that is how the crime rate is reduced—by human beings changing their manner of being. These men have changed their lives outside of, and in spite of, the reformatories and prisons in which they have served.

Mel Rivers, Chuck Bergansky, and Danny Keane were prepared for their criminal pattern by the State. Each was an inmate in a juvenile facility and was groomed for an adult life of crime, in the same way that a prep school student is readied for the Ivy league.

As a society, we are long overdue. The process of problem solving must emerge. The first step in the solution of any problem is to recognize and define it.

For too long, legislative bodies, anxious to provide the panacea, have been dealing with our penological failures by offering their own rendition of the cure.

As a result, we have had generations of applying band-aids to gangrene.

First and foremost, we would like to put forward the notion that there is no single solution which will alter the antisocial behavior of many young men and women.

We must be willing to acknowledge the need for some social dynamics and institutional flexibility which allows for the differences of the human condition.

Our inadequate and irrelevant system of punishing the child is a conceptual failure. From the day of separation, when the youngster is held in quarantine, we fail to reshape a derailed youth.

Upon arrival in the institution, the child's wound is open and bleeding. He is then most receptive to what we can impose on him. Instead of compassion, we offer indifference; instead of confrontation, we impose isolation; instead of redirection, we nurture the ailment.

The inmate learns. He learns how to defend himself against sexual manipulation. He acquires a jailhouse hustle and he commits more crime while incarcerated than he ever did on the street. That is prison life and it is his survival. His way of life is manipulation and machination. It is contrary to everything that would allow a man to function in a free and democratic society.

Our institutions are sprinkled with programs. They are quickly gobbled up by the inmate. But a few hours a week, in spite of all of the earnest attempts to provide an alternative, does not undo the daily regimentation, the absence of decisionmaking, the struggle for survival, the fantasy existence which denies the reality of the world outside.

Then one day we open the doors of our tax-supported cages. The men and women released don't want to go back \* \* \* they want to make it on the street but don't know how or where to begin. Employment is a problem, but decisionmaking proves a greater obstacle for the institutionalized man whose values are shaky. Prison is no longer a deterrent,

because the released inmate has indicated that he can survive in prison. It is out here where he has his biggest battle.

So when the doors of employment are closed in his face, or the lies begin to catch up with him, the ex-con goes into the business where no references are asked—crime.

The taxpayer is giving his tax dollar to a system which perpetuates his being victimized. Ninety-nine percent of the inmates return to the streets—and while the State has the man, little is done to allow him to come to terms with himself in relationship to society.

We are keeping correctional administrators and officers in business while underwriting crime. The system, the concept, does not work.

Patchwork legislation does not solve problems. In attempting to deal with penological change, you must listen to the voice of the ex-convict and recognize the role he plays in creating an atmosphere for change.

It begins with the youth facilities and it spirals into a national menace. Conceptual change is needed.

We will submit a guideline for conceptual change—a broad guideline which exists on paper—which, if made a reality, must be continually examined and reexamined, adjusting to the needs of those who have been separated from society's mainstream. Any tax-supported concept which combats crime must be accountable to a concerned and responsible constituency.

I think Charles, Danny, and Melvin will give personal testimony, and then—

Senator BAYH. That is fine. Why don't each of you just give us a thumbnail sketch of your past background and your thoughts about what we need to do.

Mr. BERGANSKY. Senator, originally when David invited me here to testify I was sort of reluctant. I felt that I would not have portrayed an unbiased opinion of our juvenile facilities.

After having read the book "Children in Trouble," and after having seen the film on television, "This Child Is Rated X," and having recently went to a few of the facilities that I was in in the 1930's, I must try because the situation there, as far as I am concerned, has deteriorated from the 1940's.

To give you a brief sketch of myself, I am 37, and will be 38 in August. I spent 24 years of my life in penal institutions and reformatories.

Senator BAYH. How long?

Mr. BERGANSKY. Twenty-four of 37 years. I have been out of prison over 3½ years, and I have reshaped my values, but I did it in spite of the penal institutions. I found alternatives out here.

The first 7 years of my life I lived a relatively sheltered life. I was in a foster home. I was left on the doorstep when I was a child, and I was unaware of my predicament, and when I was 7 years old an unfortunate incident happened in my life.

The husband of the household, who I assumed was my father, died, and so the Catholic charity placed me in another foster home because at that time they had a policy that the child should have the supervision of a man and a woman.

I immediately ran away the first day. I wanted to get back to my mother, who I assumed was my mother, and I was placed back in the

foster home, and I ran away on two other occasions, and ultimately they decided that I was an emotionally disturbed child and I should be placed in an orphanage.

I was sent to St. Mary of the Angels in Long Island, and I was there for a period of time. Conditions were not brutal at that institution. They taught me to recite my catechisms and to pray, and I became an altar boy.

When I was 9 they shipped me out of that institution because the educational facilities only went to a certain grade, and they sent me to St. John's Orphanage in Brooklyn. When I got there, the institution was not brutal, it was indifferent. It could not respond to my needs.

I was there for a period of time, and on weekends they used to let us go home to a member of the family, and since I had no one, I was always given tickets to go to Everett Field, and I used to go to Everett Field, and I used to come back in New York at nighttime, and it was the Brevoort-Stuyvesant section of Brooklyn.

The other children in the institution came back from their families and they always had a package. I never had none, and they used to share their packages with me. One week when I went out I emphasized a mother in my mind, and I stole from Woolworths and I came back with a very big package that afternoon and I shared it with the other kids, and I continually did this and I was ultimately apprehended for stealing a cigarette lighter, at the age of 10½.

I appeared before a judge on Owens Street, and he adjudicated that I was an incorrigible and that I should be placed in the New York State Training School for Boys at Warwick. And they refused to accept me because they had a policy of 12 to 16, and I returned to the court.

However, the judge felt I should go back there, so he resigned the commitment papers and I was back, and the youngest kid to go to this institution.

After I was there 2 weeks someone tried to sexually assault me, and I defended myself, and I suddenly realized that if I was going to function in this institution—I had had heroes, Joe DiMaggio and Stan Musial, and they were not conducive to my functioning in this institution, so I relinquished them and I adopted a new hero, John Dillinger, and I survived in the institution.

I became brutal because I did not want anyone to victimize me. I learned things that I was unaware of, and after 4 years they released me and placed me in a foster home.

I could not adapt there, there was no communication. I attempted to commit suicide and I was sent to the State hospital at the age of 16.

I was released from the State hospital and I immediately got into my first trouble as an adult. I was at the age of 16 and I burglarized a restaurant, and I got 2 cents, and I was sent to the detention facility in the Bronx, and I received a suspended sentence.

I was picked up 6 months later for stealing some mail in front of a post box, and I received a year and a day sentence. I was sent to Chillicothe Federal Reformatory, and when I got there kids from Warwick and from the National Training School, all of the kids of similar background as mine, and in the institution we did nothing but talk about crime, crimes we committed, crimes we never committed, and crimes we were going to commit upon our release.

I got into difficulty in Chillicothe and was transferred to Lewisburg Federal Penitentiary. When I got to Lewisburg I did not tell the inmates that I was there for stealing a parcel post package, you know, I wanted to be up in the higher echelon, and so I synthesized a crime, and I made some connections there, and when I got out I put the connections to use, and I got two guns, and I started to victimize people, and I was successful for a period of time.

Senator BAYL. How old were you when you got out of Lewisburg?

Mr. BERGANSKY. I was 19, and I got two guns, and I victimized people, and I ultimately was apprehended for a series of armed robberies in New York. I received a sentence of 7½ to 15 years, to be served at Sing Sing, and the final thing, as David just said, the day I appeared for sentencing I felt that I had ultimately achieved success, that I was following the path of Dillinger, and I felt that I had, you know, reached my status quo, so to speak.

When I got to the State prison I met the same guys, and they were doing the same thing, and it was like old-home week. I did not like prison, but I could function there. I could not function out in the street.

I did 8 years on the 15-year bit. I came out, I got two guns immediately, and I did not even try to get a job, and I got involved in a series of armed robberies again, only this time in the State of Jersey. I served a sentence of 10 years.

I was released and a detainer was lodged against me by the State of New York for parole violation.

Now, if rehabilitation is what the whole penal system is about, the psychiatrist of the training center, the prognosis for the future was excellent.

Now, usually they write guarded or poor in case the inmate commits a crime, and I went back to the State of New York and they had an option of reinstating my parole; however, they thought that 2 years more would be conducive to my rehabilitation, so I was sent back to prison for 2 more years.

I was released over 3½ years ago, only this time I did not come out and pick up two guns, because I realized what I was doing to myself, and I realized what the system was doing to other people, and I came out, and I met with the futile sympathy that most convicts do when they are released. I applied for jobs in the city, State and Federal Government, and because I was a convicted felon I was not eligible to work for them.

I applied to private industry and I met the same thing, except it was do not call us, we will call you. But finally I did get a job by falsifying an application, and I learned a trade. I became a roofer. I earned very good money, but I had an accident and I had two operations on my back, and I found out about the Fortune Society and I got involved with them.

Today I am a sales representative for a company in Oakland, Calif.

In conclusion, I would like to say one thing: Most of the inmates who I met in prison want to make it out here. They believe in the so-called American dream, but when they come out they are denied part and parcel of it, and because while inside they did not reshape their values, they deal with the problem on an emotional basis, and as a result they go back into prison. They do not want to go back, but they go back there.

I am able to compromise the situation today because I intellectualize on it. For instance, I have just been denied a job in a bar to work two nights a week. I am allowed to spend my money there, but the State Liquor Authority of New York said that my working in a bar would be detrimental to the community.

These are the asinine laws, you know, that most inmates face upon their release.

Thank you for having me here.

Senator BAYH. May I ask you a couple of questions?

Mr. BERGANSKY. Yes, sir.

Senator BAYH. You feel that the first time you received a shock that changed your outlook as to what you really wanted to be, was when you first were committed to that first institution? You say you were assaulted?

Mr. BERGANSKY. There was an attempted assault on me, and I retaliated by stabbing the kid with a fork, and I was punished for protecting myself. I was sent into a cottage for incorrigibles because I protected myself. You see, in our juvenile institutions unfortunately an inmate has three alternatives, and in order to survive he must choose the alternative that is wrong.

In other words, if a guy tries to sexually assault you, you can report it to the administration, but if you do you are an outcast within the institution.

B, you can submit to his advances; or C, you can play the game as Perry Thomas wrote about in his book, you can brutalize the other inmate, you stab him, or you hit him with a pipe, and unfortunately this is the alternative that you have to choose whether you are in a State prison or a training school or a shelter.

Senator BAYH. But it was at that early age, you say 10½, when you were—

Mr. BERGANSKY. When I was exposed to the situation like that.

Senator BAYH. Is that when it all began to happen, or was it when you got older and got to Chillicothe or Lewisburg?

Mr. BERGANSKY. No, I would say at Warwick, but if I really would say, I would say at the age of 7 when I was taken from the foster home with Mr. and Mrs. Tate.

Senator BAYH. You mentioned that most inmates believe in the American dream and do not want to follow the path of crime. What was it in your own experience, Mr. Bergansky, that as soon as you got out of one place—made you immediately get a gun and go about crime?

What did you do? Did you try to get a job at that time that was not criminally oriented?

Mr. BERGANSKY. No. It was my reference of values at that time.

Senator BAYH. You thought that crime was the thing at that particular time?

Mr. BERGANSKY. At that particular period in my life I thought that if I had a car, if I had money, if I had all of these things I would be accepted.

Senator BAYH. And you thought the only way you could get those would be to follow crime?

Mr. BERGANSKY. Yes, because having been in the institutions, I had seen inmates come in and out and they were out for 6 months, and

they tried to make it, and they could not, and they came back in, and I thought that I was no exception.

Senator BAYH. But you did not try to make it until after your experience at Sing Sing, and then you realized?

Mr. BERGANSKY. Well, I would say that I started to change my frame of reference, my values, at the age of 28.

Senator BAYH. Well, to you and you other colleagues here, I want to say that I am not cross-examining you to point up inconsistencies, I am just trying to learn what happened and what goes through a man's mind. Never having had that experience, I do not know unless I ask you.

Mr. BERGANSKY. Let me give you an indication. I was involved in a strike in Cleveland. It was written up in the paper as a riot. We wanted to expose the situation that was happening in the prison. It was in 1954 and the same thing that inmates in 1970 are asking for, and we had asked for this in 1954.

And as a result of our participating in this so-called riot, we were put in strip cells. We were beaten, we were gassed—

Senator BAYH. What is a strip cell?

Mr. BERGANSKY. A strip cell is a regular cell except it is devoid of the bathroom, the sink, you have concrete, concrete and steel and you are naked.

And I will tell you how I survived in that atmosphere. I hated everyone in society. I felt everyone out here was responsible, and no one would question what was happening to me in there, and I lived in a world of fantasy, and thank God that I did not act out my fantasy.

One fantasy was that when I came out at New Year's that I was going to get a room at the Astor Hotel, which was on 46th Street, and I was going to set up a machinegun, and I was going to shoot everyone as they were celebrating New Year's. You see, hate begets hate, and the institutions teach you one thing.

Senator BAYH. What happened at Sing Sing or after you were out to cause you to feel that you could believe in a different way?

Mr. BERGANSKY. Well, in prison you never make a decision for yourself, not even in a juvenile facility. All decisions are made for you, No. 1.

No. 2, you are always wrong, your dignity is never maintained within the institution. If an officer makes an allegation against you, you are automatically wrong, and when you appear in court it is really a kangaroo court and it is just the severity of the discipline that the administration is going to impose on you. You are not taught a useful trade. You can go into any penal system within the State of New York and they will show you programs, but ask them how many, what percentage of the inmates are involved in the program.

It is about 5 percent of the inmates that are involved in the programs because they have not got the facilities for them, and it is a matter of money, et cetera. They teach you an obsolete trade.

Senator BAYH. What was it? What I am looking for is the thing that changed you.

Mr. BERGANSKY. I do not know the magic thing that changed me. I think I started doing a lot of reading and I got an insight into myself and I asked myself two questions: Who was I? I did not even know who I was. I thought I was Dillinger, and then, where was I going?

And I got an answer for that, I was either going to spend the rest of my life in prison, or get shot in a holdup, or probably get the chair, and I did not like that one bit.

So, one night I was lying there in my cell, and there was an inmate, an old man who had spent about 60 years of his life in and out of prison, and he was telling a young kid how to beat the system. And suddenly I realized that I was a replica of him if I continued, and it was very frightening.

Senator BAYH. Thank you very much.

Mr. Keane.

Mr. KEANE. I am scared to death and I haven't even started.

Senator BAYH. There is no need for you to be frightened. What we are trying to do is take your experience and keep others from having to go through it. I appreciate this, and I know it is not easy.

Mr. KEANE. This is an experience, this big room.

I got involved with Fortune Society about a year ago. I was separated from my wife at the time, and I was out of prison about 7 years, and I was sitting in a bar when a friend of mine came in and needed money for a lawyer. He was out on bail, so we decided to pull an armed robbery, and it was not my first.

So, I went down to my wife's place, and that was in the neighborhood, and I had to spend about a week there casing the place over, and while I was down there I was fortunate to be watching TV, the Mike Douglas Show, Melvin Rivers and Dean Jackson was on there talking about helping ex-convicts and helping with their problems.

At first I thought they were a bunch of phonies, because I thought that any guy that could not help himself was bad off, but my wife said I either make a phone call or get out. I still had 3 days to go before I committed the robbery. I called the Fortune Society and Kenny came down and picked me up, and here I am today.

I was born in Manhattan, and at the age of 8 years old I was going to Catholic School and I was singing in the choir. At the age of 9 I got locked up for stabbing a kid in Central Park.

Senator BAYH. At the age of nine?

Mr. KEANE. I got locked up for a stabbing a kid in Central Park and I was put on 3 years probation, and during that time my family moved to Brooklyn because my old man was an alcoholic, and so my mother, and my kid brother and myself went on welfare, and we moved back to Coney Island, and I can remember on Thanksgiving morning waking up in this one-room apartment, and I felt kind of bad, and I went down on the corner and I met a lot of guys in the same predicament.

With the young kids the biggest thing was not going to school, and I did not go to school, and I would get with the guys and we would run up and down Main Avenue.

They took me to court for not going to school, and I was put on probation. And then I would go back to court for not going to school, and I was put in the Youth House a couple of times.

Senator BAYH. Why did you not go to school?

Mr. KEANE. Well, my mother and my father were both alcoholics, and we were living on welfare, we were living in the slums, and they were continually fighting and I did not know what was going to happen to me when I would come home, I did not know, and

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there was no encouragement to go to school. When I did go to school for a couple of days I would just find myself in that kind of situation, that my mind was always completely uneasy, always on the go.

I wanted to be involved with something.

Today I actually look back and I can see what it was. I wanted to be recognized some way or another.

Senator BAYH. Yes. Now, what happened after you were picked up several times for truancy?

Mr. KEANE. They put me in the Youth House, the old one on 12th Street in New York City, and in that place I was scared to death. I have seen kids get raped inside of the Youth House; I have seen racism practiced openly.

Senator BAYH. How old were you?

Mr. KEANE. I was 9 years old at the time.

Senator BAYH. May I ask, what are the alternatives to places like Youth House? Is it possible for you to look back, and think the thoughts that were going through your mind when you were 9 and try to envision, given parents that really did not care and had problems themselves, what would have been the best thing for the court to have done with you when they picked you up for truancy? What do you think they should have done?

Mr. KEANE. The problem with me, you see, was not my problem. It was the society I came from, the neighborhood, my mother and father's problem, and I was punished for something, you know, they were doing, and did not really understand. They were alcoholics.

Senator BAYH. Given the fact that you were in that home, what do you think society should have done instead of putting you in the Youth House? What do you think you would have been comfortable with?

Mr. KEANE. Well, I could not say that I would want to be taken away from my mother and father, but they could have put me in a community residence where I could still be in touch with my mother and father, instead of shipping me upstate to a reformatory which was beautiful, and the scenery and everything, but the only thing was they did not send my mother and father with me.

And the attitudes you encounter there were the same attitudes of my mother, my father; and my father was pretty heavy with the strap when I was young, and when I got up there with the Christian Brothers, the scenery was beautiful, but the brutality was still there.

I remember one time I ran away from there and they stood me up against the wall for 24 hours, and I turned around once to ask to go to the bathroom, and I was almost dripping down the wall, and one time I had to walk barefoot through the snow a mile up the hill, and then I came in and I had my supper, and I took my shower, and then they leaned me across the bed and gave me 10 whacks with the brush.

All of these things contributed to the life, and the attitude I had was really bad when I came there, and I went on to prison, and I encountered the same kinds of attitudes, and when I came out I was a vicious animal on the street.

When they first got ahold of me, I was a kid, and they could have changed me because I did not have the mind of a criminal, and I think if they would have put me in a community base where there were people that really cared about me, because when I was hooked

up with this organization some years later, as was said earlier, people cared for me in this organization, and that is what made me change, and motivated me for change.

The conditions I lived in are still there today. I still live in these conditions, but I can face them today because I have a better understanding of them, because somebody cared enough about me to make me care about myself, which I never did before.

Senator BAYH. What did Fortune Society do to make you think somebody cared?

Mr. KEANE. Well, it is this human aspect. You see, when I was a kid, I went through all of these institutions, and I was just a number there. I was 28 in the cottage, and you are given a number when you get there, and I was a number in the Youth House, and people just dealt with the problem, not me, and when I encountered Fortune Society, they took me for what I was.

We deal on a one-to-one basis, one convict to one convict with the identification process, and they make us realize the problems. This is later on in life, but this could have been done much earlier, as I said.

But, when I came through there I had been to five institutions, and I went to prison, and when I came to the Fortune Society I was 26 years old, sick, I was an alcoholic besides that, and I was, you know, a vicious person, and always fighting in bars and hurting people, and getting locked up for assault, and that is one reason my wife broke with me.

When I got involved with Fortune, the people understood about the problems, No. 1; and No. 1 was that they cared about me; and No. 2, they were educated to know what the problem really was. And I still live in those conditions I lived in when I was getting in trouble.

I still live, and I would not say in a middle-class neighborhood, but I still have everything that was there before, only now I am involved with Fortune, and it just changed my attitude completely in 1 year's time, and I was in institutions for 7.

Senator BAYH. When did you get married?

Mr. KEANE. I got married in 1965 when I had just got home from an institution, and I did not want to go back to prison.

Senator BAYH. Have you been in institutions since you were married?

Mr. KEANE. Yes, once. Not inside, but I got locked up for assault and I beat it with a lawyer. I never got caught after that. I continued in crime, and until my wife got a separation because I was continually fighting in bars, and coming home with guns.

But, you see, I believe in the American dream, too, and when I was a young kid I know I felt, and still feel today, that to a youngster, part of the American dream seems to be the way it is on TV and in the movies, and so I wanted to be a part of it when I was a kid, and I went about crime, which is the only way I knew how, and then I started committing armed robberies and things like that.

Senator BAYH. Are you working now?

Mr. KEANE. I am working as a counselor for the Fortune Society, and like I said earlier, like the secret is really caring about kids, and you have to remove the cause, and I think the family is part of the cause in my case. My mother and father were both alcoholics, and

every time I went into these reformatories, when I was a kid, I always returned to the same conditions that I left.

In one instance, they took me to one place, and I spent 3½ years in this one place, and I left to go out on the street again to the same exact conditions. But, all I was taught how to do, actually, in Lincoln Hall was to play football, and when I came back I was not out more than 6 months and I got locked up for stealing a car.

And then I got out again and I got locked up for armed robbery, and I came out to the same conditions again, and the same conditions for 7 years all the way down the line until I got involved in Fortune, and all they gave me was understanding.

Thank you.

Senator BAYH. Thank you.

Mr. RIVERS.

Mr. RIVERS. I am glad to hear you say that name, Mr. Rivers. It is a pleasure to hear that. In my life I have been called quite a few other things besides Mr. Rivers.

Senator BAYH. Well, so have I.

Mr. RIVERS. My life is very similar in many ways to Chuck and Danny's, and very different in many other ways to Chuck and Danny's. My life in the Bronx section of Brooklyn, coming up as a youth, has been a variety of different experiences, and they all centered around what is known as survival.

I came out of a period called the gang era which Philadelphia is suffering the problem right now, and during that time period in the Ocean section of Brooklyn, and all over Brooklyn and all over in New York were gangs, and the gang philosophies were just to survive. We sought all of the territory boundaries such as city blocks because we wanted to own something, we wanted to belong to some form of society.

We wanted to belong to some form of culture. Our own mentality at that stage was semimiddle class. We wanted some of the material gains that other people had, and we used violent methods of getting these things, committing crimes, playing hooky from school, and this was the way of life with the gangs.

It was an accepted philosophy to be against any established institution such as schools, such as police authority, and such as committing crime and stuff. We committed crime because that was the way of winning acceptance.

If, in fact, the gang or some parts of the gang were going down to commit a burglary and you were asked to go along, you did not say well, listen man, I do not want to go because I am scared, or I do not want to go because I do not want to get locked up and go to jail, because this would put you in another category.

That would make you an individual that did not have any heart, and in layman's terms any nerve. That would make you an outcast in the group.

So, rather than be an outcast you went along with your peers. You would live a life of being too afraid to be afraid. Well, I lived this life and I rose through the ranks. This is not the first time I have had the title of being the president. I was the president of one of the gangs I was in. I was kicked out of school and I went there and I would always be the kid that the principal hated to see or the teacher hated to see, and I think I invented the Excedrin headache commercial.

I learned how to manipulate in school. I learned the different various rackets that are run in public facilities called schools, like getting records and rackets that if you wanted to get out of school you can get out because there are guards at the door, and you knew all of the guards, and you knew that you could beat them up, and they knew that you could beat them up, and they would give you a card. You give them 50 cents, and they would get you out if you wanted to get out.

I played a lot of hooky and I graduated from junior high school, or high school, not even to my choosing. I did not even bother to go to the graduating exercises, because as I mentioned, my life still was with the people that were on the streets. All of the dummies went to school, all of the smart guys were out on the street corners. I guess we could call it the street corner society.

When I got to high school it was a continuation of the same things, and I would hear the same quotes from teachers that I had heard on down the line, you know, if you really sit down and just give yourself an opportunity you will turn out to be a very bright student because you have ability, you are a little advanced, you are ahead maybe of some of the other kids who are in here, and I would take this as an incentive to play hookey, and so I played hookey.

The school finally got tired of me and I was sent to 700 School System in Brooklyn, and in the 700 School System you did not have any classroom whatsoever. All you did was report in the morning, and you were only allowed to bring a dime. You were searched every morning when you went in. You bring no pencils or books. You played wall-to-wall basketball, volley ball, and at 2:15 you were given a token to go down to the subway and you were put on the train, and that was it for the day.

This lasted for 2 weeks with me and I was kicked out of that school for inciting a riot, and I was taken to children's court, where I had been before. I had been placed on probation, but I had never bothered to go down to see my probation officer, because another accepted ideology on the corner was that you stood around and you talked about how bad you were.

You always had an arsenal on you that proved it, and you had zipguns, and sawed-off shotguns, and switchblades, and bayonets, and machetes, and mom's kitchen knife.

And being on probation was part of the heroics. To say you were on probation, and to go down to see your probation officer, it gave you a little prestige in just having a probation officer, and it was just a mere advantage for me.

When I went to children's court it became another step on my way to fame in the gang. I did not leave children's court. I went to children's court and I was sent to juvenile training school called the Otisville Training School for Boys, but before I went to Otisville I had to go through the reception process and I stopped off a month at a place called Hampton Farm. When I got to Hampton Farm I met a lot of guys from a lot of different gangs, and it was back to the same old game, survival, and survival went to the toughest gang or guy in the institution.

The institutional system was just that you were given a set of clothing, you were assigned a little room that had one steel door, two concrete walls and a mesh screen in the rear. During the course of the

day you were not allowed to sit on the bed so, therefore, you had to sit on the floor.

You went to chow, and every once in a while they showed you a movie.

Then I was shipped on to Otisville Training School for Boys, and again it was a repeat of the same thing, but here I found something different. I was not assigned to a little cell, I was assigned to a dormitory where you had 20 men in it, and out of those 20 men they had one or two rulers among the inmates. The rulers were the toughest guys in the cottage.

I was reading a news article while waiting to come up here, and it seemed strange to me that the kids that must have testified yesterday were talking about the very same conditions that existed in Otisville in 1958, you know, lying in your bed and having someone crawl under five beds to get you by the leg, or grab you by the buttocks, and you find yourself in an encounter physically trying to fight not only for your pride or dignity or manhood, but just for plain survival.

Well, this happened to me in the institution, and I learned there immediately that once I beat that guy up who was considered one of the toughest guys in the cottage, that I began to assume some kind of respect from all of the other 19 and that taught me something.

The only way that I was going to make it in that cottage was to be the boss, was to be the guy that gave out the rules and regulations to the rest of the inmates.

And the way that I could establish that a little better was to beat everybody.

So, I went about my daily chore of picking and choosing who I was going to beat up, and I became a bully. I got to be the bully, and I was placed in solitary confinement in Otisville for being a bully, and I went through a year of Otisville talking about the crimes I committed out on the street, talking about the gangs I belonged to, talking about the institutions that I would eventually go to because it was the accepted way of life.

Senator BAYH. Excuse me. How old were you?

Mr. RIVERS. I was 15 years old when I hit Otisville. I was 16 years old when I came out, but in a sense that is a slight misnomer, because I had spent a lifetime being a manchild in a so-called promised land. During the time of my youth it was part and parcel that you hung out with the older guys, and you tried to be older than you always were, so when I got to Otisville, although I was 15 in age, mentally I was trying to be 18 in age.

When I came out of Otisville I assumed the same role that I had assumed before I had left the street, because that was the only way of life that I knew, and I went on to spend 3 years in the State institution for two counts of assault and robbery.

I was given a 10-year sentence, of which I spent 3 out of it, and I spent the next 7 years on parole.

Senator, I would like to say something about the juvenile administration, the administration in the juvenile institutions to me at that time seemed to be caught up in their own existence and their own survival. They were not concerned with where the mentality or where the minds of the individuals who were incarcerated in that institution were, only where the bodies were.

I was sent to that institution because I incited a riot in the 700 School System. When I got there, whatever I thought I was was never questioned. I did not know who I was, where I was going, what I wanted to do, and when I would start taking a look at myself as to how I would do what and what I was going to do, no one ever questioned me about that. No one questioned me and no one questioned anyone else.

I came out of that institution with the same misguided values that I went in there with, and there was no one there that was concerned.

And recently, in conclusion, a man who is affiliated with our organization, who lives up in another part of the State, came out and we had three kids, and two of them were recently out of Otisville, and I figured as an experience to the kids maybe one day that we will get in the car and we will drive up to Otisville, and we will look around, and then we will drive back to their homes, showing them that sometimes you can go to a place and leave it, and it might be a valuable experience to you.

To my surprise I found Otisville had changed, and that might be considered by the public very significant, but the only change was physical. It changed in the area of the buildings, they were brand new, brick, but the concept, the attitude was identically the same. The kids were just inventory. They were not people, they were not dealt with on the level of what they were there for. They were just dealt with because they were there, and one day they would be going home, and that was it. I could not see the institution because they felt they had something to hide from me, or something to hide from a person that had been there before, and I left there with the impression that it is a shame that places do not change, because here are kids who will eventually follow the same route that I followed, and there is no one in there that is concerned about it.

So, in closing, I would like to say that we have created a lot of myths in this society, and one of the myths is that an ounce of prevention is worth a pound of cure, and in this case the ounce of prevention lies in juvenile institutions, because if we truly were interested in an ounce of prevention and if we did some form of work with the inmates in juvenile institutions, we might not need the vast amount of adult facilities that we have.

Senator BAYH. Thank you very much, Mr. Rivers. Let me ask you a question or two, if I may. What was your family's situation at home when you were on probation?

Mr. RIVERS. Well, my family situation was, I gather, just like anybody else's family situation. I had a mother and a father, and two sisters and a brother, and ironically I am the only one out of the flock that was the bad apple. But, my father used to work for the railroad, and he was very proud of his position, and he used to impress upon me that, you know, this is what I should be, and I did not like the idea of working hard all day, coming home, and there was the guy across the street that did not do a lick of work, and he had maybe manicured fingernails, and he had a big Cadillac at the curb, and he did nothing but stand on the corner and collect money, and I could not quite equate working for the railroad for pennies, with this guy across the street, who had a lot of things going for him.

As far as the relationship between myself and my parents, they were not very understanding as far as what I wanted to do, or what I felt that I was. I remember some isolated incidents in my life where I had a fight in the neighborhood protecting myself, and it seems like my father only beat me about three times in my life, and it seemed to me that he always picked the wrong time to beat me, he always beat me when I felt that I was protecting myself against somebody else in the neighborhood. He wanted me to be a docile person, and I could see being a docile person in an atmosphere that was totally violent, and I rejected what he called his love, and I rejected what my mother called her love, and I found my love out in the street. My love came in the brotherhood of the gangs.

Our family situation, if I can sum it up, would be a harmonious one on the one side, and a complete turmoil on the other side.

Senator BAYH. You said that you wanted to belong, and you did not feel that you belonged at home?

Mr. RIVERS. No, I am not saying that. You know, it seems that society always looks for two isolated incidents in a person's life, the one that led a person into crime, and the one that eventually took him out of crime. And my experiences have shown me that it is not one isolated instance. It is a whole conglomeration of instances that takes a man into crime and that must be taking him out of crime.

There were a lot of experiences in my life that I probably did not say here that might have contributed to me not going back to prison after I came out.

There were a lot of good people that I met along the way, isolated people along the way that might have given me some form of insight. There were a lot of people along in my life that might have given me some bad influences, but I in turn was the one that walked through both of those doors, because I had the ultimate decision on what I was going to do. And I think that if we search, continue to search for the isolated incident, we will never find it. It is like searching for a needle in a haystack, and it is very hard to find until one day you accidentally sit on it and you have found it.

I am saying that a child that goes into a juvenile institution should be interrogated for positive reasons. We go into juvenile institutions, and I am working on a committee for the first and second divisions of the appellate courts, and I will be going into juvenile institutions, and while we have gone in there and we have sat with kids in a circle, and we have made what is known as a participatory type of involvement, encounter, and we ask the kids what they are there for, and what they think about it, and we ask them what they think about themselves, and we structure the whole process as a learning process.

A kid will tell us a story about how he has gotten into trouble or how he has committed crime, and he boasts about it, and we take that very premise, which is our total premise, and we base nothing but pure knowledge on it, and we break down all of those walls that he has built up in his mind, and then it is his decision to make.

But, at least he has an idea of who he is, and how he portrays himself to other people. It has to be done. I had to be questioned as an individual about who I was. If I had been questioned, and somebody had questioned me about what I thought I was, then maybe I would have had an idea on what I could have been.

You see, most kids, most people out of the ghettos, most people who are active in crime in one form or other do have middle-class values, because, you see, we cater to the middle-class things. We seem to cater to the materialistic gains. When I committed crime, I committed it mainly to get the materialistic gains like, you know, wall-to-wall carpeting, the car, the clothes, the money in the pocket and what have you.

And I guess my dream was to have a piece of that American dream, and that was not forthcoming in one way so I took it in another way.

Senator BAYH. Well, thank you.

Mr. Rothenberg, how is the Fortune Society financed?

Mr. ROTHENBERG. We are 3½ years old, and for the first 2 years we were a voluntary organization, and we all had other jobs.

We then started receiving individual sponsors, and three people came on staff and became full time, and as of January 1st of this year we now have a staff of 12 including 10 ex-convicts, and our support has come from foundations, matching LEAA funds which trickled down through the Criminal Justice Court in New York City.

But, I think the spirit of it is the 6,000 individual sponsors who have contributed anywhere from \$2 to \$100 to help us maintain ourselves so that we can keep going.

Senator BAYH. You say you have 12 on staff?

Mr. ROTHENBERG. Right.

Senator BAYH. How many others do these 12 counsel?

Mr. ROTHENBERG. It fluctuates. We may have an average of 40 men and women a day who come into our office, often under the pretense of looking for a job, or clothing, but really they are looking for a place to identify. It is not unusual for a man to come in one day, and 2 days later be able to impose something else of value to another man, and it is difficult to measure what reaches another human being.

Sometimes just an exchange in an atmosphere of understanding and concern does it.

Senator BAYH. I am just trying to get an idea of what your scope is. Do you have certain cases, or certain individuals assigned to work with people who come in?

Mr. ROTHENBERG. Well, I think one of the difficult things in testifying and making reports to foundations who want to know what we do is that we are often asked for our success statistics or ratio.

We find it difficult to measure what success is. I do not know what the definition of success is. What it is is an accumulation of human beings who have had a similar experience, who try to respond to other people who are coming in, and it is very difficult to measure.

Senator BAYH. Do people come voluntarily to Fortune, or are they assigned? Once a person reports, do your staff people follow up and try to maintain the contact?

Mr. ROTHENBERG. Yes. It isn't on a personal level. We do not fill out forms. I think maybe I should explain that we have two levels of operation.

When I initially started out, our intention was to go around speaking to the public. Our aim was to make the public aware that the tax-supported institutions were not functioning and not doing their job, and that an enlightened public would respond by changing it, providing the pressure to change the institutions.

We eventually begin to create a consistency from problem-solving. The way men like Danny started coming to us was because we would go on radio and television and we would talk about the conditions in the institutions, and men started coming to us because they had no place else where they could turn. There is really no place for the ex-con to go and feel comfortable.

There are agencies, but there are not any places where he can sit and talk. So, we created a second level of existence as an organization which was to try and respond to the man that walks in the door, and our program is the man that walks in the door, and our program is the man that walks in the door.

We often get calls from welfare people that say what do you have for a man that I am sending down, and our answer has to be that we have got to meet the man before we can evaluate what his needs are. It is a response or reflex action.

Mr. RIVERS. I would like to kind of respond to that somewhat, too.

When a man comes in our office, he is out of an institution, or he has been in an institution, and he has been out, and he might have a very positive motivation, very positive attitudes, but no where during his incarceration has he really been allowed to let these emotions out, because in institutions you thrive on just about one emotion, and one alone, and that is called total hostility.

You do not walk around any institution talking about, yeah, when I get out of here, man, I think I am going to go to college, and I am going to get my lunch bucket and go to work, because that does not become accepted by the inmate population for the higher echelon in the institution.

You do not go to the administration and say, listen, you know, I am really beginning to identify with myself, and I would like to see a psychiatrist, because the psychiatrists are almost like gone tomorrow the way they operate in the institutions, and they are there, but you do not seem them, and you see one psychiatrist when you first come into an institution, and there is an interview, and then you go to another institution, and you do not see him again until 2 weeks before you go to the board of parole a amount of years later. So, even if you have positive motivation in institutions you have no avenue of release.

When you come out of an institution and you are back on the street again people do not seem to understand why you are not going down looking for a job any longer because you might have faced a lot of rejection from prospective employers. People do not understand why you seem to be afraid of everything that is around you, why you do not really want to get involved, or why you respond to people in a very hostile way.

So, even if you have motivation, people do not understand. What we try to do in our office is to allow those positive motivations to flow. We try to create an atmosphere that will permit change. We do not talk about war stories, about committing this crime, or I got this amount of money, and I was a big time spender.

We talk about that in a very negative form. As far as positive is concerned, we ask the important W's and the one important H, where, who, why, how, what, when.

Mr. KEANE. Senator, could I add something to that, please? You talked earlier about did Chuck get a job the first time he got out of

the institution, and if you look in the record you will find that a guy who graduates from one place to another, they do not teach you responsibility in jail.

One of our biggest things was when we got involved in Fortune, the guy that counseled me, and the other night I listened to a tape that I recorded, and I was scared to work, I was scared to get a job. I was scared to go down there and fill out the application, and I was scared and did not know how to present myself to the guy.

I could not tell him what I was, and one of the biggest things was that I was actually scared to get a job, and if I got a job I thought I was too good for it, and every time I got a promotion, which I did, because I was a good worker, they told me I worked good, but I would go out and would get drunk, and I would not come to the job, and I would be brushing off different excuses and always rationalizing it off.

And what he did to me was that he explained to me, he started talk about fears he had. You see, society has got this one outlook, that if you are an ex-convict you talk through the side of your mouth, you are tough, but here you are scared to death because in jail they do not teach you how to function out here.

I came out and I got married, and I figured if I got a kid that the would be the answer to my problems, but that was more responsibility. I could not hold down a job, and when I did go out and try to get a job I was not capable of doing the work because I learned to make license plates in prison.

But, I did get a job as a trucker's helper, and I was fired because of my record, and I said the heck with it. But, what I do today when a guy comes in, I identify with him, and we explain our fears and talk to these guys, because the guys coming out of jail today or any kind of institution have plenty of problems and they come to us, and they want a job, but this is really not their only problem, it is only part of it.

They are either drunks, alcoholics, they are escaping from these things because they cannot face these things. When you are 26 years old you cannot want to face that you are scared to go out and get a job when you are supposed to be a so-called tough guy.

Mr. ROTHENBERG. Senator, may I add one thing, please: I was at a hearing the other night for a detention center in Paramus, N.J., and they were talking about the rituals that apparently take place in children's institutions. A kid being 7, 8, or 15, on the moment of arrival is put in quarantine, locked in a room for 24 to 72 hours, and they say this is because of physical reasons, for health, and it sounded absurd to me because when I went into the Army, which was much more populated, there was no sort of quarantine, or when you go to a hospital there is no such quarantine, but an ex-con, and Chuck, and another fellow, they said the same thing, that they had been accused and convicted of doing something, and they were separated from everything they knew, and the moment they arrived in the institution they were opened, the wound was opened, and they were bleeding, and they would have been receptive, and of all the years they did in prison the 24, 48, or 72 hours was the moment when the system had the opportunity to impose something, and that fear, and the suspicion, and the attitude of this is if this is what they will do to me if I have done nothing, what will they do to me when I do something, and this is set in, and from the very moment that the child arrives at the institution, the system isolates him.

And to create programs that deal with a man or a child 3 or 8 months later, to prepare him to return to the community after the wound has closed up, and festers, is to negate the fact that we are dealing with human beings, and that our responsibility for change begins the moment of arrival.

Mr. RIVERS. You know, there is one other area in juvenile incarceration that I think is an extremely important area. In juvenile facilities you do not have to commit a criminal act to go. You can be a runaway from home, your parents might not want you, you could be a truant from school.

When you are placed in a juvenile facility you are placed there with people who have committed criminal acts, stealing cars, snatching pocketbooks, burglary, murder, homicide, you label it, and in order for you to identify you do not say well, I ran away from home and they sent me here.

You begin the process of creating fantasies for purposes of identifying, and thereby surviving. You talk about crimes you never committed in your life, crimes you heard other kids in the youth house say they committed, and you begin to adopt to these ways of life as your own, and then in a sense right then and there you create a life style of crime.

Upon the day you are released you perform those acts because this is your whole way of life with that amount of years that you spent in the institution, and that is one area that cannot be neglected, because you are taking noncriminal elements and making them criminal elements by the mere fact of placement.

Senator BAYH. Fine. You have been very kind, all of you, and I appreciate the contributions you have made. It has been very significant. I appreciate the fact that you would bare your souls. It has been very helpful to me and to the subcommittee to have the opportunity to hear your firsthand experiences.

We have not been there and we really do not understand. The best opportunity we have is to talk to you, and hopefully we can learn from the lessons that you described to us.

Mr. ROTHENBERG. Senator, we want to thank you for letting us come. I cannot refrain from adding that we had a similar opportunity 2 years ago. You were not the chairman of the committee, but we gave similar testimony, and it was a nice flight down, nice trip back, and everybody was very nice to us but nothing came in from it, and we hope that maybe the time is a little riper for some problem solving in this day so that some of the kids can be salvaged that have been written off.

Senator BAYH. One of our witnesses yesterday. Paul Kelley, had the honesty and the courage to say, "Senator, just let me ask you a question. What is going to come of all of these hearings?"

During a brief recess, I told the subcommittee staff that was really the most important question. Now you ask it, and I think you have every reason to ask it. I do not know what is going to come of it. I hope we can make some positive contributions.

I hope we can contribute not only legislatively, but also by creating an awareness of this problem. It seems to me totally inconsistent, the great concern that society has on the one hand for being humane with their fellow man, and on the other, for being fearful of their

own safety. With both of these feelings in their hearts, I think most people have not been able to deal effectively with the problems which you present. I cannot promise you results, but I can promise you a real effort.

Mr. ROTHENBERG. I hope you will, because we came last time and Governor Maddox was then in Georgia, and he was asked at that time when will the prisons get better, and he said when there is a better clientele.

And between that period and now drugs have moved from the ghettos into the suburbs, so I think there is a much better clientele heading for our reformatories, and therefore I hope the citizens and the Congress will be much more responsive. That is the hope.

Mr. RIVERS. We are available for any positive inroads that can be made in the whole area of penology and juvenile institutions.

Senator BAYH. You have made a very positive contribution here, and I am hopeful we can take advantage of it. Thank you very much, gentlemen. We really appreciate it.

(The prepared statement of David Rothenberg follows:)

PREPARED STATEMENT OF DAVID ROTHENBERG

Thank you Mr. Chairman for giving us the opportunity to meet with you this morning. The Fortune Society is an organization which provides an opportunity for the voice of the ex-convict to be heard.

The gentlemen with me have spent over 40 years, between them, in reformatories, prisons, on parole or probation. Their life-style was anti-social. They were the juvenile delinquents, the truants, the muggers and eventually the armed robbers. But they have changed their pattern of behavior and, as a result, crime has been reduced by 3 men. And that is how the crime rate is reduced—by human beings changing their manner of being. These men have changed their lives outside of, and in spite of, the reformatories and prisons in which they have served.

Mel Rivers, Chuck Bergansky and Danny Keane were prepared for their criminal pattern by the state. Each was an inmate in a juvenile facility and was groomed for an adult life of crime, in the same way that a prep school student is readied for the Ivy League.

As a society, we are long overdue. The process of problem-solving must emerge. The first step in the solution of any problem is to recognize and define it. For too long, legislative bodies, anxious to provide the panacea, have been dealing with our penological failures by offering their own rendition of the cure. As a result, we have had generations of applying band-aids to gangrene.

First and foremost, we would like to put forward the notion that there is no single solution which will alter the anti-social behavior of many young men and women. We must be willing to acknowledge the need for some social dynamics and institutional flexibility which allows for the differences of the human condition.

Our inadequate and irrelevant system of punishing the child is a conceptual failure. From the first day of separation, when the youngster is held in quarantine, we fail to reshape a derailed youth. Upon arrival, in the institution, the child's wound is open and bleeding. He is then most receptive to what we can impose on him. Instead of compassion, we offer indifference; instead of confrontation, we impose isolation; instead of redirection, we nurture the ailment.

The inmate learns. He learns how to defend himself against sexual manipulation. He acquires a jailhouse hustle and he commits more crime while incarcerated than he ever did on the street. That is prison life and it is his survival. His way of life is manipulation and machination. It is contrary to everything that would allow a man to function in a free and democratic society.

Our institutions are sprinkled with programs. They are quickly gobbled up by the inmate. But a few hours a week, in spite of all of the earnest attempts to provide an alternative, does not undo the daily regimentation, the absence of decision-making, the struggle for survival, the fantasy existence which denies the reality of the world outside.

Then one day we open the doors of our tax-supported cages. The men and women released don't want to go back . . . they want to make it on the street but don't know how or where to begin. Employment is a problem, but decision-making proves a greater obstacle for the institutionalized man whose values are shaky. Prison is no longer a deterrent, because the released inmate has indicated that he can survive in prison. It is out here where he has his biggest battle. So, when the doors of employment are closed in his face, or the lies begin to catch up with him, the ex-con goes into the business where no references are asked . . . crime.

The taxpayer is giving his tax dollar to a system which perpetuates his being victimized. 99% of the inmates return to the streets—and while the state has the man, little is done to allow him to come to terms with himself in relationship to society.

We are keeping correctional administrators and officers in business while underwriting crime. The system, the concept, does not work.

Patchwork legislation does not solve problems. In attempting to deal with penological change, you must listen to the voice of the ex-convict and recognize the role he plays in creating an atmosphere for change.

It begins with the youth facilities and it spirals into a national menace. Conceptual change is needed.

We will submit a guideline for conceptual change . . . a guideline which exists on paper . . . which, if made a reality, must be continually examined and re-examined, adjusting to the needs of those who have been separated from society's mainstream. Any tax-supported concept which combats crime must be accountable to a concerned and responsible constituency.

Our next witness is Prof. Herman Schwartz, specializing in criminal law and procedure, and constitutional law, at the University of New York, Buffalo, and presently engaged in a project on behalf of the American Civil Liberties Union on penal research and reform.

Shall I call you Doctor, Professor, Herman, or Mr. Schwartz?

STATEMENT OF HERMAN SCHWARTZ, STATE UNIVERSITY LAW SCHOOL, BUFFALO, N.Y.

Mr. SCHWARTZ. Whatever you like. I am a little uncomfortable with Doctor. First of all I only have recently and retroactively received the J.D., and secondly I do not even give out aspirin. So I think Mister would be fine.

Senator BAYH. Fine. Please proceed.

Mr. SCHWARTZ. First let me thank the committee for inviting me.

I think Mr. Rothenberg's question "What are you going to do," has been asked for well over 150 years. If one reads the history of prisons and prison reform, one finds exactly the same things, criticisms and questions, 100 or 150 years ago. Somehow the prison, and the kind of things that prisons do to and for people, fill some kind of need, so that no matter how irrational or foolish we know the prison is, somehow it just stays around.

I would like to talk today about one rather small corner of the problem, but one that for some reason has suddenly started pouring across my desk; after I prepared this testimony, two more cases came to me. It relates something that Mr. Rivers commented on before when he talked about confinement and imprisonment of noncriminals, or of people who have committed very minor crimes.

One incidental aspect of this problem is that almost all of the clients that I have had in this context (these are clients in the sense that they write to me and I try to do something) are girls, that is also one of the less discussed aspects. I am not quite sure I know why, but so far as adult prisons are concerned, relatively few women are sent away. For

that very same reason, whatever visibility is being given to adult prison problems today has really not been given to the women.

And since there is not enough money, when women are in jail there are no programs. They really are a forgotten group.

There is very little research done on women.

Senator BAYH. We have had a significant number of women or girls testifying.

Mr. SCHWARTZ. I think you have been very lucky, then, to hear from a usually silent group.

Senator BAYH. And they have been describing some of the circumstances to which they have been subjected, and a number of young girls that are committed for really domestic differences that exist in their homes, over which they have no control. Why a young girl who runs away from home because her stepfather molests her should be committed to one of these institutions that really preordains her to a very questionable future for the rest of her life is unexcusable.

Mr. SCHWARTZ. There may be very little I have to tell you because I think you know the problem.

All I can do, then, and what I have done in my testimony, is to set out the legal framework in which this kind of think is done, as well as about 10 specific cases. There is one additional element which has not been much discussed, and that is parole, and I will touch on that.

Senator BAYH. Well, I will ask that your entire testimony be put in the record as if it had been read, because I know you have gone to a great deal of trouble in preparing it.

(The summary and prepared statement of Herman Schwartz follow.)

#### SUMMARY OF PREPARED STATEMENT OF HERMAN SCHWARTZ

Young people who run afoul of the law in New York are the victims of "a special hostility" by the New York legislature and judiciary, according to testimony presented to the Senate Subcommittee to Investigate Juvenile Delinquency by Herman Schwartz, Professor of Law, State University of New York at Buffalo, today. Citing ten cases under New York's Wayward Minor and Young Adult Statutes, Schwartz noted that young people aged 16 to 21 have been sent to prison "to protect them against themselves" for periods of over two years.

In several Wayward Minor cases, young girls who had done nothing more than stay out at night served over two years behind bars; other girls who had committed very minor offenses served equally long periods. Although the statute will expire this August, children will continue to serve in prison pursuant to adjudications under it until 1974.

Under the Young Adult statute, one girl convicted of shoplifting a \$3.88 pair of slacks served over 27 months; her co-defendant served only 90 days. In another case, a young man was sentenced to a one to four year term for driving without a license.

Professor Schwartz also criticized the New York parole system for its failure to rehabilitate despite its claims. Parole is "prison without walls," said Professor Schwartz, in which "the consequences of arbitrary action are . . . severe but the protections and visibility are . . . negligible."

Concluded Professor Schwartz:

"In the area of penology, we have forgotten the bedrock premise of a free society—Lord Acton's dictum that power tends to corrupt and absolute power corrupts absolutely. In dealing with young persons, this insight is all the more relevant. Parents and children, particularly adolescent children, have a tough enough time getting along with each other without the legal system gangling up on the young people. When we start realizing that, perhaps something will be done to end the obscene spectacle of young people being spiritually and otherwise brutalized in order to protect them against themselves."

#### PREPARED STATEMENT OF HERMAN SCHWARTZ

My name is Herman Schwartz. I am a professor of law at the State University of New York at Buffalo, specializing in criminal law and procedure, and constitutional law. I am currently engaged in a long-term project on behalf of the American Civil Liberties Union on penal research and reform. An outline of that project appears in part of a grant application I filed recently, and I have forwarded that to the committee. I am grateful for the invitation to appear before this Committee and to lend whatever assistance I can to its vital work.

My statement will be in three parts: (1) discussion of the relevant statutes and implementation; (2) specific examples of legal abuse of young people that I have personally encountered in the New York State penal system, supposedly one of our more enlightened state systems, and; (3) a few more general reflections about our treatment of young people. First a few introductory remarks.

#### I. INTRODUCTORY COMMENTS

My project was originally designed to focus on adult institutions. Partly this was a matter of convenience—they were easier to get to—and partly because I felt that the adult prison was where arbitrary power, cruelty and dehumanization were likely to be most rampant. I had read in the 1967 report of the President's Crime Commission how the amount of money spent on young people far exceeded that on adult offenders; I had read of numerous rehabilitational experiments with young people in open facilities; I had the impression that judges tried to avoid sending young people to correctional facilities because so many such facilities were in fact quite poor, despite the extra expenditure of funds.

My limited experience has shown me that I was largely mistaken. Although I have not gone out of my way to find such cases, I have come across legislative and occasional judicial treatment of young persons that is so discriminatory as to reflect a special hostility toward young people. Because no less than ten cases have come to my attention from only one New York institution and mostly in the last few months, they probably reflect only the tip of an iceberg created by indifference, inadequate resources, frustration and sometimes outright cruelty, all covered over with high-sounding rhetoric about moral and educational guidance and reformation.

#### II. WAYWARD MINORS AND YOUNG ADULTS

##### A. Wayward minors

##### 1. The Statute

The Code of Criminal Procedure presently in effect in New York contains a special substantive provision for young people aged 16 to 21 entitled "Of Proceedings Respecting Wayward Minors". A wayward minor is one who:

"(1) is habitually addicted to the use of drugs or the intemperate use of intoxicating liquors, or (2) habitually associates with dissolute persons, or (3) is found of his or her own free will and knowledge in a house of prostitution, assignation or ill fame, or (4) habitually associates with thieves, prostitutes, pimps, or procurers, or disorderly persons, or (5) is wilfully disobedient to the reasonable and lawful commands of parent, guardian or other custodian and is morally depraved or is in danger of becoming morally depraved, or (6) who without just cause and without the consent of parents, guardians or other custodians, deserts his or her home or place of abode, and is morally depraved, or (7) who so departs himself or herself as to wilfully injure or endanger the morals or health of himself or herself or others. . . ." § 913-a

A person adjudicated a Wayward Minor may be sentenced to a reformatory for up to three years, which is but one year less than for a felony and two years more than the most serious misdemeanors. The defendant is entitled to all the rights of a defendant in a criminal proceeding, §§ 913-b, and there are supposed to be no criminal consequences to the conviction. If released earlier on parole, the Wayward Minor is subject to at least as many restrictions as an adult parolee and may be imprisoned for violating such restrictions.

This statute will expire on August 31, 1971—it is apparently too much even for the relatively harsh new New York Criminal Code—but young people are still being sentenced under it, and some may remain in custody until August, 1974.

##### 2. Who is a wayward minor?

On its face, the statute is an obvious invitation to parents to cast their child rearing problems onto the courts and into the reformatory. The New York Court

of Appeals has deplored this tendency and has recently set aside all but one of some eight Wayward Minor adjudications to come before it on the ground that the statute contemplates serious danger to young people, and not merely intra-family squabbles. See, e.g., *People v. Allen*, 22 N.Y.2d 465, 470 (1968); *People v. Duke*, 23 N.Y.2d 780 (1968); *People v. Gregory E.*, 26 N.Y.2d 622 (1970).

The sad fact is, however, that this statute *does* seem to be used primarily by parents in intra-family fights. Almost all of the cases that I have handled involved a complaint by a mother that the girl had deserted the home or was staying out late. Two involved no criminal conduct whatsoever, either at the initial adjudication or in a subsequent parole violation resulting in reincarceration. In almost every case, the statute, the courts, and the prison system were used by an angry and frustrated mother to resolve her problems with a difficult adolescent by dumping the youngster into prison.

And this is inevitable. In the first place, a quick glance at the statute shows that it covers a range of activity which is not only broad, but is as vaguely described as can be. What, for example, is a "dissolute person" with whom a minor may not associate habitually? When is an adolescent who disobeys her parents or leaves homes "in danger of becoming morally depraved"? There is a tendency in the few cases I have seen to make the very fact of disobedience to parents or leaving the home itself a ground for the finding. All this merely demonstrates the legal truism that overly vague statutes will indeed be used unjustly, if there is a strong tendency to invoke such a statute, as there is in so normally troublesome an area as the relationship of parents with adolescent children.

Of course, some of these children may ultimately be released if they appeal, as those in the Court of Appeals cases cited above. But few do in fact appeal. They rarely have enough sophistication to do so, until they get into the prison, by which time it may be too late; not one of the four cases that have come to me involved an appeal. Moreover, even fewer get out on bail pending appeal. Thus, for every one of those wrongly decided cases reversed by the Court of Appeals, how many more cases are there where the children are still sitting in prison, wrongly?

While recognizing the extreme vagueness of the statute, the New York Court of Appeals has nevertheless upheld its constitutionality. We are about to challenge the statute in federal court.

A second factor making for excessive use of this statute is that it is administered by judges who sit in the lowest trial courts, often by justices of the peace without legal training, who rely heavily on what the district attorney, policeman, or parent tells them. As many observers have noted, our lowest criminal courts are the weakest part of our criminal law administration, with justice, sensitivity and compassion in unhappily short supply. The problem is aggravated in Wayward Minor proceedings, especially where rural J.P.'s are concerned: the child rarely has a lawyer since the complaining parent doesn't choose to get counsel, and the child doesn't know enough to insist on one. Also, the judge's or J.P.'s sympathies are generally with the parent, with whom he can probably identify far better than with the child. Equally important, even a sensitive and compassionate judge is often honestly bewildered about what to do—the parents do not want the child and she often has no place else to go. One judge told about a deeply troubled 16 year old, who had already gotten involved in some prostitution and whose well-to-do parents simply refused to allow her at home; in desperation he sent her to a reformatory, hoping that she would straighten out after a short stay. Unfortunately, she remained in prison almost two years and violated her parole when she got out, by stealing.

Finally, is a reformatory the best place even for the so-called "danger to youth", to use the New York Court of Appeals concept. After all, the reformatory is a *prison*, in every sense. That means it not only deprives people of liberty, but it is a school for criminals. One New York judge described the ostensible purpose of the statute as: "woven around the concept that the courts will exercise the necessary legal means to protect them from their own moral weakness, lawless tendencies and personal indiscretions in order to protect them from inflicting more serious damage on themselves in the future." *People v. Allen*, 22 N.Y. 2d 471

For the real facts, however, let me quote from a lengthy affidavit that we are submitting in a challenge to the constitutionality of this statute:

"3. On arrival I spent five days in an area of the institution called quarantine and approximately one month in an area called reception, where we were

instructed in the rules of the institution, though while at Albion, I never received a copy of the rules and regulations.

"4. Until February, 1971 we were mixed at work with persons at the institution who were under the control of the Narcotic Addiction Control Commission ('NACC').

"5. From August 1969 until January 1970 I worked in the laundry among many adult female inmates. I did ironing, which required me to stand on my feet all day, and did not involve a marketable skill.

"6. I was transferred to the dining room work force in January 1970 to mop, sweep, set up tables and wait on inmates and officers; the inmates include NACC inmates as well as others.

"7. All inmates other than those under the custody of the NACC ate together. I thus ate with prostitutes, murderers, and robbers; (the number of such prisoners increased substantially after transfers from Bedford Hills to Albion in February 1970). At these meals we discussed how to commit crimes successfully, and whether to engage in prostitution. The staff who worked with me in the dining room included a woman who had killed her three children, a woman who had had her children engage in prostitution on her behalf, and another who had killed her boyfriend.

"8. In the afternoon in the dining room we also talked about drugs: where to get them, when and where the inmates 'shot up' and who and when persons died. We also talked with the prostitutes and learned how they operated; some invited us to 'check them out' when we got our release.

"9. The older women transferred from Bedford Hills resided in the same Correctional Division as I did, and used the same recreation room where we all watched television.

"10. In May of 1970, I was transferred back to the laundry, and worked on the steam presses. There I worked with and talked to robbers, forgers and murderers. I worked in the laundry until I was released on parole in February 1971.

"11. While at Albion, I had frequent differences with the correctional staff, as a result of which I was often punished by being placed in segregation. At the disciplinary proceedings I was never asked to plead guilty or not guilty, for guilt was assumed. I was asked only, 'Why did you do it,' or was told, 'You know you're not supposed to do this,' and 'You know I have to give you some time.' Segregation was the sole form of punishment.

"12. The segregation unit contains a set of individual closed rooms, each with a window and a toilet. The room had no bed, but a mattress on the floor, linen, a blanket, and a pillow. We were allowed to a dress and a shower on Thursdays and Tuesdays, but at no other time. No cigarettes were allowed and desserts were not included in our meals. I could only communicate with the others in the unit by screaming through the vents near and above the door.

"13. While I was in segregation, the segregation unit contained narcotic offenders. A narcotics offender committed suicide by hanging herself after telling the officers several times that the medicine they were giving her was addictive. This happened two doors away from my room.

"14. I spent 2½ months in segregation from December 1969 through February 1970 and was released after pretending that I was about to hang myself. Upon request a social worker would come to talk to me. One time I asked the social worker about getting out from segregation earlier. She told me to speak to the lieutenant. As I remember, she rarely gave me any counselling.

"15. I saw a psychiatrist once during the period in segregation. In general, I saw this psychiatrist only about once every two months, because she taught at a college and visited us only once a month.

"16. I also participated every week in what was called group therapy. This was not useful because the girls did nothing but complain about the institution. There were two officers in the room and they never answered the complaints nor did they do anything to correct the problems. As a result, most girls stopped going to the group therapy sessions.

This latter description has been confirmed by numerous other girls.

Let me hasten to add that all of my cases happen to arise from one institution near my office, which is run by one of the most sensitive and humane correctional administrators I have come across. Moreover, this institution is some 40 miles from Buffalo, which is relatively close to a big city. Yet the parents of even those girls who are from Buffalo usually find it very difficult to visit them; other reformatories are still further out and inaccessible. And I have just been informed that for budgetary reasons, this reformatory will probably be closed

and all its inmates sent to an adult institution outside New York, hundreds of miles away.

#### B. Some specific wayward minor cases

Let me now turn to the specific cases that happen to have come across my desk in recent months. Because some of these cases are involved in litigation, and to avoid undesirable notoriety, I shall only use fictitious first names.

##### 1. Jill

Jill was in and out of foster homes between the ages of two and sixteen. Her mother was a prostitute and an alcoholic who apparently despised her.

When Jill became sixteen, her mother threw her out of the house. Jill became pregnant and went to Cleveland, where she obtained an apartment and a job. She had trouble with her pregnancy and called her mother for help. Her mother replied that if Jill returned home, the mother would kill her. Jill became ill and returned home anyway. The mother abused her physically and verbally, and in November 1968 Jill lost the baby.

Shortly thereafter, the mother swore out a Wayward Minor warrant against Jill, and on February 6, 1969, Jill was sentenced as a Wayward Minor to a term of one to three years; a public defender represented her, but at the hearing the mother did all the testifying.

On February 7, 1969, Jill was sent to the reformatory. She remained there until October 7, 1970, a period of some 20 months. She was released on parole to Syracuse, but was found on December 16 to have violated parole by leaving her job and the city, and failing to report. Shortly before this time she had been raped, but when she tried to swear out a warrant against her assailant, the police refused to accept it after learning of the Wayward Minor charge.

She has since been returned to prison where she now sits.

##### 2. Beth

Beth is now about nineteen years old. She has had trouble getting along with her mother since she entered her teens. On July 9, 1969, her mother had her adjudicated a Wayward Minor for staying away from home, at which time she was sixteen years of age. She was sent to a reformatory.

She was turned down for parole several times because she did not get along with the officers at the institution, despite her mother's desire to have her back, a not unusual situation. In February 1971, she finally obtained parole having served a period of 18 months. Shortly thereafter, her mother filed a complaint with her parole officer charging that she was again staying out at night and spending time with other parolees; she also allegedly tried to correspond with a third parolee who lived in Syracuse. Her parole was revoked on April 14, 1971 for these two reasons, and also because she was disrespectful toward her parole officer upon being rearrested. Shortly thereafter, she was resentenced to time served and released.

One important thing to note about each of the above two cases is that neither of them involves any criminal activity at all. Yet the first girl has served some two years in prison and the second served almost as long.

##### 3. Dorothy

Dorothy ran away from her well-to-do home in Connecticut when she was sixteen allegedly because her parents were too strict; her parents claim she was promiscuous. Once she arrived in Buffalo, her parents refused to let her return.

She was arrested for loitering and prostitution and arraigned in March, 1969; she was then 16. She was defended by a public defender who told her to plead guilty, which she did with respect to the loitering, but refused to plead to prostitution. After a policeman testified that he had propositioned her and she accepted, she was found guilty and sentenced to 15 days. While in jail she got into a fight with another inmate, as a result of which she was charged with harassment. She was thereupon adjudicated a Wayward Minor, when her mother refused to take her back or to have anything to do with her, and the judge was at a loss as to what else to do.

She had no lawyer at this proceeding and was sentenced in April 1969 to a term of up to three years. She was there for 18 months and was paroled to Syracuse in October 1970.

While in Syracuse, she was picked up for shoplifting a coat; she claims she did this because she was cold. She served 30 days in a penitentiary outside

Syracuse for this offense, and was then returned to the reformatory to serve out the remainder of her Wayward Minor charge. At the parole revocation hearing she was sentenced to a nine month term before she would be considered again for parole.

For the offenses of petit larceny, harassment and prostitution—the latter two, incidentally, were not even misdemeanors at the time they were committed, but merely noncriminal violations with 15-day maxima—she was due to serve at least 28 months, in addition to the 45 days for prostitution and petit larceny. She was resentenced and released a few days ago.

I have two other cases, but there is no point to repeating the dismal details: they are like the other three in that they involve a complaint by a perplexed mother, or—in one case, a father—a long reformatory confinement, and non-criminal activity as the basis for the Wayward Minor finding.

What do these cases show?

1. The Wayward Minor statute is being used to send young girls to prison for very long periods, in settings where they are thrown in with hardened criminals—killers, thieves, addicts, prostitutes, with no rehabilitational treatment even seriously attempted.

2. This lengthy imprisonment is imposed on girls who have either committed no criminal acts at all, or have committed offenses for which adults would receive probation or very mild sentences.

3. The Parole Officers sometimes reincarcerate girls in these prisons for non-criminal activities.

And all of this is being done in the name of protecting minors "against their own moral weakness, lawless tendencies and personal indiscretions in order to protect them from inflicting more serious danger on themselves in the future." *People v. Allen*, 22 N.Y. 2d at 473 (Scileppi, J., dissenting).

#### C. Young Adults

##### 1. The Statutes and Their Enforcement

Discrimination against young people is even more explicit in New York's Young Adult provisions. Under Article 75 of the newly revised New York Penal Law, a purportedly enlightened and modern criminal code, courts are given the power to sentence a person between the ages of 16 and 21 who is convicted of any crime—including misdemeanors punishable by no more than three months or a fine—to a period of four years in a reformatory, in the complete discretion of the sentencing judge. Thus, for the same offense, two people appearing before different judges or even the same judge, can wind up with grossly disparate sentences simply because one is under 21 and the other is over. Moreover, young adults do not earn good time, unlike adult offenders, and are therefore ineligible for early release except under parole.

Let me first turn to the specific cases, before discussing some of the legal and more general aspects.

##### 1. Joan

Joan is the product of a badly broken home. She has had a good deal of difficulty during much of her life, but relatively little of a serious criminal variety.

On April 21, 1968 Joan was arrested for attempting to steal two pairs of slacks priced at a total of \$5.98 from a department store in a small town in upstate New York. She was then in the company of a friend, who was arrested on a similar charge for the alleged theft of a dress priced at about \$12.98. Joan was then 17 years old and had no prior criminal record; the friend was 19 and had a record. Both were charged by a justice, of the peace with petit larceny, which is a misdemeanor, the maximum penalty for which is one year. At that time, Joan had one child.

On May 22, 1968, Joan pleaded guilty to the charge against her. She was without a lawyer, because her father and stepmother—with whom she was then living—did not retain counsel for her, nor did her mother. Her co-defendant also pleaded guilty.

For attempting to steal the \$5.98 slacks Joan was sentenced to a reformatory for a period of one to four years; her friend whose parents were present and spoke on her behalf was sentenced to 90 days.

Joan was confined to a State reformatory until June 9, 1969. She was then released on parole, but was returned to the reformatory within a month for violating the conditions of parole by leaving the area without reporting or notifying the parole officer. While on parole, she became pregnant and later gave birth to a second child.

Joan was again released on parole in November 1970 and again arrested for violating parole by leaving her mother's house without obtaining consent from her parole officer and for certain other related and similar violations. This time, she was not returned to the institution.

On March 17, 1971, Joan was again arrested for violating the conditions of her parole, this time for failing to attend school, for not calling her parole officer immediately upon receiving word that her parole officer wanted to talk to her, and for failing to obtain a job. Her explanation was that she was planning to be married, and that since she has two children to care for, she saw no purpose to either school or a job at this time.

In this case, counsel was able to persuade the District Attorney, the justice of the peace who sentenced her, and her parole officer that 27 months in prison was more than enough for trying to shoplift \$5.98 worth of slacks. She was released unconditionally.

#### 2. Polly

Polly was charged with two counts of attempted prostitution in April, 1970 and pleaded guilty on the expectation she would receive probation. At the time of the alleged offense, she was 20 years old, had a seven month old baby and had no prior record at all; she was a high school graduate and had planned to start a job in a local bank at their computer center on the day she was to be sentenced.

When Polly was arrested, a friend aged 22, was charged with the same offense. At the trial, the friend who was "ineligible" for a reformatory sentence because over 21, received a sentence of a few months for the two counts of prostitution. Polly, who had no prior record whatsoever, but was under the age of 21 was sentenced as a young adult and received a reformatory sentence of up to four years for these two counts of attempted prostitution. Her baby had to be given to her mother to raise. I heard about this a few months later and was able to have her released on bail pending her appeal. It has since come out that the minutes of her plea and sentencing proceedings have been lost, and she is probably entitled to be tried all over again; had she not gotten out on bail, she might still be sitting there, for the two counts of attempted prostitution. Her appeal is pending.

#### 3. Linda

In December 1969, Linda was arrested for attempting to steal one pair of shoes priced at a total of \$7.99 from a department store in Buffalo and charged with petit larceny. She was then 17 years old and had no prior criminal record. She pleaded guilty to the charges against her and was sentenced to probation.

In February of 1970, Linda was rearrested on the charge that she had violated the conditions of probation by not reporting to her probation officer and by not sleeping at her mother's house. She was then resentenced to a reformatory term as a Young Adult for a period of one to four years. She did not know she could appeal and did not. She was then sent to the reformatory.

On February 17, 1971 Linda was released on parole after serving approximately one year behind bars. A month later, she was rearrested for violating the conditions of her parole by not being at home. This time her parole was not revoked.

On April 8, 1971, however, Linda was again rearrested for staying away from home—this time at a girlfriend's house in a town some 70 miles away, and for not reporting to her parole officer. Her explanation is that she was away from home without money to return and afraid to call her parole officer. She claimed she had been promised a ride back to Buffalo by her friend's mother, but this ride never materialized. This time, her parole was revoked, and she now sits in the reformatory.

#### 4. Tom

A fourth case I know only from legal appeal papers furnished by a Legal Aid attorney in Rochester: a court sentenced a young man to a four year reformatory term for a traffic violation—driving without a registration. The appellate court set aside the sentence as excessive, without reaching the constitutional issue.

#### 5. Millie

Again, we have a 16-year old girl who was sentenced to a four year term for petit larceny—shoplifting some property worth about \$10.00.

She was on parole for about 6 months after serving some 18 months behind

bars, and her parole was revoked for shoplifting, for which she was independently sentenced and served time. Her parole was then revoked.<sup>1</sup>

These are only the young adult cases that have come across my desk in the last few months. Obviously, there are many more that I know nothing about.

What is the justification for this disparate and harsh treatment? The purported legislative justification for this Young Adult sentence is set forth in the Notes to the Statutes by the Staff of the Commissioner to Revise the Penal Law: "to provide education, moral guidance and vocational training for young offenders." The conditions set forth in the affidavits show how meretricious are such pretensions. As I indicated earlier, our reformatories are prisons, in every sense. They reform few, if any, and then only by luck. The "education" provided is in crime, the "moral guidance" is provided by prostitutes, murderers and other such moral philosophers, and the "vocational training" is usually in such trades as shoplifting, narcotics, peddling, prostitution and the like. In short, our penal system operates in this setting in the same way as it operates elsewhere except that with young adults and wayward minors, there is hypocrisy and unfair discrimination against some young people. And all of this, under a heavy layer of pious rhetoric.

So far, few courts have shown even the slightest willingness to challenge the blatant discrimination inherent in such statutes. Ignoring Justice Frankfurter's admonition in *Watts v. Indiana*, 338 U.S. 49 (1949) that judges "should not be ignorant as judges of what we know as men" courts have piously intoned the high purposes of reformatory treatment. Thus, in *People ex rel. Meltsner v. Follette*, 32 A.D.2d 389 (2d Dep't 1969), where a boy sentenced to a reformatory was kept in an adult prison, the Court simply said:

"The ability to benefit from and the availability of, rehabilitation facilities and treatment form a rational basis for distinguishing between persons convicted of the same offense, so as to subject one to a potentially greater period of confinement." 32 A.D.2d at 390.

It then ordered that the boy be released unless he could be shown to be getting the treatment.

The problem with this approach is that it puts the burden on each and every young person, after he is already behind bars, to show he is not receiving proper treatment. The real world facts, however, call for a presumption exactly otherwise: a prior showing that meaningful rehabilitation is probable.

A further result of that Court's approach is that only a youngster who obtains a lawyer or can write a coherent *pro se* petition, will even be able to challenge his confinement for its lack of rehabilitation, assuming for the moment that the treatment that goes under that name is in fact sufficiently reformatory to overcome the very real criminalizing effect of imprisonment.

A far preferable approach is that reflected by the Court of Appeals for the Third Circuit in *In re Brown*, 7 CrL 2378 (3rd 1970). There the Court required a showing that the youth would obtain rehabilitation treatment before he was given a sentence greater than an adult.

(See also *Matter of Wilson*, — Pa. —, 7 CrL 2179 (1970).)

Unfortunately, we have not yet been able to extend that point of view much beyond Pennsylvania and other states in the Third Circuit.

### III. CONCLUSIONS

My sample is obviously not scientific, except that it is random: these cases recently came to me solely by accident and, as I indicated earlier, probably represent no more than a small portion of those so confined—just a few of those

<sup>1</sup> The Committee may also be interested in the treatment of young girls under 16 in the state training schools as reported in a recent decision in New York, *Lollis v. N.Y. State Department of Social Services*, 322 F. Supp. 473 (S.D.N.Y. 1970). I will merely reprint an excerpt from Judge Beatrice Burstein's report of her visit to this institution and what she saw in the punishment quarters:

"She [Lollis] was kept in a room about 6' x 9' for 24 hours a day. The first seven or eight days of confinement she was visited by a social worker. Then the social worker went on vacation and one other staff member visited her once. She was completely unoccupied for 24 hours daily. Nevertheless I inquired how she kept herself busy. She replied by saying 'I sleep all day and I cry all night.' She had, indeed, requested to see a psychiatrist, but was informed that she would not be able to see him until she was released from solitary. She reported that she had been receiving tranquilizers for a long period of time and felt a need for them now but was unable to secure them since the psychiatrist was not available for a visit. It should be noted that Brookwood has the services of a psychiatrist one-half day every other week.

"She wore pajamas all day, sat staring at the wall and did absolutely nothing.

"There was a wooden bench \* \* \*. There was a blanket on the bench and this was where the child rested for twenty-four hours."

who are in an institution near my office. I have no idea how many there are elsewhere in the state and nation.

Several points are clear, however, from just this small group. First, our laws do treat children and young persons as worse than second-class citizens—in some respects, it treats them as virtually rightless.

Secondly, this cruel and discriminatory treatment is painted over with heavy layers of rehabilitation talk. The ugly fact beneath this verbal cosmetology is that we do precious little rehabilitation anywhere in our prison system; part of the reason is that we do not know how; another part is that we do not want to spend the money. And this applies as much to young people as to adults. We should therefore see prison as an absolute last resort for adults, and rarely appropriate for minor youthful offenders.

Thirdly, the discussion of the parole experience brings another often unnoticed matter to light: the hollowness of the claims by parole systems that they perform a truly rehabilitational function. They do not, even when they try. One of the parole officers involved in these cases is like so many other parole officers, a fine dedicated person. She was quick to admit, however, that she and her parolee had never been able to establish any kind of relationship. This is hardly surprising or unusual. The vast power given the parole officer and Board, the ridiculous conditions imposed on parolees, the arbitrariness with which parole boards operate, the frequency with which a parolee is returned to prison for months and even years for trivial non-criminal violations of parole all combine to make it almost impossible for a parole officer to shed his role as an agent of law enforcement and to really be a counsellor.

The hard fact is that parole is prison without walls—a vast improvement, but still primarily a matter of control and not of "treatment." The whole question of parole deserves extended study, for there are few areas in our legal system, where the consequences of arbitrary action are so severe, but the protections and visibility are so negligible: the decisions involve lengthy imprisonment for thousands, but the courts will almost never review a parole board's decision to release or revoke and rarely on any procedural matter, the legislature rarely shows the slightest interest except in the budget, and the executive is hardly likely to question the operations of his own appointees. Yet parole boards have far more power over the lives of vast numbers of people than most courts do, a power which they exercise in total invisibility, in 5-10 minute hearings, and under virtually no outside check.

Unfortunately, few judges think of these matters, particularly when sentencing wayward minors: the expectation is that upon the expiration of a few months the child will be free and "straightened out." Unfortunately, it just does not work that way.

Indeed, our whole penal theology—for that's what it is, no more than an act of blind faith, supported by little empirical evidence—must be re-examined. As Jessica Mitford has shown in what is surely one of the most penetrating recent studies of our penal system, giving vast discretion to correctional authorities to determine when a prisoner has been "rehabilitated" leads to a great deal of arbitrary official behavior, much bitterness, and precious little rehabilitation. Mitford, *Cruel and Usual Punishment*, Atlantic Monthly (3/71).

In the area of penology, we have forgotten the bedrock premise of a free society—Lord Acton's dictum that "power tends to corrupt and absolute power corrupts absolutely." In dealing with young persons, this insight is all the more relevant. Parents and children, particularly adolescent children, have a tough enough time getting along with each other without the legal system ganging up on the young people. When we start realizing that, perhaps something will be done to end the obscene spectacle of young people being spiritually and otherwise brutalized in order to protect them against themselves.

Senator BAYH. If you could hit the highlights of those that you think are most significant, it would be fine.

Mr. SCHWARTZ. I was not going to read all 15,000 words.

First let me say that one of the worst aspects of this situation is the hypocrisy, and it really is that. In my testimony I deal with two statutes, focusing on New York, because that is the State I know best.

I would guess that wayward minor statutes of one kind or another and reformatory sentences for young adults exist in every State.

The wayward minor statutes, as your question indicated, often involve nothing more than mothers who want to get rid of their daughters because they cannot control them.

Very often, it is rather clearly the mother's fault, as in one of my rather horrifying cases where the mother was a drunken prostitute, had 10 children, and the girl brought up most of the other children up when she was out of foster homes. In these cases the court lends itself to the process of mothers getting rid of girls that they cannot handle. The statute is really an invitation to dump these children into reformatories.

The wayward minor statute uses such phrases as "habitually associates with thieves and prostitutes," "willfully disobedient," "is in danger of becoming morally depraved."

Senator BAYH. How do you deal with the legal qualifications in a statute where a daughter has a mother who is a prostitute and the statute says willfully associates with a prostitute?

Mr. SCHWARTZ. The way we deal with that is very neatly: we ignore that section of the statute, and send the child on other grounds; namely, the child is staying away from home.

Statutes which use terms such as "in danger of becoming morally depraved," or "habitually associates with prostitutes or disorderly people," do not mean anything. What the courts have done, when the statute has been challenged, is that first, they held, upheld the statute about 10 years ago. Then, in every case that has come up to the New York Court of Appeals recently, that court has just construed away the problem by ruling that the case is not covered by the statute and the lower court is reversed.

We all know that the lower courts are really the worst part of the criminal justice area. The judges often are only justices of the peace, who are not even lawyers. The mother or policeman files a complaint. The judge or the JP's sympathy usually is with the parents. The result is that the girl is sent away for up to 3 years. That is a long, long time.

In some of these cases the judge is really very honestly bewildered about what to do. Our society has grossly defaulted in dealing with the problem of young children—15, 16, 17—who do not get along with their parents. I assume you have heard lots of testimony about homes and juvenile centers, and the like, what terrible places those are. One of the Fortune Society witnesses just said that the problem is finding somebody with understanding, and I think that is indeed the hard problem. We do not spend enough money to buy the understanding, and we certainly do not do a very good job of finding it otherwise. In one case I had a daughter of a well-to-do family that did not want to have anything to do with her. The judge said, in desperation, "OK, we will send her to the reformatory for 9 or 10 months, and maybe that will straighten her out."

Well, it did not work out that way. The girl went there, and by the time we got to her and got her out she was well on her way to serving 28 months in this institution.

And all of this is justified in New York by judges on the grounds that it is protecting children against themselves, against their own terrible instincts. The institution is supposed to be a reformatory, to reform and rehabilitate.

Well, in my statement I have included an affidavit that we are filing in a challenge to the constitutionality of this statute. I will not read the affidavit, which is much too long, but there are two or three elements worth focusing on.

First, it is very clear, as Mr. Rivers said, for female inmates, as well as for males, that there is very little separation in recreation or other contexts. As a result, young children are mixed in with prostitutes and murderers. One girl told me that she was working with a woman who had sent her children out to do prostitution on her behalf.

Another woman had killed her lover.

Another woman had killed her child.

One of the prostitutes said to this girl, "Look me up when you get out on the street."

The talk is about narcotics, shoplifting, better methods of thievery, and the like.

Second, the punishment for disciplinary infractions is often the same as for an adult prisoner—segregation in a closed cell with nobody around. The girl who made out the affidavit served 2½ months in such a cell and the reason she got out is that she threatened to kill herself.

Psychiatric help is meaningless. This same girl describes how the psychiatrist at the institution taught at a college nearby, and thus saw the girl only once every 3 months.

Group therapy—the girls merely sat around talking and griping about the prison, with two guards present who simply sat and listened.

In effect, the reformatory is just a prison. I do not know whether there is any outright cruelty, and it is actually run by a very sensitive, humane person. It is like a clean atomic bomb. It does an awful lot of killing, even if there is little fallout of outright cruelty. And all of this is in the name of moral guidance, vocational rehabilitation, and education.

In my testimony, I summarize a few of my wayward minor cases.

I have used fictitious names because I do not want to bring notoriety to these girls. One girl, the girl I mentioned before, was in and out of foster homes between the ages of 2 and 16. Her mother was a prostitute and an alcoholic who apparently despised her. When she was 16 her mother brought a warrant against her. I think we will get her out of the institution.

One way we have gotten them out is by going to the judge who signed the order, and saying, "Look, you confined this girl. She has sat there for almost 20 or 25 months. Do you not think that is long enough?"

Most of the time the judge will say, "Good God, I never expected that would happen, I just figured she would be there for 9 or 10 months."

And in some cases the mother has wanted to get the girl out, but she could not do so, because the parole board did not think that the girl was ready to get out. They felt that the moral guidance of prostitutes and thieves was more important inside than outside.

What these cases show is that first, the wayward minor statute in New York is being used to send young girls to prison for very long periods in settings where they are thrown in with hardened criminals, with no rehabilitation or treatment.

Secondly, lengthy imprisonment is imposed on girls who either have committed no crime at all, or very minor ones for which they serve time in penitentiaries, and then are sent back to the reformatory.

Thirdly, and this is one of the areas I want to stress particularly because it is where the hypocrisy in liberal penology is most strong, is the system of parole. In many of these cases parole officers reincarcerate the girls for very, very trivial reasons. I will get back to parole after I have discussed the second aspect of the discrimination involving young adults who are sent to reformatories for shoplifting a \$5.98 pair of slacks or a \$10 pair of shoes.

The young adult statute provides that when a person between the ages of 16 and 21 is convicted of a crime, the judge can, in his complete discretion, send that person to a reformatory for a period of up to 4 years instead of imposing the normal statutory penalty.

I have run into a series of cases involving first offenders, 16-, 17-, 18-year-olds, charged with such heinous crimes as prostitution, shoplifting and the like. If an adult gets caught for shoplifting, and it is a very, very widespread crime indeed, and the lawyer knows what he is doing, he can often get it knocked down to disorderly conduct, which usually entails no criminal record and a minor penalty. But that doesn't work for these girls, who are often the products of broken homes, and whose parents do not care about them, so they get sent away for 4 years.

The first case I have is a girl who has two children and had served up to 27 months by the time we got to her. Her offense was shoplifting a \$5.98 pair of slacks, at the age of 16. Her codefendant, who had parents who cared about her, and was 19 at the time—my client was 16 or 17—got only 90 days.

In another case one girl, who was 20 and had an illegitimate child—which I think made the judge unhappy—faced two prostitution charges. She was a first offender, a high school graduate, and she was going to a job at the time of sentencing. She got one of these 1-to-4-year sentences.

A friend who was with her at the time and was 22, over the age, got 60 days for the same offense.

I have many more cases in my testimony, and since I have prepared the testimony two more came in. One of them again is a shoplifting charge.

Now, the legislative history of this statute states that the purpose is to "provide education, moral guidance, and vocational training for young offenders". That is just not the way it works. These places are prisons pure and simple. Whatever value there is, whatever reformation takes place, is by luck. The education is in crime, the moral guidance is provided by prostitutes, murders, and other such moral philosophers, and the vocational training is in such skills as prostitution, narcotics peddling, and the like. And here as in the wayward minor situation, there is the additional fact of hypocrisy: we are doing it for their own good.

So far the courts have shown very, very little interest in this. By and large, if it is called a reformatory sentence, despite the fact it is in prison, they will simply say, "Well, that is for rehabilitation."

A couple of courts have said, and this I think is the proper approach, that if the State shows that there is in fact rehabilitation, then it can send them away for the increased period. But, most courts approach

it the other way around. If the young person can show that there is no rehabilitation, then he can get out or can get the sentence knocked down to the same sentence as an adult. But the problem with that is few of these kids can get lawyers to show that. And, without lawyers, how many of them can write coherent prose petitions. In other words, the presumption is that there is rehabilitation unless the young person can show otherwise, when the reality is exactly the other way around.

Now, the last thing I want to comment on, and I hope I have not taken too much time, is the parole system. This it seems to me is really one of the most shocking aspects of our penological system. Parole is justified as a way to help somebody when he is outside, to help to continue the rehabilitational process. The truth is, I think, that many parole systems are really prisons without walls.

Parole officers have a very tough job, and I do not think anyone will deny that. But many of them either get very jaded or really do not care. The result is that both the law and the parole officer impose the most unbelievable and ridiculous conditions on parolees.

As you will note from some of the case studies that I have indicated, all of which are factual case studies of young people I have dealt with, parolees are returned to prison for such things as staying out at night, for leaving a community without notifying the parole officer and, of course, for getting caught by the law again in some kind of offense, whether major or minor.

The whole question of parole really requires a great deal more study and exposure. This would show that parole, just as every other aspect of the penal system, is largely investigation and imprisonment, and very little rehabilitation.

There are indeed some very fine parole officers who work with their parolees, but one of these officers told me very plainly that no matter how hard she tried, the girl had just not trusted her. The officer said she could understand it, because she holds the power to send that girl back. Also, she has a very heavy caseload and there is really nothing she can do with some of these girls.

So, she had this girl rearrested twice for violations of her parole.

Senator BAYH. What kind of violation?

Mr. SCHWARTZ. Well, the girl would not go to school; she did not report when she left her mother's house; and she did not report when told to report. In this case, the girl has not had her parole revoked. We managed to get her resentenced and released before the revocation hearing came up.

We have come across many other cases where parole was revoked for not reporting, for among the most common grounds are not reporting to the parole officer, or leaving the community, or driving a car without permission, or getting married without permission.

One of the girls had her parole revoked because she could not get along with her mother. She had never committed a criminal act, but had her parole revoked on three grounds: the first was that she was associating with other parolees. She had lunch with two girls she had met in the institution and had tried to write to the third, but that was intercepted by her mother. Second, she stayed out late at night. Third, when she was arrested by her parole officer she was sassy and the parole officer thus told me that the girl is incorrigible.

The girl now has a job. She has moved out of her mother's house, and as far as we can tell is doing pretty well. While in the institution she was very obstreperous, because she did not want to be there. As a result, and even though her mother wanted to get her out after a year, this young girl served 19 months. But for the fact that we managed to get her out, she would have served an additional 9 months, never having committed any crime.

Senator BAYH. May I ask one question? I think you are uniquely qualified to respond to this. We have all of these examples, and you alluded to some of your personal knowledge, and we have had other similar ones brought to our attention on the committee, and hundreds that will not be brought to our attention.

It shows that the present system really is not working. Take the example of the one young girl that you just mentioned. What should society do with a child like that?

Mr. SCHWARTZ. Well, I take it you mean the last one who did not get along with her mother at the age of 16 or 17?

Senator BAYH. Which there must be a large number of.

Mr. SCHWARTZ. I was absolutely amazed at the number that suddenly started to come out of the woodwork, because of the prison grapevines. This is just from one institution in upstate New York, near my office, mostly within the last 2 months.

I am just staggered at the thought of how many there must be elsewhere in the State and in the country.

Senator BAYH. It seems to be a double injustice in the way that young women are treated, a sort of compounded, double injustice. Apparently, one, at a certain stage in life young woman and their mothers are subjected to significant strains and, two, young women by their nature are not as violent in the acts they resort to as young men. Both of those seem to impose a double injustice upon young women.

What does society do to try to anticipate these types of situations and to deal with them in such a way that does not destroy the opportunity for a young woman to have a useful, meaningful life?

Mr. SCHWARTZ. Let me evade your question to just add one more thing. In some of these cases the young women had children, so that their children are also harmed when their mother is taken away. We are thus compounding the injustice by doing it across generations.

The problem you raise is obviously the central problem. One thing that is being tried in my community in Buffalo, is that the local YWCA is setting up some kind of a community for the young girls who do not want to live with their mothers, or who want to be away from home.

The girls live together in a dormitory, and there are social workers there to help the girls if they need some help, to serve in some instances, I guess, as surrogates for the mother. For all of the strains, it is very much a love-hate relationship between adolescent girls and their mothers. I think if we could develop more of those, that might help on a purely voluntary basis.

That is the only thing I can think about. I do know, for example, that it is virtually impossible with many of these girls to force them to some kind of treatment. For example, when these girls are released, I ask that they come to my office to talk with me for a few minutes.

In some cases I have never met them, so when they are released, I have my students go out to the institution and bring the girls back to my office. What I find is that these girls do not want to have a thing to do with any authority. Because my wife is at the University School of Social Work and has worked with family agencies, we have made arrangements in virtually every case for some kind of social work help for the girls during the difficult period immediately after release. And usually the girl says, "No, I have had enough of institutions and authority and the like." I think the only hope is the kind of thing that the Fortune Society does, which is to provide peers, offenders or others, who have had the same experience.

Senator BAYH. You are referring to the young woman who has been institutionalized, and what I was asking is what can we do that may be more meaningful and more equitable than incarcerating her in the first place.

Mr. SCHWARTZ. The point I am trying to get to in a terribly round-about way is that some of the same resistance to structure in the post-institutional situation probably applies in the preinstitutional situation. Perhaps there may be something to putting these girls under the authority of the court to require that they see social workers.

But, on the other hand, there is a very strong movement in therapy to say that forced therapy just does not work. I do not know. There are no easy answers, and I guess I am evading giving you any answer.

I think some kind of place where these girls can live together in a fairly free center, such as the "Y," which is well provided for, and is not just a dormitory, could help to some extent.

I would guess also that making it harder to commit these girls would help. Very often the mother is exasperated and she says "I am going to take you to court." We did a small study in Buffalo and found that in most of the cases the judge persuades the mother to forget it, and relatively few in fact do go all the way. I would think that if we were to perhaps provide for more counseling for mother and daughter, which we do not do at all to speak of at the moment, that might help.

Certainly when we are dealing with young adults, I think the answer there is very easy, and that is to abolish the discriminatory treatment. Young adult reformatories are premised on the notion that the reformatory sentence does some good, and therefore we single out young people and say to them that if you were 22, you would only serve 3 months, but because you are 20, you have to serve up to 4 years.

I do not think there is any justification for that. We can do something about it, and at least avoid that excessive criminalization that happens. That is one thing we can do easily.

And I do not know if this is too novel or radical, but the fact does remain that both under the eighth amendment and under the fifth and 14th amendments, Federal legislation could be drafted which would in effect prevent some of these things from happening, such as incarceration for noncriminal acts. The courts have not done a terribly good job in this area.

Senator BAYH. I notice that the clock is going around there on us, so could we ask that our counsel talk with you in more detail as we go ahead? I would really like to be able to find a solution to these problems. We had the Federal-State relationship, but if we can use some-

thing like the 14th amendment to which you referred, to deal with it effectively, maybe that is the way to go. Something needs to be done.

Mr. SCHWARTZ. That is very drastic medicine.

Mr. BAYH. Yes; I would prefer not to have to go that far. Frankly, I think my chances of succeeding in going that route are significantly less, but perhaps we could use the uniform law approach, or use LEAA funds with a stipulation that they must be used in a certain way.

Your entire statement has been included in the record, and you have been very helpful to us. I cannot overemphasize that, and I hope that we can continue to rely on you for advice and counsel which will lead to concrete legislation in this area.

Mr. SCHWARTZ. I would obviously be happy to be of whatever help I can.

Senator BAYH. Thank you very much, Mr. Schwartz. I really appreciate your help.

Our next witness is Mr. Charles Scott, counselor at the Maryland Training School for Boys in Baltimore.

Mr. Scott, we appreciate your taking the time to be with us.

#### STATEMENT OF CHARLES SCOTT, COUNSELOR, MARYLAND TRAINING SCHOOL FOR BOYS, BALTIMORE, MD., FORMER PRISON INMATE

Mr. SCOTT. Thank you. Whenever I comment upon the failure of our penal system, I do so with some reluctance. It seems that examining the myriad problems of our institutions leads many of us to just give up in utter confusion and frustration, and consequently helps to perpetuate the present system.

It seems to me that a large part of our failure is due to our approach. We see before us the monolithic structure of our prison system, protected by a moat of what we call public sentiment, and parapets of tradition.

The task of attacking such a seemingly impregnable fortress overwhelms many of us, and we either turn away, or actually add to the structure's invincibility by sending in change or reform.

Change and reform are, many times, merely pretty building blocks which are added to this basically unsound structure, and serve to protect it by making it appear less offensive. I contend that our system is beyond repair, and that, like a slum house, it must be torn down and replaced.

As I think all of you are aware, there have been countless studies conducted to determine the needs of the men, women, and children within our prison system.

Usually, the committee making the study will offer a list of recommendations which, if adopted, will act as a panacea. To those of us who are familiar with our prison system, these recommendations have become cliches. Vocational training, education, trained staff, more staff, smaller prisons, more programs.

Any of these things, or any combination of them, could be real needs, but I wonder if they are basic needs, or are we perhaps trying to avoid a personal commitment by substituting things?

It is relatively easy to give things, if they don't work something else can be tried, and we haven't really lost very much. I wonder

though, how much these things mean. How much does it mean to a child to give him a toy, if we withhold our love?

How much does it mean to a neighbor if we give a present and withhold our friendship?

The people within our institutions are no different from anyone else. They have the same basic needs as any other human being. Most of all, they need to know that someone cares.

I have heard many people lauding the progressive changes which have taken place within the Maryland Prison System. I am convinced that these people truly believe that significant changes have taken place.

I suppose that some changes have indeed been made. I question, though, the criteria used in evaluating the effectiveness of this change.

How has it affected the people within the system? Are they less frustrated? Are they any less resentful? Are they leaving our institutions less bitter?

If not, I suggest we had better not delude ourselves into thinking that we have made changes which are meaningful to the prisoners. Let us say that we are operating our institutions more efficiently, or that our staff is happier, but not that we are better preparing the prisoner for his return to the community.

Very little has, in fact, changed within our institutions within the past 10 years—or the past hundred years. Our prisons and reformatories are still places where we house the most wretched members of our society, and expect them to be magically transformed into acceptable citizens.

That the frogs we wish to become kings usually remain frogs should come as no surprise to us. Legend has it that in order for a frog to become a king, the frog must be kissed by a princess. We don't kiss our frogs, we crush them and we wonder that we have created only crippled frogs instead of kings.

How effective do you think a program is with a man who is beaten and raped in the first few days of his imprisonment? Do you think he cares about vocational training, or education? Or do you think he will be devoting time to surviving in the jungle we have created for him?

I think that if our institutions are ever to become more than debilitating warehouses, we must decide what it is that we want from them, and set about initiating programs which promote our goal.

I want to stress here the importance of conceptualizing our aims. Too often in the past we have added programs piecemeal to our existing structure without considering their effects upon our ultimate goal.

These programs might solve an immediate problem, and at the same time hinder us in the attainment of the end we seek. Currently, there is much lipservice being given to the goal of rehabilitation. In truth though our programs are not therapeutically oriented. Therapy is, rather, the stepchild of custody.

If our institutions are ever to become positively directed, we must first examine what we are now doing, and decide if it is truly therapeutic, and not merely window dressing.

As Menninger noted in his book "The Crime of Punishment", we often confuse human decency with treatment. We simply cannot contribute through omission. To stop some of the cruelty we once inflicted

upon prisoners is not a positive act. No one can argue that it is not in a positive direction, but the act itself merely brings us to a point where a positive act might occur.

I think that we all might bear in mind that therapy is not always pleasant. It is sometime a painful experience for therapist and patient alike.

With this in mind, it should be clear that we cannot always bend to the will of the person we are working with.

Historically, orderly society has always grown out of a common need. Limits are then imposed which protect the group from the whims of its individual members. If we are to provide our prisoners with tools with which they can function in our society, we must be able to demonstrate that it is both possible and beneficial for them to operate within certain limits.

I am not sure that this can be done in an institution, as the institution usually must set limits which are much more restrictive than those we actually want conformity to. As long as we choose to house our deviant members in institutions, though, I think we might set up a system more conducive to developing the attitude and behavior we wish to see.

We cannot change anyone, we can only provide the incentive and opportunity for change. It then becomes necessary for the person himself to desire the change. If we cannot bring about this desire, we are failing. If rehabilitation could be put in a pill, I am sure that 90 percent of the people in our institutions would gladly take it.

The fact is, though, that change requires an effort, and few are ready to make the necessary commitment. It, therefore, becomes incumbent upon us to lead, not just to control.

If any program is to work we must first create an environment where a person is free to avail himself of such a program. At present, virtually every young man who goes into an institution must concern himself with survival.

In the juvenile institutions they are usually beaten within a few hours after arrival. If they are weak, they are sexually abused.

In our adult institutions, pressure is slightly more subtle. Rapes are still common, but many times the same end is achieved simply through fear.

Status is based on prior criminal acts and physical prowess. If you are strong, you survive, if you are weak you go under. As long as we are willing to tolerate situations such as this, we can forget about helping anyone.

Before we can do anything else, we must be able to protect the people within our institutions. Once that is done, perhaps we can go further.

I have spent over 11 years in various institutions. In this 11 years I have seen, and undergone, things which would have made the Marquis De Sade turn blue with envy. In the Baltimore City Jail, I was placed in a solitary confinement cell for 93 days. There was no light, day or night. The toilet facilities consisted of a gallon bucket which was emptied every 2 or 3 days. There was no water in the cell, and for 8 days I was given one cup of water a day. I was not fed at all during this time. After the 8 days, I was given three cups of water a day, and a half a loaf of bread. The man in the cell with me had broken his arm and ankle. The medical treatment he re-

ceived consisted of an elastic bandage and a hot water bottle. When it was learned that we drank the water that was in the bottle, it was taken away from us.

This cell was, as I have said, unlighted, but that doesn't really convey the darkness of it. It was like living in a void. You could hold your hand out in front of you and couldn't see it. I would talk to the man in the cell with me without knowing if he was awake or asleep, sitting up or lying down. At first I thought I would go mad, but after a while it became a game to see who could last longer, me or the warden.

If I hadn't gone to court I think I would have stayed in that cell until I died rather than ask anyone to let me out. When I went into the Maryland Penitentiary I was examined by the doctor, and it was found that I had hepatitis. I had lost 40 pounds.

I spent 3 months in the penitentiary in the prison hospital. When I was released from the hospital I was placed in solitary confinement in the penitentiary. This time I stayed for 6 months.

Three times a day I was stripped, taken out of my cell and searched, and had my cell searched. Every 2 days I was moved to another cell. A heavy padlock was kept on the door, in addition to the two standard locks, and everywhere I went, the lock went.

Three times a day food was passed through the door. I was allowed one shower and shave a week, and had no exercise. I might add that I had committed no offense. I was being held for investigation.

In all, I spent over 3 years in solitary confinement and the "hole" during the 6 years I was in the penitentiary.

Senator BAYH. May I interrupt you here?

Mr. SCOTT. Yes, sir.

Senator BAYH. All of this confinement, all of this solitary confinement, took place even though you had not committed any offense?

Mr. SCOTT. I had committed no offense for the first 6 months that I was in solitary confinement in the penitentiary.

Senator BAYH. What were you put in there for?

Mr. SCOTT. Because I had been in solitary confinement in the city jail, which is right next door.

Senator BAYH. That is the 12- by 12-foot black room?

Mr. SCOTT. That is right.

Senator BAYH. How did you get in solitary confinement there?

Mr. SCOTT. I tried to escape. I attempted an escape, and six of us tried to get out, and we were captured and placed in solitary confinement cells, and were to remain there until we were released from that institution.

Senator BAYH. Had you committed an offense that got you in jail in the first place?

Mr. SCOTT. Yes. I was there for armed robbery, and I was awaiting trial on armed robbery charges, which I was subsequently convicted of.

Senator BAYH. How old were you at that time?

Mr. SCOTT. I was 23.

Senator BAYH. How long was it between the time you were apprehended for the robbery and the time that you were ultimately convicted?

Mr. SCOTT. Just about a year.

Senator BAYH. Excuse me.

Mr. SCOTT. On one occasion, I was beaten so badly that I prayed that I would die so I wouldn't hurt any more. I had been beaten for participating in a riot. After the beating I was dragged into a punishment cell, had tear gas sprayed on me, and was left for 10 days.

I wonder if any of you can realize what it is like to prefer death to living. I had seen many people give up and kill themselves, but I never thought I would experience the feeling. I always assumed it was a certain kind of person, actually a weak person, who would kill himself, but if I could have found a way to do it I think I would have killed myself then.

During my 6-year stay in the penitentiary I had three men whom I considered friends. I would like to tell you about two of them.

The first man, Pete, is now 24 years old. When he was 15 he started using narcotics, and by the time he reached his 15th birthday he was addicted. He subsequently was arrested when he was 17 for the offense of shoplifting. For this offense he was sentenced to 6 months in the Maryland House of Correction.

Twenty-one days after he was sent to the House of Correction a disturbance, which was called a riot, broke out. Pete was in a cell on the third tier. When he heard the commotion he went out on the tier to see what was going on. What he saw was a gang of inmates coming down the tier with a set of keys they had taken from a guard.

One of the men saw Pete and yelled, "There he is, get him." Pete tried to get to the cell, but his cell partner locked the door before he could make it. Then men on the tier grabbed him, and when he tried to fight, knocked him unconscious with a piece of pipe.

He was dragged into an empty cell and stripped and raped. Pete has been out of prison twice since then. His longest stay was 3 months. He is currently serving 6 years for breaking and entering. He has continued to use drugs, and has attempted suicide on at least one occasion.

The second man's name was Charlie. He was 31 years old. If I had to rate the friends I have had through the years, Charlie would be very close to the top. I think the thing I admired most about this man was his determination. Charlie was the most determined guy in the world. If he set out to do something, he accomplished it, if it was humanly possible.

Charlie and I had spent about 2 years in solitary confinement together when he decided he didn't want to live any longer. Somehow he got a razor blade into his cell, slashed his wrists and when the guard found him he was in pretty bad shape. They took him to the hospital. Because Charlie told the doctor that he intended to do the same thing again, the prison officials asked me if I would talk to him. I spent over an hour with him and we talked about a lot of things, we talked about prison, and we talked about life and happiness and pride. I didn't want my friend to die, but when I left the hospital, I knew that he would. The last thing he told me was that he would rather be dead than be broken, and if he lived, the prison would break him. That night Charlie pulled the stitches out of his arm, stuck it inside his pillow where it couldn't be seen, and bled to death.

Charlie was 31 years old when he died. He had been in the penitentiary for 8 years, for 8 years he had fought but in the end the prison had won.

I don't know if either of these men could have been saved. I do know if either of these men could have been saved, that no one tried.

There are thousands of Petes and Charlies in our prisons, and tens of thousands more who will eventually be there. Must we lose all of them, too? I hope that your answer is "No." I hope that you will be able to do something to stop the destruction of lives which is now taking place in our prisons.

Thank you.

Senator BAYH. Well, thank you very much, Mr. Scott. At the time you were arrested for armed robbery, you say you were 23?

Mr. SCOTT. That is right.

Senator BAYH. Was that the first experience you had had with the law?

Mr. SCOTT. No. I had been in and out of institutions from the time I was 12 years old.

Senator BAYH. What was your first experience?

Mr. SCOTT. My first incarceration was in the Maryland Training School for Boys for petty larceny, for stealing a woman's pocketbook.

Senator BAYH. What was your home situation at that particular time?

Mr. SCOTT. I was living with my mother. My father had left when I was 3 years old and we had it pretty rough. She had, in fact, taught me how to steal. We used to go to the supermarket and she would take me along, and my job was to pick up what I could and put it in my pocket while she pushed the shopping cart around.

She felt that no one paid very much attention to me because I was 6 or 7 years old at the time. So, I was pretty much raised in the tradition of a good criminal, I think. It was my goal to become a good criminal, and I set about achieving that goal.

Senator BAYH. Now, you were first sent to the reformatory, and that experience apparently did not have much relevance or meaning for you.

Mr. SCOTT. It did have meaning, but it was a very negative meaning. I learned—I had always been considered a pretty tough kid on the block, and when I went to the institution all of the kids were pretty tough kids from their block, and the only way to survive in there was to be the toughest or one of the toughest, to get in with the clique that ran the institution, and the way to do that was to be mean or meaner than they were.

Senator BAYH. Now, what could have been done at the time you were first sent to the reformatory? Is there anything that could have been done then to change your ideas?

Mr. SCOTT. I think possibly something could have been done, but you know, it would require almost rethinking our entire criminal justice system. You have to eliminate the philosophy, not just the facilities. We could do away with all of the prisons and juvenile institutions tomorrow, but as far as we still hold this philosophy that someone who does something that society considers wrong is necessarily bad; until we change this thinking, we are not going to do very much to change that person.

I think that a person can be treated in the community and treated in a manner that does not give him the stigma or the idea that he is a bad person. Once you start to consider yourself bad, or once you are

labeled bad, it is relatively easy to become bad. You are just living up to expectations, whether they are your own or someone else's.

Senator BAYH. You are now serving as a counselor at one of the institutions in Maryland, is that correct?

Mr. SCOTT. That is right. I am a program developer at the Maryland Training School for Boys, where I started out.

Senator BAYH. Do you have any chance to remedy some of the abuses that you noticed when you were there?

Mr. SCOTT. Not really, no. It is hard. You can make some changes, I think, on a person-to-person basis, but the system that is set up there now is not geared toward making change, it is geared toward the perpetuation of the institution, and the comfort of the staff that works there. It is not geared to help the people who are there to be helped.

Senator BAYH. You have been very helpful. You have made an excellent philosophical suggestion. I will not ask you to do it at this time, but if you could think about how we can implement that philosophy step by step that would be a great help. You are in a unique position to offer suggestions, having gone through several institutions. You are now there providing services for those who are really following in your footsteps, and you have apparently decided that your life is going to be different.

If you could help us to explore the weaknesses which you have so compassionately described in your experiences and in those of your two friends, we would perhaps be able to draft some kind of legislation that could improve institutions.

Of course, I think legislation alone, as you point out, is not really going to do the job. We are going to have to change the approach. Could you give some thought to what the specifics of that approach should be?

Mr. SCOTT. I have given it quite a bit of thought, but I will try to work something out.

Senator BAYH. Would you, please. I would appreciate that. You have been very kind. I trust that your superiors are grateful that you would make this contribution, as I am.

Mr. SCOTT. I hope they are. Thank you.

Senator BAYH. If they are not, perhaps they will advise us. Thank you.

(The prepared statement of Charles T. Scott follows:)

PREPARED STATEMENT OF CHARLES T. SCOTT

Whenever I comment upon the failure of our penal system, I do so with some reluctance. It seems that examining the myriad problems of our institutions leads many of us to just give up in utter confusion and frustration, and consequently helps to perpetuate the present system. It seems to me that a large part of our failure is due to our approach. We see before us the monolithic structure of our prison system, protected by a moat of what we call public sentiment, and parapets of tradition. The task of attacking such a seemingly impregnable fortress overwhelms many of us, and we either turn away, or actually add to the structure's invincibility by sending in change or reform. Change and reform are, many times, merely pretty building blocks which are added to this basically unsound structure, and serve to protect it by making it appear less offensive. I contend that our system is beyond repair, and that, like a slum house, it must be torn down and replaced.

As I think all of you are aware, there have been countless studies conducted. Usually, the committee making the study will offer a list of recommendations which, if adopted, will act as a panacea. To those of us who are familiar with

our prison system, the recommendations have become cliches: Vocational training, education, trained staff, more staff, smaller prisons, more programs.

Any of these things, or any combination of them, could be real needs, but I wonder if they are basic needs, or are we perhaps trying to avoid a personal commitment by substituting things? It is relatively easy to give things, if they don't work something else can be tried, and we haven't really lost very much. I wonder though, how much these things mean. How much does it mean to a child to give him a toy, if we withhold our love? How much does it mean to a neighbor if we give a present and withhold our friendship? The people within our institutions are no different from anyone else. They have the same basic needs as any other human being. Most of all, they need to know that someone cares.

I have heard many people lauding the progressive changes which have taken place within the Maryland Prison System. I am convinced that these people truly believe that significant changes have taken place. I suppose that some changes have indeed been made, I question though, the criteria used in evaluating the effectiveness of this change. How has it affected the people within the system? Are they less frustrated? Are they any less resentful? Are they leaving our institutions any less bitter? If not, I suggest we had better not delude ourselves into thinking that we have made changes which are meaningful to the prisoners. Let us say that we are operating our institutions more efficiently, or that our staff is happier, but not that we are better preparing the prisoner for his return to the community.

Very little has, in fact, changed within our institutions within the past ten years . . . or the past hundred years. Our prisons and reformatories are still places where we house the most wretched members of our society, and expect them to be magically transformed into acceptable citizens. That the frogs we wish to become kings usually remain frogs should come as no surprise to us. Legend has it that in order for a frog to become a king, the frog must be kissed by a princess. We don't kiss our frogs, we crush them. Is it any wonder that they usually choose to remain frogs?

How effective do you think a program is with a man who is beaten and raped in the first few days of his imprisonment?

Do you think he cares about vocational training, or education? Or do you think he will be devoting time to surviving in the jungle we have created for him?

I think that if our institutions are ever to become more than debilitating warehouses, we must decide what it is that we want from them, and set about initiating programs which promote our goal. I want to stress here the importance of conceptualizing our aims. Too often in the past we have added programs piecemeal to our existent structure without considering their effects upon our ultimate goal. These programs might solve an immediate problem, and at the same time hinder us in the attainment of the end we seek.

Currently, there is much lip service being given to the goal of rehabilitation. In truth though our programs are not therapeutically oriented. Therapy is, rather, the stepchild of custody. If our institutions are ever to become positively directed, we must first examine what we are now doing, and decide if it is truly therapeutic, and not merely window dressing. As Menninger noted in his book "The Crime of Punishment" we often confuse human decency with treatment. We cannot contribute through omission. To stop some of the cruelty we once inflicted upon prisoners is not a positive act. No one can argue that it is not in a positive direction, but the act itself merely brings us to a point where a positive act might occur. I think that we all might bear in mind that therapy is not always pleasant. It is sometimes a painful experience for therapist and patient alike. With this in mind, it should be clear that we cannot always bend to the will of the person we are working with.

Historically, orderly society has always grown out of a common need. Limits are then imposed which protect the group from the whims of its individual members. If we are to provide our prisoners with tools with which they can function in our society, we must be able to demonstrate that it is both possible and beneficial for them to operate within certain limits.

I am not sure that this can be done in an institution, as the institution usually must set limits which are much more restrictive than those we actually want conformity to. As long as we choose to house our deviant members in institutions though, I think we might set up a system more conducive to developing the attitudes and behavior we wish to see. We cannot change anyone. We can only provide the incentive and opportunity for change. It then becomes necessary for the person himself to desire the change. If we cannot bring about this desire, we are failing. If rehabilitation could be put in a pill, I'm sure that ninety percent

of the people in our institutions would gladly take it. The fact is though, that change requires an effort, and few are ready to make the necessary commitment. It therefore, becomes incumbent upon us to lead, not just to control.

If any program is to work we must first create an environment where a person is free to avail himself of such a program. At present virtually every young man who goes into an institution must concern himself with survival. In the juvenile institutions they are usually beaten within a few hours after arrival. If they are weak, they are sexually abused. In our adult institutions, pressure is slightly more subtle. Rapes are still common, but many times the same end is achieved simply through fear. Status is based on prior criminal acts and physical prowess. If you're strong, you survive, if you're weak you go under. As long as we are willing to tolerate situations such as this, we can forget about helping anyone. Before we can do anything else, we must be able to protect the people within our institutions. Once that is done, perhaps we can go further.

I have spent over eleven years in various institutions. In this eleven years, I have seen, and undergone, things which would have made the Marquis De Sade turn blue with envy. In the Baltimore City Jail I was placed in a solitary confinement cell for ninety three days. The cell was about twelve feet square, and was painted black. There was no light, day or night. The toilet facilities consisted of a gallon bucket which was emptied every two or three days. There was no water in the cell, and for eight days I was given one cup of water a day.

I was not fed at all during this time. After the eight days, I was given three cups of water a day, and a half a loaf of bread. The man in the cell with me had broken his arm and ankle. The medical treatment he received consisted of an elastic bandage and a hot water bottle. When it was learned that we drank the water that was in the bottle, it was taken away from us. This cell was, as I have said, unlighted, but that doesn't really convey the darkness of it. It was like living in a void. You could hold your hand out in front of you, and couldn't see it. I would talk to the man in the cell with me without knowing if he was awake or asleep, sitting up, or lying down. At first, I thought I would go mad, but after awhile, it became a game to see who could last longer, me or the warden. If I hadn't gone to court, I think I would have stayed in that cell until I died rather than ask anyone to let me out. When I went into the Maryland Penitentiary I was examined by the doctor, and it was found that I had hepatitis. I had lost forty pounds. I spent the first three months in the penitentiary in the prison hospital. When I was released from the hospital, I was placed in solitary confinement in the penitentiary. This time I stayed for six months. Three times a day I was stripped, taken out of my cell and searched, and had my cell searched. Every two days, I was moved to another cell. A heavy padlock was kept on the door, in addition to the two standard locks, and everywhere I went, the lock went. Three times a day food was passed through the door.

I was allowed one shower and shave a week, and had no exercise. I might add that I had committed no offense. I was being held for investigation. In all, I spent over three years in solitary confinement, and the "hole", during the six years I was in the penitentiary. On one occasion, I was beaten so badly that I prayed that I would die so I wouldn't hurt anymore. I had been beaten for participating in a riot. After the beating I was dragged into a punishment cell, had tear gas sprayed on me, and was left for ten days. I wonder if any of you can realize what it is like to prefer death to living. I had seen many people give up and kill themselves, but I never thought I would experience the feeling. I always assumed it was a certain kind of person, actually a weak person, who would kill himself, but if I could have found a way to do it, I think I would have killed myself then.

During my stay in the penitentiary I had three men whom I considered friends. I would like to tell you about two of them.

The first man, Pete, is now twenty-four years old. When he was seventeen he was arrested in a department store for shoplifting. For this offense he was sentenced to six months in the Maryland House of Correction. Twenty-one days after he was sent to the House of Correction a disturbance, which was called a riot, broke out. Pete was in a cell on the third tier. When he heard the commotion, he went out on the tier to see what was going on. What he saw was a gang of inmates coming down the tier with a set of keys they had taken from a guard. One of the men saw Pete and yelled, "There he is, get him!". Pete tried to get to the cell, but his cell partner locked the door before he could make it. The men on the tier grabbed him, and when he tried to fight, knocked him unconscious with a piece of pipe. He was then dragged into a cell, stripped, and raped. Pete has been out of prison twice since then.

His longest stay was three months. He has continued to use drugs, and has attempted suicide on at least one occasion. The second man's name was Charlie. He was thirty-one years old. If I had to rate the friend I have had through the years, Charlie would be very close to the top. I think the thing I admired most about this man was his determination. Charlie was the most determined guy in the world. If he set out to do something, he accomplished it, if it was humanly possible. Charlie and I had spent about two years in solitary confinement together when he decided he didn't want to live any longer. Somehow, he got a razor blade into his cell, and slashed his wrists. When they found him he was in pretty bad shape. They took him to the hospital. I didn't want my friend to die, but when I left the hospital, I knew that he would. The last thing he told me was that he would rather be dead than be broken, and if he lived, the prison would break him. That night Charlie pulled the stitches out of his arm, stuck it inside his pillow where it couldn't be seen, and bled to death. I don't know if either of these men could have been saved. I do know that no one tried. There are thousands of Petes and Charlies in our prisons, and tens of thousands more who will eventually be there. Must we lose all of them too? I hope that your answer is no. I hope that you will be able to do something to stop the destruction of lives which is now taking place in our prisons.

Our next witness is Mr. Jack Cohen.

**STATEMENT OF JACK COHEN, EXECUTIVE VICE PRESIDENT OF BOYS' TOWN HOMES OF MARYLAND**

Senator BAYH. Mr. Cohen is the executive vice president of Boys' Town Homes of Maryland. Mr. Cohen, we appreciate your taking the time to be with us.

Mr. COHEN. Thank you, Senator, ladies, and gentlemen.

Senator BAYH. I understand you have recently been appointed to serve on the Governor's commission on young offenders.

Mr. COHEN. Yes, sir; I have that honor. Thank you.

I am going to divert just a minute from my prepared statement. Listening to the testimony from the previous witnesses continues to point out to me a distinct pattern of crime. I think everyone here that has been listening has noticed it, and at the end you will hear the same frustrations—where do we begin, what do we do—and we have chosen to zero in at a technique, and we have another alternative. It is not perfect.

I think the entire problem should be approached in various areas and in various age categories. Boys' Town Homes is doing something different, and we do like to let people know about it. This is one of the reasons I am here.

It is my privilege and pleasure in behalf of the extension of the existing Juvenile Delinquency Prevention and Control Act of 1968. Boys' Town Homes of Maryland is one of the human services that has received Department of Health, Education, and Welfare support during the past year.

The Nation's No. 1 problem is crime.

The 15-year-old boy commits more serious crime in the United States than any other age group.

And a mere 1½ percent of Baltimore's teenagers are responsible for over 45 percent of our city's crime.

Previously, troubled youngsters, in conflict with the law and in need of supervision and guidance were placed in large institutionalized training school structures where, more likely than not, they were trained to be criminals instead of tamed to be good citizens.

Each year in Maryland some 1,200 such youngsters, for want of a better place, were sent to such hard-core institutions.

For many, many years such facilities were the only available route and as many as 70 to 80 percent of the "rehabilitated" boys became "repeaters" within a very short time.

This method of youthful incarceration is most responsible for the spiraling crime rate each year, because every adult criminal was once a young boy.

More than 4 years ago a group of Maryland residents became so appalled with our crime problem that they established Boys' Town Homes of Maryland to seek a new approach that would offer greater opportunities to reduce crime.

Since the overbearing crime activity is such a totally consuming problem, our governmental agencies had no choice but to seek a solution based on more jails, reinforcing apprehension power, and strengthening punitive measures. Boys' Town Homes of Maryland has no quarrel with this point of view, but we simply believe that it "locks the stable after the horse is stolen" while crime continues to increase at a rate that outstrips the capacity of law enforcement agencies.

Boys' Town Homes of Maryland is one of those groups that seeks to head off crime—to diagnose the potential delinquent or criminal early—long before he is the 15-year-old boy.

Our pilot program is greatly responsible in Maryland for a movement away from training school incarceration to the establishment of community based "people sized" homes, serving approximately a dozen boys for a period of 6 months to a year.

We are getting them early—working with youngsters at the most responsive and formative age—8-12 years old. These youngsters are old enough to respond to care and counseling and young enough to be malleable.

In fact, psychologists believe this is the age when it is possible to influence them most deeply and permanently, at the least expense.

It can cost up to \$300,000 to keep one offender locked away from society for a period of 35 to 40 years.

It is time to look toward preventive programs, because a preventive program that works is the biggest bargain of all. Isn't it good business to spend \$7,000 a year now, and avoid the big price tag later?

In order to cut back crime, we must reduce recidivism. It is a disgrace to place a delinquent boy in community care and bungle the job so badly that he becomes a repeater later on, with a terrible loss in community cost and human life.

Our first home contains 12 seriously misguided boys, ages 8-12 years, who are making marked progress in rehabilitation. They attend neighborhood schools, participate in community athletic programs and sing in neighborhood church choirs.

As part of our "pure preventive approach" we are concurrently working with their parents in an effort to prepare their own homes for their eventual return.

Our youngsters are experiencing almost total reduction in school truancy, receiving comprehensive medical care, tutoring and planned recreational programming.

Although this preventive crime approach and the community based home concept received almost unanimous approval from professionals and nonprofessionals alike, Boys' Town Homes of Maryland struggled more than 4 years before the financial support, offered by the Juvenile Delinquency Prevention and Control Act, made it possible to begin our program and offer our services to the many, many neglected youngsters coming our way.

We are now an operating reality, because of the concern, the guidance and the financial assistance given us by the Department of Health, Education, and Welfare.

Our first home is filled to capacity and our second facility is currently being renovated and furnished. However, without increased Federal funding of the type we received last year, our effort may be aborted and a pilot program that may show a new way to other cities and communities, may once again be delayed or lost.

Baltimore is not unique in its youth services failure.

So if we ever hope to reduce the spiraling crime rate, it is most obvious that we must reach to the root of the problem—the young elementary school boy who first shows signs of neglect and antisocial behavior patterns.

In behalf of all the many, many neglected boys in our Nation, we urge you to appropriate adequately for their rehabilitation through delinquency prevention care.

I recently had the pleasure of testifying before the House of Representatives committee in support of bill H.R. 6247, extending the Juvenile Delinquency Prevention and Control Act of 1968.

The original 1968 juvenile delinquency bill was established to strike hard and precisely in the area of prevention.

After evaluating the witness testimony and reviewing the related comments with Chairman Roman Pucinski, it became clear that additional direction was necessary in order to properly direct the funds in this bill to the area of what we want to call pure prevention.

The testimony clearly pointed up a fuzz area that now exists in the interpretation, definition, and operation of prevention and rehabilitation projects.

Although the rehabilitation of a released offender can be termed "preventive," inasmuch as it is designed to prevent him from once again turning toward crime, I do not feel the juvenile delinquency bill was created for this purpose.

This rehabilitative role is best served by the Safe Streets Act, which deals more with apprehension, containment, and rehabilitation of more seriously hardened individuals.

I suspect that many administrators throughout our Nation, finding themselves moving away from pure prevention, are utilizing funding in the area of rehabilitation. This is a natural reaction for all city fathers, since the overbearing criminal activity is such an ever-present and consuming problem, they have no choice but to immediately seek a solution based on more apprehension and more containment. Funding for pure prevention does not seem to be as vital or as dramatic, so the mild offender and troublesome child is continually pushed to the rear of the bus.

When you find yourself knee deep in alligators, it is quite difficult to remember that you should have long ago drained the pond.

Since a troubled child is generally a result of many parental problems, it is usually necessary to remove him from his home temporarily. The need for "people-size" community homes seems to offer a major service in a pure prevention program, designed to prevent his incarceration elsewhere.

In an effort to make the juvenile bill more unique and direct it toward a specific area of concern, I suggest:

(1) That we acknowledge rehabilitation to be the type of activity that deals with a discharged offender or criminal after he has been incarcerated in a security facility.

(2) I suggest that we acknowledge the term pure prevention as that type of therapy that deals with youth, when he shows serious antisocial behavior patterns and prior to his assignment to a training school or institution. This boy or girl should probably be a CINS (child in need of supervision).

(3) In order to start early enough and to gain the greatest opportunity for correction, I suggest that the priority age group be limited, initially, to the 6- through 12-year-old child.

If the 15-year-old boy commits the most serious crime in the United States, it is obvious that our target for pure prevention should begin early enough with the elementary school child.

(4) I suggest that the bill direct the establishment of special testing programs to more early determine the troubled youngster, as part of his educational program in school.

(5) All concerned agencies should be made aware of the need for detecting potential delinquents and be aware of community youth services available as part of the pure prevention treatment.

(6) More community-based homes such as Boys' Town Homes of Maryland should be encouraged as facilities for children in need of supervision, love, guidance, motivation, and the many human services that they are not getting in the existing institutions, that now provide merely the basics in custodial care.

These recommendations are merely a few apparent characteristics that should structure the juvenile delinquency bill, in an effort to completely define its purpose, its goals, its priorities, and its ultimate area of operation. Most important, it would also prevent its activities from infringing upon the role of the Safe Streets Act.

Such a clear identification would enable innovators to direct their projects properly and also give credibility and support to the selective disbursement of available funds.

Gentlemen, please continue the flow of existing funds and also move to provide additional appropriations in the areas of crime prevention. We can only reduce the adult criminal statistic when we reeducate the young boy, diverting him from crime.

When you save a boy you gain a man.

Thank you.

Senator BAYH. Well, thank you, Mr. Cohen. Your statement is pretty well self-explanatory. I appreciate your sharing your opinions with us. Let me ask you this.

What is the annual cost of a boy in your community-based, people-sized home, the one that you now have?

Mr. COHEN. Well, in the initial home we determined that it was near the \$7,000 mark. Our program intends to erect 12 such homes, which means utilization of existing top executives, and just adding

the house counselors and house parents. So, there is a great deal of hope of even reducing it a little more.

Senator BAYH. What is the target that you are shooting for?

Mr. COHEN. We are shooting for approximately 12 homes.

Senator BAYH. I mean the cost.

Mr. COHEN. The cost does not bother me too much, frankly. I think we are working a little lower than we should be working. I would like to see more enrichment of our programs. I would like to see programs designed for appeal to the 8- to 12-year-old boy.

As an example, this summer we are taking our first home on a trip across the country. We are stopping at 28 locations across the Nation, on a 7-week tour. This program has met with total approval throughout the community, and the money, funding, buses, and so forth, needed for the trip will probably in their entirety come from the community itself.

Our program envelops the community. We had groups that raised money for our furniture and we have—in fact, our total input of equipment represents 90 percent donations from the community.

Senator BAYH. Are the boys committed to your home by the court, or do the parents voluntarily put them there? How do they get into it in the first place?

Mr. COHEN. The basic method is through the existing juvenile services which is statewide, and the social services agency which is citywide.

We are getting the boys from these general agencies. They simply would have to send them to the training school if they did not send them to us.

Senator BAYH. Well, have they been adjudicated as delinquents by the court? Is there a court order that gets them there?

Mr. COHEN. You and I will not talk about what the word "delinquent" means right now, but let us say that—

Senator BAYH. I think we can tell whether there has been a court order to send them there or not.

Mr. COHEN. They come to us by court order in every case. There are some boys that have had some stress and conflict with authority, let us put it that way.

Senator BAYH. I am not trying to embarrass anybody, but I just want to know whether these youngsters have been before a judge or a magistrate, and committed to your care, or whether there has been some social agency which referred them to you.

Mr. COHEN. The social agencies intervene, sir, in practically all of the cases.

Senator BAYH. But has the court made the final determination?

Mr. COHEN. To send them to our particular home, sir?

Senator BAYH. Yes.

Mr. COHEN. No, sir.

Senator BAYH. Under no circumstances?

Mr. COHEN. Is that true, Mack?

Mr. MACFARLAND. Not up to now. They have all been to court, Senator, and assigned to other social services or juvenile services from whom we get our intake.

Senator BAYH. Fine. I fully concur in the way that you are trying to reach the boys, and I am interested in seeing how they get to you.

You mentioned that you get HEW funds.

Mr. COHEN. Yes, sir.

Senator BAYH. Have you been able to get any Law Enforcement Assistance Act funds?

Mr. COHEN. We are now reaching for Justice Department funding, inasmuch as we have been told that HEW funds will not be there in the quantity we asked for. We have been granted additional assistance, and in order to supplement the amount of money that HEW could not give us, we are reaching toward the Justice Department for the balance.

Senator BAYH. Would you please let us have the benefit of your success or failure? Let us know whether you succeed or fail, because I have been rather critical of the fact that we are spending minimal numbers of our dollars to deal with law enforcement programs and problems, most of which are juvenile oriented. As you pointed out in your statement very eloquently, there are not enough HEW funds available. Does that mean they have to increase the funds or that you are asking for more?

Mr. COHEN. We asked for more, sir. They increased our funding, in fact, they nearly doubled it, but our projection is, of course, for more homes. As I indicated, we are just about ready to put into motion another home. We will say within 60 days we hope to put into motion an additional home which will house anywhere from 12 to 15 boys again, so we needed additional appropriations, and we did get more. However, we did not get all that we wanted to get.

Senator BAYH. How long have you been operating?

Mr. COHEN. Last September, sir.

Senator BAYH. So it is really too early to evaluate your success. Have you been able in this short time to send boys back to their homes?

Mr. COHEN. That is the beautiful part, Senator. We are, as a matter of fact, entertaining returning two boys that are doing so well, to their parents. But we do not send boys back to their home until the home is ready for them.

Senator BAYH. Are you working with the parents as well, to try to reconcile some of the problems?

Mr. COHEN. Yes, sir; that is an integral part of the program. This is one of the things that makes us a little unique we feel. You see, by getting them into a home of our type, and getting them early enough, the therapy that is necessary is much reduced. You are getting them early enough, and that is the whole thing. When you get a 15-year-old boy that is up to his ears in trouble, you have a severe problem rehabilitating him. If we can get to him soon enough, the problem is much easier.

Senator BAYH. I think one of the real challenges before this committee is to try to find a way to structure different alternatives than those that are now available. Your program seems to be one of those very salutary alternatives. Do you have any problem persuading the judiciary to cooperate in letting the boys have the advantage of this experience? Have the judges cooperated fully with you?

Mr. COHEN. Oh, yes. Our entire project has been very heavily involved with the judges. They can fill a home in a week, sir. We are very interested in documentation and research, of course, so we are trying to

keep a specific sample of individual information on each type of home. To answer your question more specifically, we have been very responsible, we feel, in convincing the social services and juvenile services of the city and State into thinking along the lines of the community-based homes. I have here a news release where the legislature rejected money for 30 such homes.

Senator BAYH. What was the Governor's position?

Mr. COHEN. The Governor did speak out in behalf of it, sir.

Senator BAYH. Could we have a copy of the article for our record?

Mr. COHEN. Absolutely. I brought it for that purpose, sir.

(The article referred to from the Baltimore Sun, dated April 1, 1971, was marked "Exhibit No. 16" and is as follows:)

#### EXHIBIT NO. 16

##### MANDEL TRIES TO SAVE JUVENILE FUNDS

##### BUT HOUSE VOTES TO CUT APPROPRIATIONS FOR GROUP-HOMES

(By Stephen J. Lynton)

Annapolis, March 31—Governor Mandel appealed to the General Assembly today to restore an appropriation for 10 new half-way houses for juvenile delinquents, warning that the legislators' decision to eliminate the money for these group homes from his budget was "genuinely dangerous."

The Governor's request was announced shortly after the House of Delegates had already engaged in an emotional debate over the issue. The House, apparently unaware of Mr. Mandel's concern, had voted, 65-46 not to restore the allocation or permit the expansion of the group-homes program.

##### \$340,000 CUT

The Governor asked the Legislature to restore an appropriation of \$489,630 for salaries and other operating expenses for the new community residences for delinquent youths. The General Assembly has not yet acted on a committee's recommendation for a further cut of \$340,000 in bond financing for 8 of the 10 new centers.

The House completed its main discussion today of Governor Mandel's proposed \$1.8 billion budget for the 1972 fiscal year, which begins July 1. The 142-member lower chamber assented quickly to most of the recommendations by the Legislature's two budget-review committees for reductions of \$14.4 million in the budget.

The only significant reversal occurred when the House overrode the committee's suggestion and restored the entire \$69,819 appropriation for the state's controversial Board of Motion Picture Censors.

##### 11TH-HOUR PLEAS

The Governor's request for reconsideration of the cut in the group-homes appropriation was prompted by what were described by aides as 11th-hour pleas from health officials. The program is administered by the Department of Juvenile Services, a subsidiary of the Department of Health and Mental Hygiene.

Mr. Mandel's request was made in a letter to the chairman of the Senate finance committee and the House Appropriations Committee. "The plain fact," the Governor said in the letter, "is that we are confronted with a crisis condition which does not lend itself to leisurely evaluation."

The agency now operates only 3 group homes, each of which houses 8 to 10 juvenile delinquents. It had asked the Governor for an appropriation for 30 additional centers next year. Mr. Mandel and budget officials reduced this request to 10 and the legislators have moved to permit only the 3 already in existence.

##### FEDERAL COURT RULING

The agency's proposal for an expanded group-homes program stems partly from a Federal Court decision last year, which was upheld on appeal in January. The

decision raised Baltimore city's juvenile age limit from 16 to 18, thus increasing the number of offenders sentenced to juvenile detention rather than adult prisons.

Juvenile department officials said in interviews today that the additional group homes would help ease overcrowding in youth detention centers. They said the institutions are now either at full-capacity or already overcrowded and are expected to exceed their capacity by nearly 50 per cent next year when the full impact of the court's ruling is felt.

In addition, juvenile administrators also see a social purpose in their plan to shift toward greater use of community houses for delinquents rather than the larger, more isolated institutions. They say that a halfway house may ease a youth's transition from imprisonment to society and that it may also avoid the dangers of exposing some relatively uninitiated delinquents to the habits of more hardened, young criminals.

They also regard the halfway houses as useful for youths who cannot return to their families, because of broken homes or other family troubles. "These are the unwanted kids, the unlovely kids," W. Daniel Cox, a state group-homes administrator, said today. "These are the very difficult-to-place kids."

The House is expected to give its final asset to the budget tomorrow or Friday and then send it to the Senate, where the group homes appropriation may be restored.

The overwhelming Democratic House showed no desire today to reduce further the appropriations asked by Mr. Mandel's Democratic administration. The House while accepting the committee's recommendations for cuts of less than one per cent in the Governor's budget, offered no further reductions of its own and rebuffed a Republican attempt to trim the allocation for the Governor's own staff by about \$200,000.

##### SPENDING INCREASES

Moreover, the House moved to increase state spending by restoring four of the committee's suggested slashes. In addition to the censor board's appropriations, the House voted to add \$144,400 for new teaching and clerical positions at Bowie State College; \$13,624 for a salary for a public information officer for the state police; and a similar \$13,624 for an executive director of the state Board of Well Drillers.

The refusal of the House to accept other changes in the budget prompted Delegate C. A. Porter Hopkins (R., 3d Baltimore county), the Republican floor leader, to remark, "I realize there's not much chance to alter the budget, the way we are going here today."

The effort to restore the censor board's appropriation was bolstered by an opinion by Thomas N. Biddison, Jr., an assistant attorney general. Mr. Biddison held that the elimination of salaries for the board's three members would violate the state Constitution, which prohibits decreases in public officials' salaries during their terms of office. Governor Mandel had also objected earlier to the cut.

##### SIGNIFICANT REDUCTIONS

Although significant reductions were proposed in a variety of health programs, the only one of these which drew strong opposition was the cut in the group-homes program.

Delegate Richard Rynd (D., 2d Baltimore county) led the opposition to the cut in the Juvenile Services Department's program. "If this program is working out," he said "I don't think we should just kick it in the pants and say 'forget it.'"

Mr. COHEN. There was a \$340,000 cut, and now in the same session they approve \$144,000 for teaching and clerical positions, \$13,000 for salary for a public information officer, and another \$13,000 for an executive director for the State to the Board of Well Drillers.

There is something that I have got to mention about this rejection of funding, however. They were trying to take a great percentage of the young men now incarcerated in the Maryland Training School, ages 16 through 18, and the community resentment probably is responsible in large part of this defeat.

Senator BAYH. What is the community attitude toward your homes?

Mr. COHEN. In each home we have had a community-orientation problem, and even a zoning problem, as matter of fact. However, the Lord has been on our side, and we have been able to meet with the community, get them to see that dealing with boys 8 to 12 is not dealing with boys 16 through 20 and so on, so we are making great progress and we expect less community disapproval in the future.

Senator BAYH. You have been very helpful. I hope you can continue to share your experiences with us, because you are just beginning. I am very anxious to know, as I am sure all the members of the committee will be, if this proves to be as good an answer as it looks like it might be.

What are you doing to educate these boys? Are they going to public school? Do they have a special school program?

Mr. COHEN. Yes, sir. Let me give you several different approaches. Actually, they are really not different, sir, but what we have done is put a package together and it involves (1) getting to the boy early, ages 8 to 12; (2) using people's size community-based home as opposed to an institution; and, (3) this enables him to go to schools, the churches, and recreational facilities within his own community as against sending him away somewhere, and then bringing him back to the cesspool that he came from. When this occurs, he has to adjust all over again.

Our boy is being rehabilitated within the very environment that he will continue to live in.

We also work with the parents, and this is tremendously important, since the parents many, many times are responsible for the child's problem, as previous testimony has indicated. We work with the parent, and they come into the home, and sit in various psychodrama sessions, and this type of thing. Our approach is a combination of working with the parents, the small home, getting boys at an early age, letting them attend school, church, and recreational facilities, plus a great deal of community help enables us to say that we have a package that will make a difference.

We hope to reverse a lot of these young boys away from a crime pattern that many of them follow. You have heard the testimony on it, so I do not have to tell you about that.

Senator BAYH. Do you have any State moneys in this at all?

Mr. COHEN. Oh, yes, sir. We get our funding, as you already know, from HEW, from Social Services and the Juvenile Services, the city of Baltimore, and we raise about 35 to 40 percent of our money from private organizations, foundations, institutions, and individuals. It is quite an interesting program.

There is a great deal of community input and the community is ready for it. All communities can be ready for it. They know what crime is, and they know that the answer lies with getting them young enough, at the age of 6 or 7, to help them early enough.

Senator BAYH. Thank you very much, Mr. Cohen. I appreciate this, and I hope we can continue to have the benefit of your experiences.

(The prepared statement of Jack Cohen follows:)

PREPARED STATEMENT OF JACK COHEN

Ladies and Gentlemen: It is my privilege and pleasure to speak in behalf of the extension of the existing Juvenile Delinquency Prevention and Control Act of 1968.

Boys' Town Homes of Maryland is one of the human services that has received Department of Health, Education & Welfare support during the past year.

The nation's number one problem today is CRIME.

The 15-year-old boy commits more serious crime in the United States than any other age group. And . . . a mere 1½ per cent of Baltimore's teen-agers are responsible for over 45 per cent of our City's crime.

Previously, troubled youngsters, in conflict with the law, and in need of supervision and guidance, were placed in large institutionalized training school structures . . . where more likely than not they were trained to be criminals instead of tamed to be good citizens.

Each year in Maryland, some 1200 such youngsters, for want of a BETTER PLACE, were sent to such hard-core penal institutions.

For many, many years such facilities were the only available route . . . and as many as 70 to 80 per cent of the "rehabilitated" boys became "repeaters" within a very short time.

This method of youthful incarceration is most responsible for the spiraling crime rate each year . . . because every adult criminal was once a young boy.

More than four years ago a group of Maryland residents became so appalled with our crime problem, that they established Boys' Town Homes of Maryland to seek a new approach that would offer greater opportunities to reduce crime.

Since the overbearing crime activity is a totally consuming problem, our governmental agencies had no choice but to seek a solution based on more jails, reinforcing apprehension power and strengthening punitive measures. Boys' Town Homes of Maryland has no quarrel with this point of view, but we simply believe that it "locks the stable after the horse is stolen" while crime continues to increase at a rate that outstrips the capacity of law enforcement agencies.

Boys' Town Homes of Maryland is one of those groups that seeks to head off crime . . . to diagnose the potential delinquent or criminal early—long before he is the 15-year-old boy.

Our "pilot" program is greatly responsible in Maryland for a movement AWAY FROM training school incarceration to the establishment of community based "people sized" Homes, serving approximately a dozen boys for a period of six months to a year.

We are getting them early . . . working with youngsters at the most responsive and formative age . . . 8-12 years old. These youngsters are old enough to respond to care and counseling and young enough to be malleable. In fact, psychologists believe this is the age when it is possible to influence them most deeply and permanently . . . at the least expense!

It can cost up to \$300,000 to keep one offender locked away from society for a period of 35 to 40 years.

It is time to look toward PREVENTIVE programs . . . because a PREVENTIVE program that works is the biggest bargain of all. Isn't it GOOD BUSINESS to spend \$7,000 a year NOW . . . and avoid the big price tag later?

In order to cut back crime, we must REDUCE RECIDIVISM . . . It is a disgrace to place a delinquent boy in community care and bungle the job so badly that he becomes a repeater later on . . . with a terrible loss in community cost and human life.

Our first Home contains twelve seriously misguided boys ages 8-12 years, who are making marked progress in rehabilitation. They attend neighborhood schools, participate in community athletic programs and sing in neighborhood church choirs.

As part of our "pure preventive approach" we are concurrently working with their parents in an effort to prepare for their own homes for their eventual return.

Our youngsters are experiencing almost total reduction in school truancy, receiving comprehensive medical care, tutoring and planned recreational programming.

Although this preventive crime approach and the community based Home concept received almost unanimous approval from professionals and non-professionals alike, Boys' Town Homes of Maryland struggled more than four years before the financial support, offered by the Juvenile Delinquency Prevention and Control Act, made it possible to begin our program and offer our services to the many, many neglected youngsters coming our way. We are now an operating reality, because of the concern, the guidance and the financial assistance given to us by the Health, Education and Welfare Department.

Our first Home is filled to capacity and our second facility is currently being renovated and furnished. However, without increased federal funding of the type we received last year, our effort may be aborted and a "pilot" program that may

show a new way to other cities and communities, may once again be delayed or lost.

Baltimore is not unique in its youth services failure.

So . . . if we ever hope to reduce the spiraling crime rate, it is most obvious that we must reach to the root of the problem—the young elementary school boy who first shows signs of neglect and antisocial behavior patterns.

In behalf of all the many, many neglected boys in our nation, we urge you to appropriate adequately for their rehabilitation through Delinquency Prevention Care.

I recently testified before the House of Representatives Subcommittee, in support of Bill H.R. 6247, extending the Juvenile Delinquency Prevention and Control Act of 1968.

The original 1968 Juvenile Delinquency Bill was established to strike hard and precisely in the area of prevention.

After evaluating the witness testimony and reviewing the related comments with Chairman Roman Pucinski, it became quite clear that additional direction was necessary in order to properly direct the funds in this Bill to the area of "Pure Prevention."

The testimony clearly pointed up a "fuzz" area that now exists in the interpretation, definition and operation of Prevention and Rehabilitation projects.

Although the rehabilitation of a released offender can be termed "preventive," inasmuch as it is designed to prevent him from once again turning toward crime, I do not feel the Juvenile Delinquency Bill was created for this purpose. This rehabilitative role is best served by the Safe Streets Act, which deals more with apprehension, containment and rehabilitation of more seriously hardened individuals.

I suspect that many administrators throughout our nation, find themselves moving away from "Pure Prevention" and utilizing existing funding in the area of rehabilitation. This is a natural reaction for all city fathers, since the overbearing criminal activity is such an ever present and consuming problem, they have no choice but to immediately seek a solution based on more apprehension and more containment. . . . Funding for "Pure Prevention" does not seem to be as vital or as dramatic, so the mild offender and troublesome child is continually pushed to the rear of the bus.

When you find yourself knee-deep in alligators . . . it is quite difficult to remember that you should have long ago drained the pond!

Since a troubled child is generally a result of many parental problems, it is usually necessary to remove him from his home temporarily. The need for "people-size" Community Homes seems to offer a major service in a "Pure Prevention" program, designed to prevent his incarceration elsewhere.

In an effort to make the Juvenile Bill more unique and direct it toward a specific area of concern, I suggest:

(1) That we acknowledge "rehabilitation" to be the type of activity that deals with a discharged offender or criminal after he has been incarcerated in a security facility.

(2) I suggest that we acknowledge the term "Pure Prevention" as that type of therapy that deals with youth, when he shows serious antisocial behavior patterns and prior to his assignment to a training school or institution. This boy or girl should probably be a "CINS" (Child in Need of Supervision).

(3) In order to start early enough and to gain the greatest opportunity for correction, I suggest that the priority age group be limited, initially, to the six through twelve-year-old child.

If the 15-year-old boy commits the most serious crime in the United States, it is obvious that our target for "pure prevention" should begin early enough with the elementary school child.

(4) I suggest that the Bill direct the establishment of special testing programs to more early determine the troubled youngster, as part of his educational program in school.

(5) All concerned agencies should be made aware of the need for detecting potential delinquents and be aware of community youth services available as part of the "Pure Prevention" treatment.

(6) More Community-based Homes such as Boys' Town Homes of Maryland should be encouraged as facilities for children in need of supervision, love, guidance, motivation and the many human services that they are not getting in the existing institutions, that now provide merely the basics in custodial care.

These recommendations are merely a few apparent characteristics<sup>4</sup> that should structure the Juvenile Delinquency Bill, in an effort to completely define its purpose, its goals, its priorities and its ultimate area of operation. Most important, it would also prevent its activities from infringing upon the role of the Safe Streets Act.

Such a clear identification would enable innovators to direct their projects properly and also give credibility and support to the selective disbursement of available funds.

Gentlemen, please continue the flow of existing funds and also move to provide additional appropriations in the areas of crime prevention . . . We can only reduce the adult criminal statistic when we re-educate the young boy—diverting him from crime!!

When you save a boy you gain a man."

We will recess our hearings until further notice of the Chair.  
(Thereupon, at 1 :50 p.m., the hearing recessed, subject to call of the Chair.)

#### APPENDIX

(Statements and Letters Submitted for the Record)

JUNE 16, 1971.

Mr. JOSEPH R. ROWAN,  
*Executive Director, John Howard Association,  
Chicago, Ill.*

DEAR MR. ROWAN: Thank you for your courtesy in sending me and other members of the LEAA staff copies of the Statement delivered on May 17 to the United States Senate Subcommittee to Investigate Juvenile Delinquency. Unfortunately, there are some significant points of the Statement that are based on apparent misunderstandings about the LEAA program.

You refer, for example, to the fact that "LEAA feasibility and planning study monies should not be allocated for architectural fees until the communities have agreed to pursue the building of such facilities." One of the assurances required of applicants for assistance under the LEAA Discretionary Fund program for Correctional Center Development (i.e., jail and juvenile detention improvement) is "there is some reasonable expectation that necessary construction funds will be available and that the projected facilities will actually be established." This specification has not been voided in any LEAA approved award for either the 1970 or 1971 fiscal years and community follow-through to date has been notable:

Alaskan voters, last November, approved a \$5.2 million bond issue for construction of a facility planned under an LEAA grant and we are told by officials that the grant itself had its effect on voter acceptance.

Broward County, Florida, officials have appropriated \$600,000 toward completion of construction documents and first-phase construction efforts of a juvenile facility.

The Virgin Islands have now appropriated \$3 million for the construction of an adult correctional facility still in the planning stages.

Therefore LEAA has, for two years, required the kind of assurance you suggest is needed.

The same section of your Statement refers to "architectural fees" whereas a review of our approved grant awards will indicate that these do not in all cases represent payment for design services per se. Several grants include feasibility and planning activities by highly qualified individuals as part of the contract with the architectural firm. This is true, for example, in the case of the Virgin Islands where the architectural firm is also well established and qualified as a planning firm and in the case of an award to Roanoke, Virginia, where the architect is associated with a planning firm of demonstrated capability.

You also refer to the Resolution adopted by the American Correctional Association at its Centennial Congress last October which resolved that ACA review be a "pre-requisite condition" for LEAA approval of Correctional facility construction grants. Since such an arrangement would imply LEAA abandonment of its statutory responsibility, no such procedure is contemplated although, of course, LEAA would welcome the views of any professional organization on such matters. But more important is the LEAA view that correctional systems and programs, not correctional institutions and facilities, will produce the desired

progress and then only if such systems and programs find their appropriate place in the comprehensive plan for improvement of the criminal justice system.

Again, I appreciate your courtesy in letting us have advance copies of your Statement. Your comments will be helpful in our efforts to improve the institution improvement programs administered by LEAA. The John Howard Association has made a fine contribution to the field of corrections over the years, and we are pleased with your interest in the Law Enforcement Assistance Administration. Let me assure you that any suggestions submitted by the John Howard Association about pending corrections applications will receive our careful consideration.

Sincerely,

JERRIS LEONARD, *Administrator.*

STATE OF INDIANA,  
LARUE D. CARTER MEMORIAL HOSPITAL,  
Indianapolis, June 8, 1971.

Re: juvenile delinquency.

To: Hon. Birch Bayh, United States Senate, Washington, D.C.

From: Kenneth R. Lovko, M.D., assistant professor of psychiatry, Indiana University Medical Center, and clinical director, adolescent psychiatry, Larue D. Carter Memorial Hospital.

I recently submitted a letter regarding juvenile delinquency to the House of Representatives of Indiana considering passage of Bill No. 12, the contents dealing with juvenile delinquency. Roughly, they state that 12-year-old children from this point on should be fingerprinted and treated very much like adult criminals, and that 17 year olds convicted of any "major crimes" should not be sent to reformatories but to adult prisons. If they do this as a solution to the fact that there is an increased crime rate during the adolescent age period, rather than a solution they are making an acute situation a chronic one, and any hopes of rehabilitating the individual a hopeless one. Legislation such as this disturbs me tremendously in that instead of impeding juvenile delinquency, the juvenile delinquency rate might be less, but the adult crime rate will then be increased, and it seems that we are sweeping dirt under the rug rather than cleaning up the situation.

First of all, I think you have to ask: Why does an adolescent steal? Why does an adolescent run away? Do we let them run away? I think as one legislator pointed out to you, "What's wrong with a child running away? Do they need to be locked up for this?" Well, certainly our ways of treating this are not foolproof. Running away is not the problem; however, it is merely a symptom of a problem, and until people realize this they will offer legislation which is treating the symptomatology rather than the cause. I feel that the latter point cannot be stressed enough.

While making a brief video tape, I heard you say we have to involve the parents. I think there have been times when kids have gotten into difficulty and the parents were sentenced to some type of penal action. The parents have to be the ones who are involved. I agree, but at the same time we must realize that the parents of some of these children are woefully inadequate, because they themselves were products of backgrounds that were extremely disturbed; otherwise, their children would not be getting into difficulty. As far as any anecdotes, I could feed you anecdotes which are disgusting, reviling, surprising and pathetic. This is not my purpose, however. I am extremely aware of the backgrounds from which these people come. What to do about it? Do you lock them up in jails? No. Do you criticize the people dealing with them for using rather drastic methods? No, because they are undermanned, understaffed, woefully under-trained, and underpaid.

Should we criticize them from afar, asking why they don't do a better job when we do nothing to ameliorate the situation other than to bark from a distance, as most of the United States public does? I think that we should recognize that for the most part, the people are doing the best they can. In fact, some people shouldn't have these jobs. But who else? Are you going to take the job? Am I going to take the job? I would say training is extremely important. But, who is going to do the teaching? Who's going to see that these people are taught? Who's going to pay them? As far as physical facilities, I think that would have to fall secondarily in importance as long as they are large enough to hold the number of people concerned. Since neither the training nor personnel are available, the facilities should not have to be enlarged other than renovated

occasionally for health purposes, because hopefully the population of the inmates will be decreasing rather than increasing, at least percentage wise. Although if there is an increase in population, to maintain in numbers as we are would be a success because there are going to be people that are relatively untreatable or unreconcilable to society as we know it. Let us not despair and say nothing is going to do any good. Rather, let's charge ahead and see what we can do so that we will continue to gain and make a better society rather than having people dropping out of society and fighting everything in society that is good as well as the bad.

Is our purpose really to punish a poor or unfortunate 14, 15, or 16 year old because he is so disturbed or so unhappy that the only success he knows is to steal, runaway, use drugs, and be promiscuous? Are we trying to punish them for being unhappy, or are we trying to rectify the situation so that somehow they might lead a more stable productive life and keep from perpetuating the problem in their children to be? If we do not direct our attention to this fact, let us fold our tents and leave things as they are, because unless steps are made in this direction, we are wasting everyone's time and efforts.

Another point is that judges and legal aids are not trained in the problems of adolescents; they have no experience. The judges come in cold regarding the situation, and what might seem to be a dire plea from an adolescent might be an extremely manipulative gesture; on the other hand, it might be legitimate. But, who is to know unless they are trained in dealing with adolescents? From the legal aids speaking at the hearing, I would have gotten the impression that the people who are in charge of institutions want to keep the adolescent somehow, that they want to keep their beds full when it is quite obvious the logic of the situation is ridiculous. Of course, they do not want to keep the kids around. They have too many of them and are overpopulated and understaffed. Why would they want to keep someone there who needn't be? There is certainly some reason for the child being there. Perhaps the machinery runs slow in obtaining discharges and following through with the program, but usually this does take place. There is no one in the field of treating teenagers that is in need of more people to see or more people to care for or train or educate or therapize.

I think one must understand the nature of the adolescent. Adolescence is an extreme period of life in which physiological, endocrinological, and emotional changes are taking place at a very rapid pace, and the teenager is in a state of flux and in need of controls and reassurance as he progresses towards independence with the forging of a definite identity. One must realize how challenging they are to the adult world and how some people rebel from them and are repelled by their arrogance, or seeming arrogance, their sexual and aggressive drives of which we are both envious and fearful of returning to. People are prone to react to teenagers as they do to us, which tends to make adults extremely anxious. At the same time, telling an adult that he does not work well with adolescents is extremely threatening to him; and, unfortunately, people sometimes make it a point to prove that they can, when in fact the initial statement was perhaps a correct one.

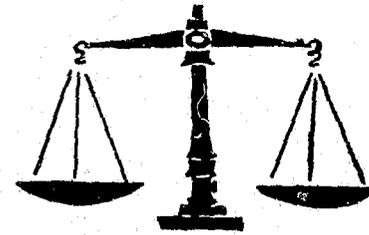
In summary, I would like to say that the preceding impressions are not mine exclusively, but are reflective of those in the profession who deal with teenagers and their problems. In discussing the preceding problems and offering some suggestions in general terms, I feel I can best suggest further solutions by closing with possible steps that would be beneficial in resolving the growing problem:

- (1) Standardize training policies of those in the field of juvenile delinquency.
- (2) Those in the legal profession should have a certain amount of training before dealing with juvenile delinquents, and this certainly includes the judges.
- (3) Pay the people enough money so it is not a job taken by those who are unable to obtain employment elsewhere.
- (4) The judge who has to make decisions with regard to juvenile delinquents should have a consulting staff at his disposal to be used constantly.
- (5) There should be levels of alternatives a judge has to choose from in dealing with a specific individual, such as boys' reformatory, psychiatric treatment centers, group homes, etc.
- (6) After discharge from whatever institution the teenager has been placed, there should also be alternatives such as halfway homes, group homes, boys' type dormitories, rather than returning, perhaps, to his previous environment.
- (7) The institutions to which the child is being sent should have some power to decide whether they are the appropriate people to deal with such a problem, and to offer at least an opinion as to what they feel is the best program for a specific adolescent.

(8) Schools of social work, psychiatry, and psychology should be utilized both for treatment, advice, and consultation when dealing with these problems.

(9) Very practically, I would think that sometimes a decision regarding an adolescent should not be one dealing with the individual alone, such as putting the adolescent on probation. Why not put the family on probation: Why not have people go into the homes of the delinquent adolescent and structure the family living, if possible?

I would like to close by saying that these suggestions may be a step in resolving the problem rather than punishing someone for having the problem to begin with. Thank you for your attention. If you would be interested in further discussion, I would be happy to give you names of others in the field who are knowledgeable, or answer any questions that I may be able to.



Survey  
of  
Judicial Procedures  
Available  
to  
Delinquent Persons  
Between  
The Ages  
of  
7 and 21

INTRODUCTION

*This booklet has been prepared by Malcolm S. Goddard, Esq., for use by the non-legal staff of the New York State Division for Youth and is intended to provide general information concerning the various types of judicial procedures available to persons under the age of 21 who find themselves in difficulty with the law. This information has been gathered from several different sources, including the Family Court Act, the Code of Criminal Procedure, the Correction Law, the Social Services Law, and the Penal Law. Certain details are omitted and the statements in this booklet are not to be construed as official statements or interpretations of the law by the Division for Youth.*

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## CHAPTER I

JUVENILE DELINQUENT

A person over 7 and less than 16 at the time he commits an act which if committed by an adult would be a crime.

- A. A person falling into the above age category who is accused of committing a crime must be brought before the family court which has exclusive jurisdiction.
- B. If a police officer takes a person under the age of 16 into custody, without a warrant, he shall release the child to the custody of his parent, upon a written promise to produce the child in family court. However, if special circumstances exist, he may:
  1. Take the child directly to the family court without first going to the police station.
  2. Take the child to a facility designated by the appellate division of the Supreme Court, if questioning is necessary.
  3. Take the child to a place designated by rules of court for the reception of children. Any facility receiving a child in this manner is to bring the child to family court as soon as practical.
  4. A child cannot be held for more than 72 hours or until the next day the court is in session without being brought before the family court.<sup>1</sup>
- C. The family court in the county where the acts occurred would conduct the proceeding.
- D. The proceeding is initiated by a petition which may be filed by a peace officer, parent or guardian, the injured party, a witness to the act or an agent of a recognized agency, association, society or institution.

<sup>1</sup>Formerly the period was 48 hours. This created problems when the juvenile was taken into custody during a three day holiday weekend, and the law was amended.

- E. Once a child appears before the family court, he must be released if the underlying act appears to be the basis of a PINS petition. If a juvenile delinquent proceeding appears to be involved, the child is to be released unless it appears that this may result in his not appearing for the hearing or committing a crime. The family court act does not designate permissible places of detention; therefore, if the child is not released, his place of detention is in the discretion of the family court, subject to the approval of the Appellate Division of the Supreme Court.<sup>2</sup>
- F. The court conducts a hearing at which the accused must be advised of his rights, including his right to remain silent and his right to be represented by counsel. If the minor or his family cannot afford counsel, a law guardian may be appointed. A law guardian is an attorney licensed to practice in the state who has been designated by the appellate division of the Supreme Court to represent minors before the family court.
- G. In order to adjudge a juvenile delinquent, a preponderance of competent material evidence must have been introduced at the hearing.
- H. If the accused is adjudged a juvenile delinquent, the court has a wide choice as to disposition including:

1. Suspension of Judgment

The court may suspend judgment for one year, with the possibility of a one year extension in an appropriate case, and establish standards which the juvenile delinquent must live up to during the period of the suspension. The juvenile delinquent may be brought back and given a different disposition if he does not behave during the period of the suspension.

<sup>2</sup>The shortage of child detention facilities makes the court's policing duties extremely difficult.

2. Placement

The court may place the child in his own home, in the custody of a relative, agency, private person or a commissioner of social services, in a Youth Center operated by the Division for Youth pursuant to section 502 of the executive law or in any facility of an authorized agency including the state training schools operated by the Department of Social Services.

3. Probation

The maximum period of probation is two years with a possible one year extension. The court shall set the terms of the probations.

4. Commitment

- a. To any institution suitable for the commitment of a juvenile delinquent maintained by the state or an authorized agency.<sup>3</sup>

<sup>3</sup>Authorized agency is defined in §119 of the Family Court Act as follows:

- (a) "Duly authorized association, agency, society or institution" means a society for the prevention of cruelty to children duly incorporated under the laws of this state; any institution supported or controlled by the state or by a subdivision thereof; or an association, agency, society or institution which:
- (i) is incorporated under the laws of this state;
  - (ii) actually has its place of business or home within the state; and
  - (iii) is approved, visited, inspected and supervised by the state board of social welfare, or which shall submit the consent to the approval, visitation, inspection or supervision of the said state board.

b. If the juvenile delinquent is 15 at the time of the acts leading to his adjudication and if the act included a class A or a class B felony, as defined by the Penal Law, then in the case of males the commitment may be to the Elmira Reception Center for classification and detention in a facility under the Department of Correction. In the case of females the commitment may be to any appropriate state or private institution authorized by law, including the Department of Correction's Westfield State Farm.

In summary, unless a male juvenile delinquent has committed a class A or class B felony and was 15 years old at the time, he could not be sent to a facility under the jurisdiction of the Department of Correction by the family court.

No commitment of a juvenile delinquent may be for more than three years.

c. A juvenile delinquent may be committed to any one of the seven state training schools operated by the Department of Social Services or the Berkshire Farm for Boys.<sup>4</sup>

d. The Social Services Law provides that if an inmate of a state training school is incorrigible and at least 16, he may be transferred to a state reformatory under the Department of Correction. However, the Family Court Act specifically provides that state training schools may not transfer juvenile delinquents to other institutions on the ground that they are incorrigible. This protects the juvenile delinquent from the possibility of being transferred to a reformatory upon reaching 16 years of age.

<sup>4</sup>The seven state training schools, operated by the Department of Social Services, have annex facilities which have been included as part of the seven parent facilities.

## CHAPTER II

### PERSONS IN NEED OF SUPERVISION

A male less than 16 and a female less than 18 who is habitually truant, incorrigible, ungovernable or habitually disobedient and beyond the lawful control of parent or other legal authority.

- A. If the person is in the above age category at the time the incorrigible acts are committed, he is eligible for treatment as a PINS. This means that the family court has exclusive jurisdiction.
- B. The same right to counsel is afforded the PINS as was mentioned regarding the juvenile delinquent.
- C. The disposition of a PINS is much more limited than for the juvenile delinquent. The PINS may not be committed. The court may:
  1. Discharge with a warning
  2. Suspend judgment
  3. Place on probation
  4. Place child in its own home, in custody of a relative, in a youth opportunity center under the Division for Youth as provided in Section 502 of the Executive Law, in custody of the commissioner of Social Welfare or any authorized state agency, including state training schools, but not including state reformatories.
- D. Both the PINS and the juvenile delinquent are afforded certain protections which minimize the effect of their adjudication on their later lives. These include:
  1. The hearing may be private.
  2. Adjudication as a juvenile delinquent or PINS is not considered a crime and does not designate the child as a criminal.
  3. The fact that a person was before the family court for a hearing and any statements made during the proceeding are not admissible against him in any other court.

4. All records relating to any proceeding or disposition under the family court act are kept separate from all other records and are not subject to public inspection, except the youth's parent, guardian or attorney may see the records if a court order is obtained from family court.
5. Adjudication shall not operate as a forfeiture of any right or privilege including holding public office and receiving any license granted by public authority.

CHAPTER III  
YOUTHFUL OFFENDER

A minor who has committed a crime (felony or misdemeanor) not punishable by death or life imprisonment while over the age of 16 and under the age of 19, who has no prior felony convictions and has been adjudicated a youthful offender.

Youthful offender treatment is not guaranteed. The district attorney or the grand jury may recommend youthful offender treatment to the trial court and the court, on its own motion, may order an investigation to determine eligibility for such treatment. Although a person may be found eligible for youthful offender treatment, the court may choose not to grant this privilege and to treat the minor as a criminal.

The youthful offender being over 16 years of age is not eligible for family court; therefore, he finds himself in a criminal court. Even though he is before a criminal court, he may obtain certain benefits if the court agrees to treat him as a youthful offender, including:

1. The proceeding is private and often conducted in the judge's chambers.
2. Until sentencing the youthful offender is to be segregated from prisoners over the age of 19.
3. Upon adjudication as a youthful offender, the underlying indictment or information becomes a nullity.
4. Adjudication as a youthful offender is not a conviction and does not make the youth a criminal.
5. The youthful offender's records, including fingerprints, are kept confidential, subject to inspection only by court order.

EASY REFERENCE TABLES

	I	II	III	IV
	Age at time of acts giving rise to adjudication	Acts giving rise to adjudication	Court before which the proceeding is held	Types of commitment the court may prescribe
Juvenile Delinquent	Over 7 years and under 16 years	An act which if committed by an adult would be a crime (felony or misdemeanor)	Family Court (exclusive jurisdiction)	<ol style="list-style-type: none"> <li>To one of the 7 state training schools operated by the Department of Social Services or to the Berkshire Farm for Boys.</li> <li>To any institution suitable for the commitment of a delinquent child maintained by the state or an authorized agent.<sup>1</sup></li> <li>To the Department of Correction for confinement if the underlying act was a class A or class B felony committed while at least 15 years of age.</li> </ol>
Persons in Need of Supervision	Males under 16 Females under 19	A series of acts which are injurious to the youth but not in themselves crimes: incorrigible, truant, ungovernable, disobedient or beyond control.	Family court (executive jurisdiction)	No commitment allowed.
Youthful Offender	Between 16 and 19	A crime (felony or misdemeanor)	Any court with criminal jurisdiction before which the indictment or information accusing the youth of committing the crime has been laid	The court may only commit to a reformatory under the jurisdiction of the Department of Correction or a local reformatory operated by the county and authorized by the state.
Wayward Minor	Between 16 and 21	A series of acts injurious to the youth but not in themselves crimes: drug addiction; association with disreputable persons, thieves, prostitutes; willful disobedience to parents; deserts from home or department dangerous to morals	Any court presided over by a magistrate other than a justice of the peace before whom an information has been laid. (see Code of Criminal Procedures §145 and §147 for definition of magistrate). §913-b of the Criminal Code was amended by Chapter 66 of the Laws of 1969. As a result a justice of peace may adjudicate a wayward minor	To any religious, charitable or other reformatory institution authorized by law to receive commitments of persons over 16 years of age. This could include reformatories under the Department of Correction; however, the code of criminal procedure provides that the courts should place wayward minors on probation, for a period not to exceed 2 years, and that commitment is only to be resorted to when probation is not practical

<sup>1</sup>An authorized agency is defined in §119 of the Family Court Act.

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	V	VI	VII	VIII
	Maximum Period of Confinement	Placement	Maximum Period of Placement	Other Types of Disposition Available
Juvenile Delinquent	3 years	<ol style="list-style-type: none"> <li>In the child's home or in the custody of a relative or private person</li> <li>In an authorized agency</li> <li>In a youth opportunity center</li> <li>In the custody of a commissioner of Social Services or in a facility operated by the Department of Social Services, including state training schools.</li> </ol>	18 months, however, the court may make successive extensions for one year periods. Placement may not be continued past a male's 18th birthday and a female's 20th birthday without his or her consent	<ol style="list-style-type: none"> <li>Probation not to exceed two years with a possibility of a one year extension.</li> <li>Suspension of judgment for one year with the possibility of a one year extension (in both cases the court sets the terms of probation).</li> </ol>
Person In Need of Supervision	No Commitments	Same as for juvenile delinquents	Same as for juvenile delinquents	<ol style="list-style-type: none"> <li>Probation not to exceed one year with the possibility of a one year extension</li> <li>Suspension of judgment, same provisions as for juvenile delinquents.</li> </ol>
Youthful offender	4 year indefinite sentence or any authorized definite sentence	None provided	None provided	<ol style="list-style-type: none"> <li>Probation</li> <li>Conditional discharge</li> <li>Unconditional discharge</li> </ol>
Wayward Minor	3 years	None provided	None provided	Probation for an indeterminate period not to exceed two years.

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Benefits of Adjudication<sup>2</sup>

- Juvenile Delinquent**
1. The probation service may confer with any person about to file a petition as to the advisability of filing the petition. This may result in the matter being handled without adjudication.
  2. The family court may only hold a child in detention, prior to disposition, if it appears his release will result in his committing a crime or not returning for the hearing. If detention is necessary, the place of detention is left to the discretion of the family court, the result being that the child, in all likelihood, would not be detained in a jail with adult prisoners.<sup>3</sup> If it appears the acts alleged could result in the child's adjudication as a PINS and not as a juvenile delinquent, the family court may not order the child's detention and if he is in custody, the court must order his release.
  3. The general public may be excluded from the hearing.
  4. Adjudication is not a conviction and the youth is not denominated a criminal.
  5. The fact of the hearing and any statement made by a youth during the proceeding may not be used as evidence against his interest in any other court.
  6. Police records relating to the arrest and disposition are filed separately from other records and are not subject to public inspection.

## Persons in Need of Supervision

Some benefits as applied to juvenile delinquents.

## Youthful Offender

1. Adjudication is not a conviction and the youth is not denominated a criminal.
2. Adjudication does not result in disqualification to hold public office, public employment or forfeiture of any right or privilege, including the receipt of any license granted by public authority.
3. When a youth is considered for youthful offender treatment, the underlying indictment or information is sealed and upon adjudication becomes a nullity.
4. No statement made by the youth during the proceeding is admissible against him in any other court.
5. All proceedings may be private and held in a separate part of the court or in the judge's chambers.
6. If detained during the proceeding or while he is being investigated to determine eligibility for youthful offender treatment, he is to be kept apart from prisoners over the age of 19 years.
7. The records, including finger prints and photographs, are not subject to public inspection except that the court may, in its discretion, permit inspection of any papers or records.

## Wayward Minor

1. Same as above.
2. Same as above.
3. By statute the court conducting the hearing is required to place the youth on probation and to resort to commitment only when probation is impractical.

<sup>2</sup>The great drawback to all these benefits is that if the child is brought before the court as a result of his being arrested, he is unable, at this time, to expunge the arrest record and this may interfere with his future opportunities, including employment.

<sup>3</sup>The appellate division of the Supreme Court must approve each place of detention and a jail would not normally be approved if the adult prisoners were not separated from those under 16 years of age.

6. Commitment is for a period not to exceed four years, regardless of whether the underlying crime is a felony or misdemeanor.<sup>1</sup>
7. The only permissible sentence providing for commitment allows confinement only in a state or local reformatory; confinement in a state prison is thereby avoided. The court could also sentence him to probation, conditional discharge or unconditional discharge.<sup>2</sup> In order to receive the above benefits, the youth must agree to a trial by the court without a jury.
8. The Appellate Division of the Second Department in a recent decision (*People vs. Michael A. C.*, 32 A. D. 2d 554) has ruled that sections 913g (3) and 913h of the Code of Criminal Procedure are unconstitutional as they require a defendant to consent to a trial without jury to be eligible for youthful offender treatment. While it is quite possible that this decision will be appealed to the Court of Appeals for a final evaluation, nevertheless, until that time, you should be aware of this decision.

<sup>1</sup>Section 913m of the Code of Criminal Procedure which provided that confinement of youthful offenders should be for a period not exceeding three years was amended to provide for a reformatory or local reformatory sentence. Section 288 of the Correction Law provides that maximum period of confinement under a reformatory sentence is three years for an offense less than felony and five years for felony. However, section 288 has been superseded by the new Penal Law which provides that the maximum period of confinement under a reformatory sentence shall be four years regardless of the underlying crime.

<sup>2</sup>New Law: Legislation now gives judges pronouncing sentence on persons adjudicated youthful offenders an additional option as to disposition. Prior to the legislation, four types of sentences were permitted: probation, conditional discharge, unconditional discharge or a reformatory sentence. Now a judge may sentence a youthful offender to the term of imprisonment that would have been authorized for the underlying crime if youthful offender treatment had not been granted. (Became law on May 9, 1969; see Session Laws Chapter 375)

CHAPTER IV  
WAYWARD MINOR

A person between the ages of 16 and 21 who does certain specific acts which are injurious to the person's welfare.

These acts are: habitual use of drugs; habitual association with dissolute persons, thieves, prostitutes, pimps, procurers or disorderly persons; wilful disobedience to parents; desertion of home or place of abode and deperiment in such a way as to endanger the morals or health of oneself or others.

1. A wayward minor proceeding is commenced when a complaint is filed by a police officer, parent, guardian, the principal or a teacher of any school at which the minor is registered or by a representative of an incorporated charitable society.
2. An information is prepared on the basis of the complaint and laid before a magistrate, other than a justice of the peace. <sup>1, 2</sup>
3. The magistrate conducts a hearing at which competent evidence must be introduced proving that the alleged acts occurred.
4. The magistrate may issue a summons or a warrant of arrest to bring the minor before the court.
5. The minor must be advised of his rights including his right to counsel.

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<sup>1</sup>(a) For a definition of magistrate, see §146 of the Code of Criminal Procedure.

(b) For a list of offices entitled magistrate, see §147 of the Code of Criminal Procedure.

<sup>2</sup>Chapter 66 of the Laws of 1969, added on March 18, 1969 amends §913-b of the Criminal Code, striking out the prohibition against a justice of the peace adjudicating a wayward minor.

6. The code of criminal procedure provides that a wayward minor should be placed on probation for a period not to exceed two years. Commitment is only to result where the court determines that the minor is not a fit subject for probation. If commitment is necessary, it should be to any reformative institution authorized by law to receive persons over 16 years of age. The commitment shall be for an indefinite period not to exceed three years. If the institution feels it is incapable of benefiting the minor and his conduct is prejudicial to the institution, he may be returned to the courts for transfer to another institution for any other disposition allowed.
7. Adjudication as a wayward minor is not deemed a conviction, does not result in the minor being denominated a criminal and will not result in disqualification to hold a public office or employment, or the right to receive any license granted by public authority.
8. It is interesting to note that females who are 16, 17 or 18 years of age could commit acts which would entitle them to treatment as either a wayward minor or PINS. The Family Court Act provides that the family court has exclusive jurisdiction over all proceedings involving PINS; however, as a matter of practicality, the person making the petition controls which court and thereby which procedure will be followed.

CHAPTER V  
YOUNG ADULT

A person who is more than 16 and less than 21 at the time a criminal court imposes sentence upon him for a crime.

When the court imposes sentence upon a young adult for a crime, the court may in lieu of any other sentence impose a reformatory sentence. The reformatory sentence is of unspecified duration not to exceed four years and it is served at a state reformatory under the jurisdiction of the Department of Correction. This is an advantage as it results in the youth not being sentenced to a state prison. The court may not impose a reformatory sentence where:

1. The youth's conviction is for a class A felony.
2. The court sentences the youth for more than one crime and sentences the youth to a prison term for any one of the crimes.
3. The young adult is subject to any undischarged indeterminate sentence of imprisonment imposed at a previous time by a court of this state; or
4. The conviction is for a crime that was committed by the young adult during incarceration in or after parole or release from an institution under the jurisdiction of the state department of correction.

CHAPTER VI  
NEGLECTED CHILD<sup>1</sup>

A male less than 16 and a female less than 18 whose parents:

1. Do not adequately supply the child with food, clothes, shelter, education or medical care.
2. Fail to provide moral supervision
3. Abandon or desert the child.

If a situation described above is discovered, a police officer may temporarily remove the child without a court order if in his opinion an emergency exists. The children may also be temporarily removed by a peace officer or agent of an authorized agency without a court order provided the parent consents. Temporary removal may also be brought about by court order prior to the filing of a petition to have the child adjudicated a neglected child.

A neglect proceeding is commenced by the filing of a petition with family court alleging neglect. A petition may be filed by any person having knowledge or information of a nature which convinces him that a child is neglected.

A hearing is held by the family court and if the child is adjudicated, the court may:

1. Suspend judgment for one year.
2. Discharge the child to the custody of its parent and place the parent under the supervision of the probation service and issue a protective order setting down reasonable conditions of behavior to be observed for a specified time by the parent and/or child.
3. Place the child for up to 18 months with the possibility of one year extensions up to the age of 18 years for males and 20 years for females. Placement may be to the custody of relatives or other suitable persons, commissioner of public welfare, other departments or officers authorized to receive a public charge or an association, agency or institution authorized for placement of neglected children.

<sup>1</sup>A child being brought before the court as a neglected child may not be delinquent in most cases; however, this proceeding is so interrelated with the other court procedures available to youths that it has been included here.

CHAPTER VII  
FAMILY OFFENSE

Disorderly conduct or assaults between parent and children or between members of the same household is designated a family offense. If proceedings growing out of a family offense are commenced in a court with criminal jurisdiction, the proceedings are to be transferred to family court; however, the family court may in its discretion transfer the proceeding to the criminal court.

If after a hearing it is found that a family offense was committed, the court may suspend judgment for six months, place the respondent on probation for up to one year or make an order of protection.

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THE JUVENILE COURT AND INDIVIDUALIZED TREATMENT

(By Mike Langley, University of Tennessee at Chattanooga, and H. Ray Graves, Hamilton County Juvenile Court, Betty Norris, Hamilton County Juvenile Court)

INTRODUCTION

Henry L. Mencken, an American author and editor, has said of youth: "Youth, though it may lack knowledge, is certainly not devoid of intelligence; it sees through shams with sharp and terrible eyes." (1) Former Supreme Court Justice Abe Fortas, writing the majority opinion in the case of *U.S. v. Kent* made the point that, "there is evidence, in fact, that there may be grounds for concern that the child receives the worst of both worlds; that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children." (2)

Students of the juvenile justice system have known for some time through the F.B.I. crime statistics (3) that alleged violations of the law by juveniles are apparently on the increase. Without dwelling on the gross inadequacies of these statistics, it can be noted that the statistics from the Office of Juvenile Delinquency and Youth Development (4, 5) indicate a very large number of youths passing through our juvenile courts and public institutions for delinquents. If the statistics on arrests, or on appearances in juvenile court, or on incarcerations in institutions for delinquents are considered in isolation, real alarm might arise concerning the lawless trends, existing within our young generation. But when these three sets of statistics are considered together one finds oneself asking some very direct questions about the juvenile justice system itself.

Such questions might include: What percent of youths arrested are actually adjudicated guilty of a delinquent act? Did the 900,000 cases of delinquency handled in the juvenile courts in 1968 really receive the individualized treatment which has been so sacrosanct in the philosophical rhetoric of the juvenile court? Do the 53% of these 900,000 cases that were handled informally by the court reflect individualized treatment or shortcuts to juvenile injustice? (Informal handling of a case means, in general, that a petition was not filed in the court but rather some court official acted privately in the child's interest.) Does individualized treatment result in 131,000 children being incarcerated in institutions for delinquents during 1968? (This figure is over 30% of all the cases handled formally by the juvenile courts during 1968.) These statistics coupled with Howard James' first hand observations made in his book *Children In Trouble: A National Scandal* (6) concerning the tremendous variability in the quality of services available to youths in the juvenile justice system, raise some very troublesome questions.

The first juvenile court in Chicago, Illinois, in 1899, was legislated into existence in a wave of humanitarian reform. Despite what may have been written about the juvenile court it historically has never had a progressive legal, social or child management philosophy associated with it. Throughout its seven decades of existence the court has operated on the assumption that a wise and benevolent judge (who was well-trained) would be a major rehabilitative force in redirecting wayward children.

Considering this operating assumption in the context of youth arrest figures and court dispositional figures, the statement by former Supreme Court Justice Abe Fortas appears to merit consideration. He noted that "unbridled discretion, no matter how benevolently motivated, is no substitute for principle and procedure." While it may be a slight overstatement to refer to the juvenile court judge as America's last remaining autocrat, the presence of due process procedures in the judicial phase of the court's functioning seems long overdue.

The theoretical thrust of this paper will involve analyzing one of the sacred cows of the juvenile court movement—individualized treatment of youth appearing before the court. Following an analysis of the concept "individualized treatment" and the theory of delinquency implied by this phrase, data will be presented from one juvenile court concerning one type of disposition. The data will be concerned with characteristics surrounding the court's disposition of incarcerating in a state training school male youths between the ages of fifteen and seventeen years of age. The question raised concerns to what extent can such incarceration be explained as individualized treatment of youths in trouble. This question is directed not toward this one metropolitan court from which

the data was obtained. Rather the question is directed toward all 2700 juvenile courts in the country.

#### CONCEPTUAL ANALYSIS

The entire philosophy of the juvenile court rests on the concept of individualized treatment. While the emotional appeal of this concept is undeniable it would seem that the perspective of individualized treatment of delinquents is an outdated concept and at variance with the findings of the social sciences over the past four decades. The phrase "individualized treatment" actually connotes a whole theory of juvenile delinquency as well as a theory of rehabilitation of delinquents. Its roots can be traced, in part, to the mental health movement which developed in the late nineteenth and early twentieth century. This movement, it should be noted, was minimally influenced by the social sciences. It is the objective of this section of the paper to outline and to critique both theories and to suggest a more fruitful conceptual perspective from which to view delinquency rehabilitation (or prevention).

To substantiate the extent to which "individualized treatment" is integral to the operations of the Tennessee juvenile courts, one has only to look at the new state law for juvenile courts which went into effect July 1, 1970. Defining a youth as delinquent is contingent upon the juvenile court finding the youth in need of treatment or rehabilitation. Specifically, in Tennessee, a child is defined as delinquent in the following manner: "a child who has committed a delinquent act and is in need of treatment or rehabilitation." (7) According to this same law a child commits a delinquent act by committing an act designated a crime under the law. (7)

The model of individualized treatment presumes that juvenile delinquency is a result of conflict within an individual youth which leads to the violation of a legal norm of our society. What is so apparent in this approach to the handling of delinquent youths is a rather complete acceptance of the legal norms as being legitimate guidelines for establishing the "rightness" or "wrongness" of behavior. Delinquency is treated as a problem of a youth's adjustment and not as a problem arising out of youths' social position and the social conditions which influence youths in this society. Hence the social conditions contributing to delinquency are overlooked while youths are subjected to treatment as a result of the effects of these social conditions.

Despite the fact that the juvenile court is a distinctly urban institution (having been legislated into existence at the beginning of the twentieth century to aid in the problems of children and youth caused by rapid urbanization and industrialization) neither its social nor its legal philosophy have reflected an understanding of the impact of social change and cultural relativity upon youth and youthful behavior. An unintended consequence of treating delinquency as an individual's problem has been to develop an adversary relationship between the juvenile court and the youths it is to serve. The use of the term "treatment" (which has always been integral to the social services offered by the court) is an important part of the psychological model of delinquency which has had an almost unrivaled acceptance in the operations of the juvenile court.

The Freudian psychological model of the early twentieth century (and to a very large extent today) is fundamentally incapable of explaining many of the social science research findings of the past four or five decades concerning juvenile delinquency. But yet, this theory remains the single most important theory of behavior influencing court decisions and programs. The Freudian perspective, as developed, attempted to explain neurotic behavior (it was only later called "neurotic") of upper-middle class Austrians on the basis of social pressures blocking the expression of an individual's biological impulses—impulses that had to be expressed or released, it was theorized, if the person was to make a satisfactory adjustment. The fact that this theory of behavior was culturally alien to the United States as well as being derived from people in the more advantaged social classes appears to have bothered few if any of its adopters in America's juvenile court settings. But both of these limitations could go unnoticed because the entire focus of this approach to explaining behavior is concerned with the causes and effects within an individual's personality of the inevitable conflict (as Freud saw it) between biological needs and social demands. In this context the treatment of individuals overwhelmed by these conflicts was concerned with rehabilitating the personality of the individual so that he or she might live within the existing social environment.

By eliminating the conflict within a person, so goes the theory, an adequate ecological adjustment will occur. Psychoanalytic theory shares with other psy-

chological theories the deficiency of not incorporating propositions which allow for or necessitate environmental change as a requisite for lasting psychological changes within individuals. In this sense psychological theories are incomplete. Such theories completely overlook the social environmental pressures which exert great influence upon people to behave in a manner consistent with some desired standards of behavior. These theories (and their corresponding therapeutic approaches) seek to adjust the individual to the existing social environment regardless of the inadequacies of that environment.

Thus, the dogmatic adherence of most juvenile court personnel to a psychological model of delinquency causation has slanted court programs at the level of individual treatment. Almost completely disregarded have been the broader questions (and the most basic question) of social reform. Before the emphasis of the court can be altered from individualized treatment to social reform rather basic changes in the definition of delinquency and its causations will have to be accepted by court personnel. The time has come when the mental health model of juvenile delinquency should be stripped of its legitimacy.

It is being proposed that juvenile delinquency be viewed from the perspective of a community enacting legally-based political procedures for controlling and altering youth behavior which is disruptive to an orderly adult way of life. From such a perspective juvenile delinquency could be defined as "behavior that the state deems necessary to control and to alter through the political structure of the community." That is, juvenile delinquency results from the action of the political state (through its juvenile court) defining, controlling and attempting to alter youth behavior judged in violation of the politically developed norms of a community. To insure the possibility that we have an understanding of the term "political" three definitions are provided. These definitions are taken from college textbooks used in political science. In developing an understanding of the analytical concept of "political," it is necessary to keep it separate from the value-loaded (usually negatively) usage of the term where it is used less for pure description and more for accusation. "Political" might refer to the "pursuit and exercise of power." (8) "Political" can mean "the structures and processes through which rules and policies are authoritatively determined for society as a whole." (9) Or, "political" can mean "the workings of government generally, the impact on the governed, the manner of operation and means of retaining and attaining authority." (10) Thus for our purposes we can understand the term "political" to refer to the authoritative use and development of power through (in part) the impact that that power has upon those subject to it through governmental structures. Hence, in this definition of juvenile delinquency, delinquency is a label or category imposed upon youth by the state.

In contrast to this definition is the more traditional definition of delinquency which makes delinquency a characteristic of an individual's behavior and/or attitude. This traditional definition is the basis for "individualizing" treatment which reflects the idea that the locus of behavioral change is with the forces within individuals. We call these forces attitudes. Many of the actions of the juvenile court (and other agencies in the juvenile justice system) are contingent on interpretations by people in authority of the kind of attitudes exhibited by a youth. Many of the decisions concerning a youth's rehabilitative potential are made in part by personnel of the political state (police, court intake workers, probation officers, juvenile court judges, etc.) based upon the attitudes exhibited toward them by youths. Such thinking reflects the usually unquestioned assumption made by people that attitudinal change must precede behavioral change. Behavioral psychology has demonstrated that behavioral change can and will precede attitudinal change. Furthermore, we know that much behavior is situation specific and that behavior can be changed by altering the objective conditions of a situation. For example, the percentage of children on welfare who live with both parents can be increased by eliminating "the man-in-the-house" stipulation. Here no attitudes were changed, nor behaviors altered. What was changed was the politically controlled rule concerning the lifestyle of mothers on welfare.

Since its inception the juvenile court has made the now scientifically untenable assumption that delinquency is a characteristic of an abnormal, individual personality. While the juvenile court gives lip service to the environmental influences upon youthful behavior, it has allocated precious few of its limited resources to neutralizing or making positive such influences. An emphasis on change at the level of social conditions would be both politically unwise and politically costly. Altering children "in need of treatment and rehabilitation" is considerably safer

(especially when your "clients" can't even vote) than altering social conditions (such as bad housing, inadequate schools, irrelevant churches, exploitative economic processes) which will affect the vested interests of the adult society, but which also contribute to youth behavior which is labeled delinquent. It is less disruptive to offer individual casework than it is to advocate institutional changes—less disruptive, that is, to the adult-organized society. It is apparent, for example, that the development of a semi-autonomous youth culture in our society has had minimal effect upon the theory and programs of the juvenile court. Many of the decisions made by the juvenile court extricate (by design) youths from the most effective social control processes that they experience—peer group pressure. We remove such youths to treat them towards or to rehabilitate them into a certain type of social and legal conformity considered acceptable by court-associated political figures.

It is more than paradoxical that the juvenile court, which grew out of the benevolent and humanitarian reforms of the late nineteenth and early twentieth century social reforms, through its basically unchanged theory and programs of an individualistic approach to juvenile delinquency, may be contributing significantly to this country's conflict with its youth. The tendency to view delinquency as the behavior of an individual youth with abnormal psychological tendencies must be challenged head on. While it can't be denied that there are youths who are delinquent because of psychological difficulties these constitute a very small percentage of delinquent youths. What all youths possess in common who have been judged delinquent by the juvenile court is that they have been caught doing something illegal and have been placed under the direct control of the state. That is to say, political control procedures have been enacted to contain the behavior of selected youths. The political dimension of this act of the state's juvenile court should not be underestimated. Nor should the rehabilitative jargon of the court serve as a smoke screen for the social control and legal punishment functions of the court. In the state of Tennessee the Juvenile Court Judge is an elected official. He is not required to have any training in any of the behavioral sciences. He isn't even required to be a lawyer. He is required to obtain office through election—an election from which the youths that he sentences (or should we say, hands dispositions to) are barred from participating. When a youth is determined to be in need of treatment this decision is based less on mental health considerations (or individualized treatment considerations) and more upon the political implications of the youth's behavior. Such treatment is carried out within the legal framework of the court. Hence, even the current concept of individualized treatment is qualified by the political control functions of the court.

If the juvenile court is to meet the needs of our urban society in the decade of the seventies it must achieve the following objectives: (1) it must develop legal services which incorporate procedures based upon the due process principles provided by the constitution and that are made equally available to all youths as a matter of court policy (the available research information indicates that a youth not represented by a lawyer is liable to harsher experiences within the court); (2) it must divest itself of the "abnormal psychology" mentality of delinquency causation and see adjudged delinquent behavior in the ecological complex in which it exists; (3) it must stop acting on the principle of *parens patriae* and begin acting on the principles of legal justice and equal opportunity (4) programs for rehabilitating individuals must be supplemented by programs in which court personnel advocate for institutional changes; and (5) an ecological theory of juvenile delinquency must be developed which incorporates a viable rationale for court intervention into the lives of youths—a rationale defensible on the grounds of "it's in the best interest of both the child and society."

If the actions of the juvenile court toward youths under its jurisdiction are viewed from a political control perspective rather than an individualized treatment perspective at least the most extreme aspects of the court's behavior is made more rational; i.e., the means it employs seem more in concert with certain political objectives than with certain rehabilitation objectives. The most extreme action available to the juvenile court involves incarceration of youths into government operated (mostly state government), closed institutions. The services utilized by the court in making this decision to incarcerate youth should provide a rigorous test of the court's objective of individualized treatment. Such data is offered from one metropolitan juvenile court. It is assumed that this court fairly represents some of the decision making characteristics associated with most

urban juvenile courts in our country. Let it be emphasized that what is at issue is not this particular court. Rather, the system which renders juvenile justice and treatment is being questioned—and questioned bluntly.

#### METHODOLOGY

The population for this study includes all male youths between the ages of fifteen and seventeen years of age committed by a metropolitan juvenile court to the Pikeville, Tennessee State Training School between the dates of April 15, 1966, and April 15, 1970. The beginning date of the study was selected for two reasons. It serves as a measure of the characteristics associated with court decisions made prior to the Supreme Court ruling in the *U.S. v. Gault* case. This is the Supreme Court case which was heard in 1967 and which granted to youths appearing in the juvenile court, among other rights, the right to counsel and the right to a transcript of the court proceedings.

In addition, the date of April 15, 1966, is the date that the Pikeville institution officially terminated its policy of racial segregation. Data was obtained from the court files or from State After Care files. All decisions to incarcerate were made in one juvenile court. In instances where a youngster had experienced multiple commitments to Pikeville the last commitment decision for such youths was the focus of this study. No effort was made to account for different individuals serving as the Juvenile Court Judge. The court records of the youths incarcerated do not identify the presiding judge by name; rather, the judge, whoever he or she might be, is referred to in court proceedings by the generic term "the Court."

This study is concerned with five aspects of the juvenile justice system: (1) the adjudicated charges leading to incarceration in a state training school, (2) the use of pre-hearing detention for youths committed to a training school, (3) the presence of lawyers at hearings when decisions are made to send youths to a state institution, (4) the number of previous referrals of a youth to this juvenile court, and (5) the availability of a probation officer's dispositional recommendation for a youth subsequently incarcerated in a state training school.

#### RESULTS

The question presented at the beginning of the paper was to what extent can incarceration in a state training school be explained as individualized treatment of youths in trouble. Categorizing delinquent acts into felonies, misdemeanors and violations of the juvenile code the acts were compared with variables deduced to represent the degree of individualized treatment which characterized the court's handling of youths committed to Pikeville. These variables are: the use of pre-trial detention, the presence of a lawyer at youths' hearings, the number of previous referrals of the youth to this juvenile court, availability of a probation officer's dispositional recommendation to the judge, the race of the youths committed and the impact of the *Gault* decision upon the operations of this juvenile court. The results will be reported in five subsections.

1. Adjudicated charges leading to incarceration in a state training school. Table 1 presents the 346 delinquent acts which resulted in the 229 youths being incarcerated in the Pikeville training school. Due to some youths being judged guilty on multiple charges the number of delinquent acts exceeds the number of youths that were committed. Table 1 is a composite of the court's behavior, not youth behavior. It was the court that defined the youth's behavior (through its intake process), considered whether the alleged behavior had actually occurred, passed judgment on its occurrence and sentenced the youth to confinement. Submerged in table 1 is the statistical fact that 80 youths were sentenced to Pikeville for one of the following violations: truancy, ungovernable, curfew violation or runaway. It should be noted that these are offenses that only youths can commit. These 80 individuals constitute 35% of all the youths committed to Pikeville during the time period of this study.

2. The use of pre-hearing detention for youths committed to the Pikeville Training School. Information is presented for three variables: the youth's race, type of charge leading to incarceration and the use or on-use by court officials of detention (or "secure custody") preceding the youth's court hearing. Table 2 shows the use of pre-trial detention for different types of acts of delinquency. Table 2a presents the use of pre-hearing detention as a function of the youth's race. Table 2b shows when the use of pre-hearing detention is held constant the

number of youths by race who commit delinquent acts which are felonies, misdemeanors and juvenile violation.

3. The presence of lawyers at hearings when decisions are made to send youths to the Pikeville Training School. Table 3 shows the extent to which youths charged with felonious or misdemeanor acts or acts in violation of juvenile statutes are represented in court by a lawyer. Table 3a presents the frequency in which black and white youths are represented in court by a lawyer. Table 3b reflects the extent to which youths of different races who commit acts which are felonies, misdemeanors and juvenile violations are represented by a lawyer. Table 3c reflects the availability of legal counsel to youths in a pre-Gault and post-Gault time period.

4 & 5. The number of previous referrals for a youth to this juvenile court and the availability to the court of a probation officer's dispositional recommendation. Table 4 presents the number of previous juvenile court referrals for youths committed to Pikeville and the types of charges that brought them to the attention of the court. Table 4a presents the number of previous court referrals to the court and the availability of a dispositional recommendation to the court from the youth's probation officer.

Table 5 shows the extent to which a probation officer's recommendation is available for youths adjudged delinquent of different types of delinquent acts. Table 5a reflects when the availability of a probation officer's dispositional recommendation is held constant, the extent to which youths have been represented by a lawyer over the past four years.

Table 6 presents the race of the youths committed to Pikeville in yearly intervals beginning with the point in time that the institution terminated its policy of racial segregation.

#### DISCUSSION

The data just presented from one court does not justify the conclusion that this court is implementing the principle of individualized treatment. It is to be remembered that the court decisions discussed here involve the most extreme dispositional alternative available to the juvenile court. The apparently excessive reliance on the pre-trial detention of youths, the absence of a lawyer from most of the youths' hearings, and the lack of a probation officer's dispositional recommendation for a youth all point to an impersonal application of court made decisions. In passing it should be noted (see table 3c) that the Supreme Court Gault decision which among other things, established the right of a youth to have legal representation has not significantly increased our juvenile court's utilization of legal aid for youths appearing before the court.

While the majority of these youths were considered to be too dangerous to themselves or to the community (thus requiring pretrial detention) prior to their trial, future research will demonstrate that the average length of incarceration in Pikeville is significantly less than one year. What treatment program has Pikeville developed that can in such a short period of time offer effective individualized treatment to the youths confined there?

Instead of the principle of individualized treatment serving as a guideline for decisions made by the juvenile court, the principles of social control and legal punishment seem to be the guidelines influencing court decisions toward youths most in need of the community's resources.

In addition to the above mentioned variables that provide evidence against the court operating on the principle of individualized treatment, there exists also the evidence on recidivism and what the court defines as delinquent behavior. With respect to the frequency of recidivism for these youths the conclusion is hard to escape that even if it could be substantiated that the juvenile court is operating on the principle of individualized treatment, the treatment utilized by the court must be woefully inadequate when subsequent youth adjustment is considered. Perhaps the questions should be asked, treat what? with what? toward what objectives?

With a respect to the court's defining a youth's behavior as delinquent it is important to realize that it is in fact the court's intake service which labels a youth's behavior as being a particular type of delinquent behavior. Having defined or categorized the behavior on the basis of its crime content (robbery, burglary, larceny, etc.) the court then acts to judge if the youth's alleged actions warranted the court's labeling his alleged behavior.

The essence of individualized treatment should be reflected in the intake service of the court. It is at this point that the juvenile court receives the available information (which can range from an individual's belief that a youth has

committed a delinquent act, to hearsay, to substantiated fact that a delinquent act was committed) that will allow the court to categorize the youth's alleged behavior for the purposes of passing judgment upon it.

Referring to table 1 it can be noted that of the 346 delinquent acts that the 229 youths in our population were judged as having committed, 80 (23%) of these acts were categorized as acts of larceny. Larceny in adult criminal court is a felony. But the arbitrariness in which this term was used to describe delinquent behavior would appear to reflect less the best interests of the child and more the social control and legal punishment capabilities of the juvenile court. For example, youth behavior defined by the court as larceny in this study ranges from taking a car valued at \$2,100 to taking \$0.30 worth of honey buns from a store. One youth who was judged delinquent for being a runaway received the individualized treatment of incarceration in Pikeville. Fifty-two separate youths received individualized treatment in the form of incarceration in Pikeville as a result of the court judging them delinquent because of school truancy.

It should be noted that, in essence, youths who refused to attend the state's public schools were forced to attend schools run by the state's department of corrections. Hopefully, the department which runs our prisons provides better forms of individualized treatment than do our neighborhood public schools.

While the juvenile court is not part of the criminal justice system, it is apparent that it is not completely separate. For instance, although the juvenile court categorizes illegal youth behavior by adult crime terminology it does not use the distinction of felony and misdemeanor. (The distinction is used in this paper as a way of making a distinction between apparently more serious and apparently less serious delinquent behavior.) The role of the court in defining youth behavior (intake function), deciding if the alleged behavior of the youth actually occurred (the adjudicatory hearing), and deciding what should happen (the dispositional hearing) to those youths that the court decides have committed delinquent acts is why juvenile delinquency can be viewed as a political act—a political act by the state against its youths. To view juvenile delinquency as the political action of the state against youth does not negate the fact that the youth has violated a legal norm (or several legal norms) of the state. Such a view absolutely does not suggest that youth not be held accountable for his behavior. To view juvenile delinquency as the political categorization of youth by the state is to emphasize these characteristics:

(1) behavior labeled by the court as juvenile delinquency is so labeled out of the context in which it occurred.

(2) the basic purposes for labeling behavior as delinquent is to control and to punish the youth.

(3) the procedures used by the state for "individualized treatment" are actually procedures very damaging to the developmental needs and shortcomings of youth.

While the court is executing its series of decisions youths may be deprived (in fact 83% of the youths in our study were) of their freedom through pretrial detention. During these series of political decisions the youth may be without legal representation (80% of the youths in this study were) and may be without benefit of a probation officer's recommendation as to what dispositional or sentencing decision would be in the best interest of the youth (60% of youths in this study did not receive this service) despite the fact that 85% of the youths in this study had appeared in the court before and this were under the control of a probation officer.

The question must be raised, "How is incarceration of youths in a state training school an example of individualized treatment?" The question increases in relevance when these factors are considered:

(1) The youth is committed to the state training school at Pikesville for an indefinite sentence. That is, there is no relationship between the seriousness of a delinquent act or the meaning of such an act to the youth and the length of time of his individualized treatment (or incarceration at Pikeville).

(2) After a juvenile court judge commits a youth to Pikeville for individualized treatment the juvenile court has no authority to control what the youth experiences or how long his commitment will be.

(3) Pikeville is administered by the Department of Corrections. Which is to say, the court's individualized treatment for youths committed to Pikeville is carried out by the same state department responsible for the custody of adult felons and misdemeanants. That this department is staffed through the political processes of the state should not go unnoticed.

With the above considerations the issue of the use of the juvenile court for the political-social control and punishment of deviant youths seems a very real issue. Realizing that the Supreme Court began in 1966, by judicial decree, to upgrade the legal services in the juvenile court as they relate to youth's constitutional rights, such decisions by the Supreme Court implicitly reinforce the continued existence and legitimacy of the juvenile court.

If youths are granted the same constitutional rights as adults in trials involving criminal (or delinquency) violations, what legal rationale is there for the continued existence of the juvenile court in the state of Tennessee? The only possible affirmative answer to this question would involve some version of the theme "None. But the social services available through the court to provide youths the individualized treatment that their delinquent behavior indicate they need" is the basic reason for the existence of the court. The data presented in this paper indicate the sham of both the legal and social services of the court that were provided to those youths most in need to such services; that is, those youths who were incarcerated in Pikeville. Keep in mind that we are talking about the actions of a court over a period of four years. If the juvenile court was abolished in the state of Tennessee presumably the money now used to run the juvenile courts could be funneled into upgrading the quality of the criminal justice system in Tennessee. If the psychological model of delinquency causation is replaced by an ecological model of delinquency causation (that is, if delinquency is seen as resulting from an interaction of youth behavior and environmental conditions such as inadequate schools, parent-child adjustment problems, inadequate family housing and income, etc.) then there may result a corresponding change in where the juvenile court (if it continues to exist) slants its social services. That is, instead of providing a smoke screen of rhetoric about individualized treatment for youths in trouble the juvenile court might begin to advocate for basic institutional changes which will alter the social conditions in which youths live.

But if we were to eliminate the juvenile court and develop an ecological model of delinquency causation then other social or legal agencies within the community might be the locus for advocating the basic changes necessary in social conditions to reduce the extent of juvenile delinquency. (Perhaps, the greatest single impact that could be made toward reducing juvenile delinquency would be the elimination or basic alteration of the present juvenile court.) If the actions of the juvenile court fail to become more compassionate and just the youth subcultures which exist in our society may engage in various forms of political actions to protect themselves and their age peers from the arbitrary (but absolute) authority of the juvenile court.

Among other things this paper has offered a definition of juvenile delinquency as being political behavior. It is perhaps an overstatement to refer to the youths incarcerated at Pikeville as political prisoners—Or is it?

#### APPENDIX A—A LIST OF DELINQUENT ACTS FOR EACH CRIME CLASSIFICATION

FELONY		
Homicide	Auto Theft	Sex Offenses
Rape	Other Assaults (except assault and battery)	Narcotic Drug Laws
Robbery	Arson	Possession of Burglary Tools
Felonious Assault	Forgery	Perjury
Burglary	Stolen Property	
Larceny		
MISDEMEANOR		
Vandalism	Vagrancy	Contempt of Court
Weapons	Traffic—operating	Glue Sniffing
Liquor Laws	Traffic—licensing	Prowling
Drunkenness	Trespassing	Resisting Arrest
Disorderly Conduct	Malicious Mischief	Public Profanity
JUVENILE VIOLATIONS		
Curfew	Ungovernable	Truancy
Runaway		

#### TABLE 1—NUMBER OF YOUTHS COMMITTED FOR EACH CRIME<sup>1</sup>

Larceny (F) 80	Traffic—licensing (M) 3
Burglary (F) 66	Possession of Burglary Tools (F) 3
Truancy (J) 53	Narcotic Drug Laws (F) 2 (except LSD)
Auto Theft (F) 33	Resisting Arrest (F) 2
Ungovernable (J) 24	Public Profanity (M) 2
Prowling (M) 10	Glue Sniffing (M) 2
Weapons (M) 6	Contempt of Court (M) 2
Other Assaults (F) 6 (Except assault and battery)	Traffic—operating (M) 2
Rape (F) 5	Curfew (J) 2
Disorderly Conduct (M) 5	Vagrancy (M) 2
Homicide (F) 4	Arson (F) 2
Drunkenness (M) 4	Perjury (F) 1
Robbery (F) 4	Vandalism (M) 1
Malicious Mischief (M) 4	Sex Offenses (F) 1 (all are felonies except indecent exposure, a misdemeanor)
Stolen Property (F) 4 (buying, receiving, possessing)	Runaway (J) 1
Felonious Assault (F) 3	Trespassing (M) 1
Forgery (F) 3	
Liquor Laws (M) 3 (except transporting whiskey, it is a felony)	

<sup>1</sup> (F—felony; M—misdemeanor; J—juvenile code violation.)

#### TABLE 2.—PRETRIAL DETENTION

	Yes	No	No information	Total
Felony.....	140	3	2	145
Misdemeanor.....	22	0	0	22
Juvenile violation.....	29	30	3	62
Total.....	191	33	5	229

#### TABLE 2A.—PRETRIAL DETENTION

	Yes	No	No information	Total
White.....	81	18	0	99
Black.....	109	21	0	130
Total.....	190	39	0	229

#### TABLE 2B

	Pretrial detention			No pretrial detention		
	Black	White	Total	Black	White	Total
Felony.....	88	52	140	1	4	5
Misdemeanor.....	9	13	22	0	0	0
Juvenile violation.....	13	16	29	21	12	33
Total.....	110	81	191	22	16	38

#### TABLE 3.—LAWYER PRESENT

	Yes	No	No information	Total
Felony.....	31	108	6	145
Misdemeanor.....	1	20	1	22
Juvenile violation.....	0	54	8	62
Total.....	32	182	15	229

TABLE 3A.—LAWYER PRESENT

	Number of previous court referrals			Total
	0	1	2	
White.....	14	85	0	99
Black.....	18	112	0	130
Total.....	32	197	0	229

TABLE 3B

	Lawyer present			Lawyer absent			Total
	Black	White	Total	Black	White	Total	
Felony.....	17	14	31	72	42	114	145
Misdemeanor.....	1	0	1	8	13	21	22
Juvenile violation.....	0	0	0	34	28	62	62
Total.....	18	14	32	114	83	197	229

TABLE 3C

	Pre-Gault period April 1966 through May 1967 (14 months)		Post-Gault period June 1967 through April 1970 (35 months)		Total
	Yes	No	Yes	No	
Lawyer present:					
Yes.....		7		25	32
No.....		76		121	197
Total.....		83		146	229

TABLE 4

	Number of previous court referrals								Total
	0	1	2	3	4	5	6	7 or more	
Felony.....	22	32	20	17	22	15	6	11	145
Misdemeanor.....	2	5	3	8	1	1	2	0	22
Juvenile violation.....	11	19	8	7	8	4	1	4	62
Total.....	35	56	31	32	31	20	9	15	229

TABLE 4A

	Number of previous court referrals								Total
	0	1	2	3	4	5	6	7 or more	
Lawyer present:									
Yes.....	6	6	5	7	5	2	0	1	32
No.....	21	49	26	23	25	17	9	12	182
No information.....	8	1	0	2	1	1	0	2	15
Total.....	35	56	31	32	31	20	9	15	229

TABLE 4B

	Number of previous court referrals								Total
	0	1	2	3	4	5	6	7 or more	
Probation officer's recommendation available:									
Yes.....	7	20	14	10	13	12	6	7	89
No.....	28	36	17	22	18	8	3	6	138
Total.....	35	56	31	32	31	20	9	13	227

<sup>1</sup> There was no information available on 2 youths.

TABLE 5

	Probation officer's recommendation available—				Total
	Yes	No	No information	No	
Felony.....	58	87	0	0	145
Misdemeanor.....	6	16	0	0	22
Juvenile violation.....	26	36	0	0	62
Total.....	90	139	0	0	229

TABLE 5A

Date of trial:	Probation officer's recommendation available, lawyer present				No probation officer's recommendation available, lawyer present				Total
	Yes	No	No information	Total	Yes	No	No information	Total	
1966.....	2	19	3	24	4	30	2	36	
1967.....	5	20	0	25	1	22	2	25	
1968.....	0	10	0	10	5	18	3	26	
1969.....	4	23	0	27	8	26	2	36	
1970.....	0	4	0	4	3	12	1	16	
Total.....	11	77	3	90	21	107	10	139	

TABLE 6.—NUMBER OF COMMITMENTS BY RACE

Date of trial	Black	White	Total
April 1966 through April 1967.....	41	42	83
May 1967 through April 1968.....	25	15	40
May 1968 through April 1969.....	29	16	45
May 1969 through April 1970.....	37	24	61
Total.....	132	97	229

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AN INQUIRY INTO THE JUVENILE CENTERS OPERATED BY THE OFFICE OF PROBATION

JANUARY 20, 1971.

HON. HAROLD A. STEVENS,  
Presiding Justice,  
Appellate Division of the Supreme Court,  
First Judicial Department.

HON. SAMUEL RABIN,  
Presiding Justice,  
Appellate Division of the Supreme Court,  
Second Judicial Department.

SIRS: In accordance with the Order of the Appellate Division of the First and Second Judicial Departments dated July 17, 1970 directing that the undersigned conduct an inquiry with respect to the conditions, maintenance and management of the Juvenile Centers operated by the Office of Probation of the City of New York, we respectfully submit herewith a report of our findings and recommendations.

Respectfully yours,

JOSEPH STONE, *Chairman*.  
ROBERT K. RUSKIN,  
DONALD H. GOFF.

The Appellate Divisions of the Supreme Court, First and Second Judicial Departments, at the request of the Administrative Board of the Judicial Conference of the State of New York, and pursuant to the authority vested in them, do hereby ORDER:

(1) That an inquiry be conducted with respect to the conditions, maintenance and management of the Juvenile Centers operated by the Office of Probation of the City of New York;

(2) that a panel to conduct the inquiry is hereby established, consisting of: Hon. Joseph Stone, Judge of the Criminal Court of the City of New York, Chairman; Hon. Robert Ruskin, Commissioner of Investigation of the City of New York; and Donald Goff, General Secretary of The Correctional Association of New York;

(3) that the panel is empowered to take the testimony of witnesses under oath or affirmation;

(4) that upon application of the panel, or the Chairman thereof, the Clerk of the Appellate Division of either the First or Second Judicial Department, shall issue subpoenas and subpoenas *duces tecum* in the name of the Appellate Divisions, First and Second Judicial Departments; and

(5) that at the conclusion of the inquiry a report consisting of findings and recommendations be submitted to the Appellate Divisions, First and Second Judicial Departments.

Dated: New York, N.Y. and Brooklyn, New York, July 17, 1970.

For the first department:

HAROLD A. STEVENS,  
Presiding Justice

For the second department:

MARCUS G. CHRIST,  
Presiding Justice

#### PREFACE

The Panel has looked upon its designation as a mandate to study thoroughly juvenile detention in New York City. In the course of our inquiry, we have examined all prior reports and studies on the subject and have interviewed scores of people, including children, staff members, experts and other interested parties. We have also reviewed records and reports of the juvenile detention centers and the Office of Probation. Both Panel and staff have made numerous unannounced visits to the three juvenile detention institutions for the purpose of observing conditions and conducting interviews. Our study of these centers was directed not only to specific charges but also to an analysis of administration and operation.

Too often in the past studies have been shelved and their recommendations for the benefit of children disregarded. We strongly urge that our recommendations not suffer a similar fate. Conditions in the juvenile centers are so desperately in need of correction that no further delay can be tolerated.

#### PANEL

*Members.*—Hon. Joseph Stone, Chairman; Hon. Robert K. Ruskin; Donald H. Goff.

*Counsel.*—George B. Smith.

*Staff.*—Lawrence B. Goldberg; Richard R. Leff; Judith F. Weintraub.

#### SUMMARY OF MAJOR RECOMMENDATIONS

1. The administration and operation of juvenile detention facilities should be removed from the judicial branch of government (Office of Probation) and transferred to the executive branch of the City. (p. 18)
2. A single agency within the executive branch should be responsible for the care and services, including juvenile detention, for all children in the City. (p. 18)
3. For the purposes of temporary housing, the present legal distinction between Persons in Need of Supervision (PINS) and neglected children should be abolished. (p. 14)
4. There should be non-secure facilities for those children who do not require being housed in a maximum security setting. (p. 22)
5. Small secure detention centers should be established in close proximity to the courts. (p. 21)
6. Spofford could be used temporarily only for those children who require maximum security detention. (p. 31)
7. The Manida and Zerega facilities should be replaced. (p. 31)
8. The administration of the juvenile centers should be reorganized to define lines of authority, responsibility and communication. (pp. 35-36)
9. If the institution and school cannot establish lines of communication and reconcile differences on rules and regulations, the responsibility for educational services should be removed from the Board of Education and assumed by the agency operating juvenile detention. (p. 59)
10. The Operations Office should be the communications and nerve center of the institution and should have all information about conditions within the institution at all times. (p. 43)
11. There should be a Training Officer responsible for all pre-service and in-service training in the institutions, and a detailed training manual for orientation and in-service training should be prepared. (p. 43)
12. Detailed manuals of operations for all positions should be issued immediately with well-defined procedures for emergencies. (p. 43)
13. A classification committee composed of members from the Group Services, Social Services and Psychiatric Departments should make all decisions on the assignment of children. (p. 54)
14. Separate dormitories should be established for those children who are most disturbed and disturbing, such as those with psychiatric problems, the suicide prone and drug addicts. (p. 54)
15. The younger children in the Riverview Unit should be removed from the Spofford facility. (p. 31)
16. A code of conduct for children in the institutions should be prepared and distributed to every child, and a system of rewards should be devised to encourage good conduct on the part of the children. (p. 43)

17. The practice of using special solitary confinement or isolation rooms should be discontinued immediately. (p. 43)

18. A planned recreation program should be established to occupy the children's free time. (p. 44, 62)

19. The practice of indiscriminately locking all children in their rooms at Spofford should be discontinued and replaced by a selective system based on differential classification. (p. 80)

20. In any case where a child shows evidence of illness or injury, the child should be taken directly to the infirmary and diagnosis should not be made over the telephone. (p. 68)

21. A urinalysis to detect drug usage should be given to every child upon admission. (p. 68)

22. The purpose of the Psychiatric Unit within the detention facilities should be to aid the children in the institutions; the Bureau of Mental Health Services of the Family Court should conduct all court-ordered psychiatric examinations. (pp. 70-71)

23. Immediate psychiatric examinations should be given to all children involved in incidents endangering the lives and safety of persons within the institutions. (pp. 71, 86)

24. Each time a child enters the institution, he should receive a "stripped search" in a specially designated isolation area. Institutional clothing should be issued to each child at that time and his personal clothing removed, searched and stored in a place inaccessible to children. (p. 82)

25. All prospective employees should be given physical and psychiatric examinations and thorough background investigations should be conducted prior to employment. (pp. 68, 82)

26. An independent, impartial body of observers should be appointed to make spot checks of the institutions and insure that the Panel's recommendations are being implemented. (p. 87)

#### INTRODUCTION

The history of New York City's juvenile detention centers is a history of dead-end studies and investigations. Although many reports have been written and inadequacies, abuses and brutalities have been spotlighted, meaningful improvement has not been achieved.

In 1906, the Police Commissioner of New York City requested the Society for the Prevention of Cruelty to Children to assume the City's function of caring for lost children. Until this time, the children were cared for by the Bureau of Lost Children at Police Headquarters. The SPCC consented to receive lost children pending identification by their parents. In 1914, the SPCC, at the City's request, began to provide temporary shelter for children after adjudication of juvenile delinquency. By 1944, the SPCC had assumed custodial responsibility for dependent, delinquent and neglected children in New York City.

During the period of SPCC responsibility, there was far from universal public and governmental satisfaction. In 1925, and again in 1926, the New York City Commissioner of Accounts (presently the Commissioner of Investigation) heard testimony in regard to charges of alleged incompetency, inefficiency and brutality of SPCC staff, improper administration of the Society's antiquated methods of dealing with children. In 1928, the Commissioner of Accounts investigated the law enforcement work of the Society, finding the performance "unsatisfactory and of poor caliber." In 1944, the State Department of Social Welfare made a series of visits to the SPCC's shelter and reported numerous shortcomings in almost every phase of the Society's shelter activities. Also in 1944, an investigation conducted jointly by judges of the Domestic Relations Court and the Commissioner of Accounts revealed that the SPCC shelters were grossly inadequate. In response, Mayor Fiorello LaGuardia appointed an 18-member Citizen's Board, known as Youth House, Inc., to organize and operate an institution for the detention of boys under 16 years of age. Soon thereafter, a detention facility for girls on Welfare Island was also placed under the aegis of Youth House, Inc.

Youth House was a non-profit corporation, with the Board members being appointed by the Mayor and serving without pay. Although Youth House was given sole responsibility for operating the detention centers, operational expenses were shared equally by the City and the State.

The establishment of Youth House did not satisfactorily alleviate the many problems previously found in the SPCC institutions. There were still reports of overcrowding, brutality, homosexuality and tension between children and staff throughout the late 1950s and early 1960s.

On December 31, 1961, the Mayor's Committee on Auxiliary Services to The Courts of New York City included in its report a survey of Youth House. This survey found a chronic crisis with overcrowding the major problem. It made a number of recommendations, including "strong intake controls, sufficient court casework and related services, and adequate detention capacities."

In April 1962, the City Administrator's Office conducted a study of the detention facilities of Youth House, Inc., and issued a report entitled "Detention Facilities for Children in New York City: A Plan for Management and Improvement." The report noted that the facilities were greatly overcrowded and that there was little coordination among the various units within Youth House. The recommendations in the report included the creation of an intake service at the juvenile courts and a clearer definition of the lines of authority within the institution.

In February 1964, in keeping with the City Administrator's recommendations, and under the authority granted by amended Family Court Rule 2.4 (Rule 2501.4 of the Administrative Board of the Judicial Conference), the Presiding Justices of the Appellate Divisions, First and Second Departments, issued concurrent orders providing that:

"The Office of Probation for the Courts of New York City may operate or supervise the operation of suitable facilities for the detention, pursuant to the Family Court Act, of persons alleged or adjudged in the Family Court within the City of New York to be juvenile delinquents or persons in need of supervision, and shall exercise continuing supervision of facilities for the detention of such persons operated by Youth House, Inc."

The Appellate Division orders were followed by Executive Order 85, issued by Mayor Robert F. Wagner, Jr., which authorized the Office of Probation, subject to the supervisory authority of the Administrative Board of the Judicial Conference and the two Appellate Divisions, to represent the City of New York in its relationship with Youth House, Inc. This, in effect, established dual authority between the private Youth House Board and the Office of Probation, a public agency.

The results of this dual responsibility were not as salubrious as was hoped. By early 1967 incidents concerning juvenile detention again surfaced, and a skein of new investigations began.

In March 1967, the State Legislative Committee on Penal Institutions under the chairmanship of then Assemblyman Bertram Podell, held public hearings on the poor condition of the juvenile detention centers of the City. Witnesses testified that the facilities were run like a concentration camp, a "Dachau" or an "Auschwitz"; that pregnant girls were admitted to the facility without receiving medical care; that self-induced abortions were common; that brutality, especially by inmates serving as counselors, was extensive; that supervision was indifferent and that homosexuality was common.

In the same month, the Bronx District Attorney's office concluded an 8 month investigation by filing a Grand Jury presentment charging brutality, aggressive homosexuality, beatings, overcrowding and poor medical care in the juvenile detention facilities. The Grand Jury presentment stressed the need for improved medical, psychiatric, and rehabilitative services and facilities; grouping by age and offense; a maximum of 15 children per dormitory; and a speed-up in the movement of children to long-term residential training and treatment institutions.

In response to public outcry, a committee consisting of then Deputy City Administrator Simeon Golar, Correction Commissioner George McGrath, and then Welfare Commissioner Mitchell Ginsberg was given the responsibility of recommending the appropriate public agency, which should have full administrative responsibility for operating the detention facilities. As a result of the deliberations of this committee, all detention facilities were placed under the Office of Probation subject to the Judicial Conference and the two Appellate Division's supervision, pursuant to the authority granted in Rule 2.4 of the Family Court and the Joint Appellate Divisions' orders of February 26, 1964. Complete transfer of the operation, management and control of the institutions to the Office of Probation was effected on December 30, 1967 by a budget appropriation transfer by joint action of the Mayor, the Board of Estimate, and the City Council.

The problems in the juvenile detention facilities and the plethora of investigations did not cease, however.

In March 1969, Helen Godwin, special assistant to Deputy Mayor-City Administrator Timothy W. Costello, presented a report entitled "Children in Trouble—A Report on the Effort to Improve Conditions for Youth in Detention," which

emphasized the deficiencies in the city's juvenile detention facilities. In the fall of 1969, the Appellate Divisions of the 1st and 2nd Departments undertook a study of the Family Court and the Spofford Youth Center. On the basis of the report presented to the Presiding Justices, they appointed a committee on detention facilities and procedures which was originally chaired by then Family Court Judge Joseph P. Williams. This committee is still in existence and is chaired by Family Court Judge Luigi R. Marano.

On October 13, 1969 and December 2, 1969, the Joint Legislative Committee on Protection of Children and Youth and Drug Abuse held hearings in Albany and New York City and submitted a report entitled "There Are Many Ways to Die. A Report On What Happens in New York State to the Young in Trouble," subtitled, "Children in Trouble—Family Court and Detention." This Report was prepared by Ruth Brooks, consultant to the committee. On February 23, 1970, Senator Abraham Bernstein, a member of this Joint Legislative Committee, issued a separate "Report and Recommendations for Spofford House." The Brooks report found many shortcomings in the operation of Spofford and made a number of recommendations for improving conditions in the Spofford complex and other juvenile centers throughout the State. Senator Bernstein found conditions at Spofford "shocking and inhumane" and suggested improvements which included removal of the "present administration."

On December 18, 1970, the Citizens' Committee for Children of New York, Inc. issued a Report on Juvenile Detention Problems in New York City after its Task Force on Probation had studied the problems of Juvenile detention centers for a year. The Committee, a nonpartisan citizens' group, criticized conditions at all the juvenile detention centers and recommended that the City close them.

Prior to this, on July 17, 1970, the Appellate Divisions, First and Second Departments, pursuant to their supervisory authority under Rule 2.4 of the Family Court Act, ordered an inquiry to be conducted with respect to the conditions, maintenance and management of juvenile centers operated by the office of Probation. Joseph Stone, Judge of the Criminal Court of the City of New York, Robert K. Ruskin, Commissioner of Investigation of the City of New York, and Donald H. Goff, General Secretary of the Correctional Association of New York, were named as panel members.

As the inquiry of this Panel unfolded, it became increasingly apparent that the history of New York City's juvenile detention centers is a history of investigations that rarely went deeper than surface problems and allegations. At no time did they seek to analyze the underlying philosophy, administrative structure and the root problems within the juvenile detention facilities. All too often the investigations and charges were used, and there are indications that they are still being used, by individuals as a vehicle for public attention and higher public office. Once the public furor had subsided, things remained much as they had been and little effort was made to effectuate useful reform.

#### CHAPTER I—THE PHILOSOPHY OF JUVENILE DETENTION

Since the philosophy of juvenile detention is inexorably tied to the philosophy of juvenile court, we must go back to the bedrock of differential treatment for individuals below a certain age who appear before courts of law.

Under common law, an individual below the age of 7 is deemed not capable of committing a crime. He is not responsible for his acts. Above this age, depending upon the temper of the times, both England and the United States have found themselves wavering between a "child care approach," in which youth has been envisioned as a group requiring understanding and guidance, and a more legal approach in which the individual has been held criminally responsible for his behavior. Traditionally, meting out penalties to 11- or 12-year-olds as though they were adults, fully responsible for their acts, has been repugnant to the vast majority of people in the United States.

In 1899 the principle of the juvenile court was established in Denver, Colorado. It was quickly adopted by all states. The standard Juvenile Court Act spelled out the principle that the State does not intervene in the life of a child for prosecution purposes, as is the case in adult criminality. Rather, the state was to provide the child with the guidance, direction, supervision and discipline which he appeared to lack. The standard Juvenile Court Act spelled out this philosophy and set forth provisions that included not only acts, which if committed by an adult would be criminal, but also such behavior as incorrigibility, idly wandering the streets at night, truancy, and other behavior felt to be detrimental to the health, welfare and morals of a child.

In attempting to avoid defining young, impressionable children as criminals, a separate category of Juvenile Delinquent was created. Specialized courts with initial and, in most instances, exclusive jurisdiction over youngsters under a certain age (usually 16) were developed. These courts were given the authority to intervene to the extent of removing a child from his home and placing him in specialized residential training schools. Subsequently, other statutes were enacted which prohibited the placing of a youngster in any facility where adult offenders were being held. Since the assumption was that the juvenile courts had only the best interests of the child at heart, children were originally permitted to have legal counsel only as a friend of the court. The law gave great arbitrary powers to juvenile court judges, who were not strictly bound by rules of evidence or the adversary procedures of the adult courts. The behavior of the child was viewed as an indication of the need for the court to assume the role of "in loco parentis." Specialized residential facilities were developed by the State to provide the training, counsel, guidance and supervision for those children assumed to need residential placement away from their own homes.

After 50 years of experience with this concept, child welfare experts and civil libertarians began to question the practices which had developed, contending that some were not in the best interests of either the child or society. Children could be removed from their homes and lose their freedom for behavior which was not criminal for an adult.

In the case of juvenile delinquency a child could be held in an institution for a far greater time than the statutory maximum which applies to an adult committing the same act. Adjudication of juvenile delinquency could be based on the flimsiest of evidence—hearsay evidence could place a child under juvenile court supervision until he reached his majority. It was also pointed out that some aspects of this system (treating children differently from adults) worked to the advantage of the economically well-off, and to the disadvantage of the economically deprived. Those able to afford it could ask the court for permission to send their child to a private school or to give him private psychiatric treatment rather than have him placed in a state institution.

In 1962 a revision of the juvenile court law of the State of New York brought major changes. These purportedly did not effect the fundamental philosophy of dealing with antisocial behavior in children, but rather amended the practices and procedures of the courts. The first change was to divide into two categories the acts for which a child could be brought under the jurisdiction of the juvenile court. The first category was misbehavior which, if committed by an adult, would constitute a crime. If it was determined that the child had been guilty of such conduct, he was classified as a Juvenile Delinquent. The second category was misbehavior, not of a criminal nature, such as incorrigibility, truancy, or running away from home. If the charge was substantiated, the individual was classified as a Person in Need of Supervision (PINS). In the original 1962 revision Juvenile Delinquents could be detained pending adjudication, while a Person in Need of Supervision could not.

While the concept underlying the creation of the two categories of Juvenile Delinquents and Persons in Need of Supervision may have been theoretically well-founded, the ensuing problems were such that legislative modifications became necessary. As the result of such modifications, at the present time there is no realistic distinction between the handling of Juvenile Delinquents and Persons in Need of Supervision. PINS, as well as Juvenile Delinquents, can now be remanded to juvenile detention facilities pending final disposition.

A second change, made in 1962, altered the rule of a child's attorney from being "a friend of the court" to being a "law guardian" whose function was to protect the child's legal rights. It was believed that while a child was a minor in the eyes of the law, he was still a citizen with legal rights and entitled to have these rights protected in court by counsel.

United States Supreme Court decisions beginning with the Gault case in 1967 have guaranteed further legal protection for children alleged to have committed delinquent acts. But neither the statutory changes made in the State of New York in 1962 nor the decisions of the Supreme Court have changed the fundamental philosophic concept that children who come in conflict with the law should not be treated as criminals but as individuals requiring guidance, training, discipline and treatment. These court decisions and statutory changes have moved the juvenile courts closer to those handling adult offenders. The result has been to create confusion and cause additional problems in the area of juvenile detention. For instance, the controversy which ensues over whether children classified

as PINS should be placed in detention institutions over the efforts of the law guardians to get the best disposition and placement for their clients slows down the entire process and leads to the increase of the detention population.

#### PURPOSE OF DETENTION

At one time, no distinction was made between those cases where the children were the victims of the acts of another, i.e., neglected or abused children, and those where the children were the ones charged with misconduct, i.e., Juvenile Delinquents and PINS. All children were contained in one "children's shelter." This residential setting was solely for the child's own welfare and protection. For the delinquent, detention could also be used if there was a strong likelihood the child would run away and not appear at court at a subsequent date. The principle and philosophy, as well as the law, directed that the child should be returned to his home unless these conditions existed.

Along with the differentiation between neglected and abused children, on the one hand, and Juvenile Delinquent and PINS children, on the other, came new grounds for removing children from their homes. Neglected and abused children could be sent to shelters for their own protection. Juvenile Delinquents and PINS could, however, be legally removed from their homes but only to insure their appearance in court, or prevent the commission of future delinquent acts. The intent was to stop the use of detention as punishment by the courts, and to protect children against whom petitions had been filed from being arbitrarily removed from homes and parents, and being placed in secure detention facilities. The lawmakers apparently did not consider, however, what the court was to do before disposition with a child against whom a PINS petition had been filed if the parents refused to accept him or he is homeless. Consequently, in such instances, the judge has little choice but to commit the child to juvenile center, a maximum security detention facility, simply to insure that the child has a place to live.

The humanitarian motivations of the court to provide shelter for a child may be laudable. However, placing a child in juvenile detention in those cases where there is no indication that the child will fail to appear at a future date, or that the child may commit additional delinquent acts, is clearly illegal. On the other hand, there is obviously a need for a place for children to live pending final disposition. The result of the legal categorizing of the children is that the Department of Social Services (D.S.S.) of the City will not accept for housing a child who is charged with juvenile delinquency and is extremely reluctant to accept a child charged with being a PINS. While the children in simple neglect cases must continue to be separated from the hardened delinquents, nonetheless a more efficient, humane and productive system should be developed by placing emphasis upon the needs and problems of the particular child than upon the label he has been given. The present system greatly restricts the courts and, in turn, is clearly detrimental to many of the children involved.

Parenthetically, it seems ironic that at the same time that there is increasing concern over protecting the legal rights of children, what is tantamount to preventive detention is legally permissible for juveniles while it is not legally permissible for adults.

1. The Panel believes that the distinction and labeling of children as PINS and neglect for the purpose of temporary housing or detention is often arbitrary and detrimental to the best interest of the child and should be abolished. If necessary, such children should be kept in temporary housing only for their own protection and should under no circumstances be placed in a maximum security facility.

#### CHAPTER II—WHO SHOULD OPERATE JUVENILE DETENTION FACILITIES?

##### ADMINISTRATIVE MAZE

It is obvious that the government must provide facilities to house neglected children and children committing acts contrary to the laws affecting juveniles. Historically the operational responsibility for such housing has been with the Executive branch of government. In 1967, operational responsibility for juvenile detention was transferred to the Judiciary although operational responsibility for children's shelters for neglected children continued to be vested in the Department of Social Services within the Executive.

Division of responsibility, however, does not stop there. By state law, the judicial branch (the Appellate Division) designates the facilities where juve-

niles can be detained. In New York City, the Appellate Divisions of the 1st and 2d Judicial Departments have joint responsibility for the operation of these facilities. The executive branch of the State (the New York Department of Social Welfare) is the certifying and licensing agency and establishes rules that control the operation of juvenile detention facilities. Application for reimbursement of state funds for the operation of the juvenile detention facilities (now 75% of operating costs) is made by the New York City Department of Social Services (the executive branch of city government) and is approved by the State Department of Social Services. Budget requests are prepared by the two Appellate Division (State) and appropriations are made by the Mayor, Board of Estimate and City Council.

While the Mayor is not legally responsible for the operation of juvenile detention centers, it is evident that he has a continuing interest in the welfare of all children in the city. Only recently he established an Interagency Council of Child Welfare to improve services for children cared for in foster homes, or public or private shelters. Human resources Administrator Jule Sugarman, a member of the Mayor's Cabinet, was named chairman of the Council. The Mayor asked the Council to make spot inspections and to report back to him its recommendations for better ways to deal with the problems of children recommended to detention centers.

In the area of personal administration, the Administrative Board of the Judicial Conference establishes job titles and specifications for juvenile detention employees. Salaries for jobs which are similar to other city jobs are determined by collective city-wide bargaining and are the same for equivalent titles for all day departments. The only job titles unique to juvenile detention are those of the counselor series for which the Judicial Conference is the bargaining agent.

While the executive branch has the technical personnel needed for the construction and operation of institutions, the Office of Probation does not have technical staff to utilize in its operation of the detention centers. For example, the Department of Social Services has engineering and architectural services, and labor relations experts, but Probation does not have such employees. As a result, efficiency is seriously impaired in the operation of juvenile detention.

In the area of purchases, all requisitions, including those of food, must be submitted to the Department of Purchase of the City of New York (executive branch) for bidding by suppliers. A representative of the Comptroller's Office of the City of New York checks all food purchases received at the various institutions as to quantity, quality and specifications.

Actual practice points to the fact that the executive branches of City and State government exercise great influence and control over detention centers, yet the judiciary, through the Office of Probation, has the ultimate responsibility for their operation.

##### CONFLICTS OF RESPONSIBILITY

In addition to the administrative tangle involving the structure and operation of juvenile detention facilities, the Office of Probation is presently performing a number of functions, some of which conflict with others from legal, philosophic and practical viewpoints. As has been previously noted, a series of cases commencing with the Gault case provides every child charged with being a Juvenile Delinquent or a Person in Need of Supervision with all the legal rights guaranteed to adults with the possible exception of a jury trial, and the jury trial issue is now being litigated. Yet the Office of Probation presently serves as (1) screener, (2) arbitrator, (3) jailer, (4) magistrate, (5) investigator (renders pre-disposition reports) and (6) probation officer (in the traditional after-disposition framework).

The Office of Probation is in charge of the Intake Section at the Family Court in each borough. Each intake officer has broad discretion whether to resolve complaints by means of counseling and adjustment or refer the case to court. Except where the complainant insists that a petition should be drawn, the probation officer performs a quasi-judicial function. Assuming that he refers the case to court, he must now make a second decision: on the basis of all the information at his disposal he must decide to recommend to the court whether the youngster is to be bailed, paroled or remanded to a detention facility. On weekends and holidays, when judicial services are not available, children arrested by the police and brought directly to the admissions office at Spofford are interviewed by a probation officer on duty who makes yet another decision; namely

whether the child is to be paroled or held in Spofford until the next court day.

Clearly, conflicts exist when a single agency determines whether charges should be lodged against a child, whether he should be paroled or remanded, and then, if the child is remanded, becomes the child's jailer. In addition this same agency, the Department of Probation, has great influence in the final disposition of the child's case, which includes deciding whether he is to remain in the community or to be removed from his home.

#### RECOMMENDATIONS

1. It is the opinion of the Panel that the operation of juvenile detention should be removed from the jurisdiction of the courts and the Department of Probation. We believe that a single agency within the executive department of the city should be responsible for all child-care services, including juvenile detention. Any child who the court finds should be removed from his home or has no home should be committed to the care of this agency. The agency should have the freedom and responsibility to place the child in the type of residence which is best suited to his needs and is in the best interests of the community.

#### CHAPTER III—STATE DEPARTMENT OF SOCIAL SERVICES INVOLVEMENT IN DETENTION FACILITIES

In spite of the very broad mandate in regard to the care and treatment of all children in the State, the State Department of Social Services contended that it did not have specific statutory authority to promulgate rules and regulations for public detention facilities. The rules and recommendations for child-caring institutions published in 1966 by the Department applied only to private facilities. There was no real authority for applying these rules even while juvenile detention in New York City was under Youth House, Inc., because the institutions were publicly funded. Since 1962, the State has had recommended standards to be applied for the purposes of reimbursement for the operation of detention facilities. However, they were deliberately vague since the Department did not believe that there was a clearcut legislative mandate in this area. They were of the opinion that reimbursement could not be withheld from either a legal or practical standpoint.

Legislation in 1970 clearly placed the responsibility for promulgating rules and standards for detention facilities with State Social Services, and a unit is presently being established in that Department which will be responsible for ensuring the maintenance of standards for secure detention.

The newly-promulgated rules which do apply to New York City relate to maintenance and administrative procedure, and include rules for the care of children and discipline policies. In addition, they mandate that all policies and procedures of an institution shall be written and made available to the appropriate staff. One rule requires the written approval of the State Department of Social Services to hold a child in detention for more than 45 days.

The Department of Social Services realized that to exact literal compliance with all applicable rules and regulations will not be feasible in all cases. Substantial compliance will be the criterion, and the State's evaluation will be made in accordance with individual circumstances. The penalties for failure to comply can be the loss of State reimbursement of 75% of the operational cost or the closing of the facility by the courts.

There is also a 1970 State statute which requires the establishment of non-secure detention facilities as an alternative to secure detention. Through a legislative oversight, however, these requirements are not yet mandatory for New York City, although they are expected to be so shortly.

#### CHAPTER IV—DECENTRALIZATION OF SECURE DETENTION AND DEVELOPMENT OF NON-SECURE FACILITIES

##### DECENTRALIZATION OF SECURE DETENTION

It is the epitome of inefficiency to house all City children who require secure detention in one detention complex in the Southeast Bronx. This requires children to be transported great distances for court appearances and for court-ordered psychiatric evaluations. It also undermines the very heart of the modern view of juvenile treatment that whenever possible there should be continuity of fam-

ily relationships since it makes visits extremely difficult for those families which reside long distances from the detention center.

#### RECOMMENDATION

It is the view of the Panel that small detention centers in close proximity to the courts be established for those children who require secure detention.

#### NONSECURE FACILITIES

The Panel found that many children who did not require secure detention were being detained in the completely locked, prison-like maximum-security facility at Spofford. This practice is particularly shocking and offensive in the case of younger children. But since adequate facilities were not available for all children who simply needed a place to live pending a disposition by the court, there was no alternative but to remand them to the secure detention facility. In addition, it presently costs approximately \$15,000 a year to maintain a child in the juvenile centers (excluding the cost of education).

#### RECOMMENDATION

This Panel recommends the establishment of adequate non-secure facilities. The establishment of these facilities would be more in keeping with the child-care function of the Family Court, and would likely result in substantial financial savings to the City.

#### L.E.A.A. FUNDED PROJECT ON ALTERNATIVES TO SECURE DETENTION

The Office of Probation has had approved a Law Enforcement Assistance Administration (LEAA) grant request to develop a project on alternatives to secure detention for New York City. The general objective of the project is to establish a variety of non-secure facilities for temporary detention of children and programs which will enable children to remain in their own homes. This is to be effected by providing direct services to children and their families, day and evening activities, and temporary boarding homes and non-secured group living.

The justification of the project is that while the establishment of additional secure facilities would help relieve the overcrowding at Spofford Juvenile Center, this would not meet the needs of children who are detained solely because their homes are unsuitable or whose families are unable to care for them. In many instances, children who are removed from their homes do not require secure institutional detention care and may suffer damaging effects as a result of being placed in secure detention.

The project will involve pre-court intensive services, day and evening center programs, a supervised detention release program and facilities for non-secure detention.

Pre-court intensive services would expand current Intake procedure by attempting to deal more intensively with the child's problems. The project proposes to establish experimentally a special service in the Intake section in one borough to work intensively with children who are diverted from the court system.

The project proposes to establish five day-care centers, each serving a maximum of 15 children at a time. The rationale for day centers is that while awaiting court hearings on delinquency or PINS charges, certain children need not be separated from their homes if a structured daily program from 9 a.m. to 5 p.m. is available.

The evening center programs, operated from 5 p.m. to 10 p.m., would involve certain older children who can remain at home pending court disposition when they are enrolled in a structured evening program. Each center would serve 20 children at any given time and would utilize the space for the day centers.

In the supervised release program, a community worker (a paraprofessional) would make daily visits to each child's home, give assistance to the child and his family, and alert the court to the possible necessity of reconsidering the child's status on pre-dispositional parole. Each worker would be responsible for not more than 10 children at a time.

Non-secure detention facilities would be of four types. "Temporary boarding homes" would handle two to four children assigned to each of 10 to 20 private homes. "Agency boarding homes" would hold a maximum of four children at one time. Agency boarding homes are specifically designed for children who can-

not tolerate the personalized relationship expected in a family home, but who can benefit by certain of the values of family living. Small "group homes" would house six to eight children each. "Group residences", the largest non-secure units proposed, would hold 15 to 20 children each.

The project has been approved by the City's Criminal Justice Coordinating Council and the State Crime Control Planning Board. It will be financed in part (60%—about \$1.5 million) by the Law Enforcement Assistance Administration and the remainder (40%—about \$1 million) by the City, of which the State will then reimburse for 50% of the cost. The contract between the City and the State is to be signed shortly, and LEAA funds are expected to be available by March 1, 1971.

#### CHAPTER V—THE JUVENILE DETENTION COMPLEX IN NEW YORK CITY

Until the summer of 1970, four facilities comprised the juvenile detention complex for the City of New York: Spofford, Manida, Zerega and Riverview. Functionally, these were divided, with Manida and Zerega caring for girls, Riverview caring for young boys, and Spofford caring for the older boys and acting as a reception and distribution center for all individuals. Spofford was used as the management center for all of the institutions. In April 1970, the Riverview center was closed and the Riverview boys were transferred to the Spofford facility.

##### SPOFFORD

The Spofford Shelter for Delinquent Children is located on a four-acre tract in the Southeast Bronx, at 1221 Spofford Avenue, in an area containing both residential and commercial structures. The building was designed to accommodate 300 children and was completed in 1958. Physically, Spofford is a rambling, 7-wing, fireproof structure with a number of levels varying from one to eight in each wing.

Wing A has a game room on its first level and dormitories on its second, third and fourth levels. Wing B has dormitories on each of its four levels. Wing C has game rooms on its first level, a room for religious services and conference rooms on its second level, and arts and crafts rooms on its third level. Wing D has boys' and girls' locker rooms, the gymnasium and the swimming pool on its first two levels, and dormitories on its next three levels. Wing E has storage rooms on its first level, visiting and waiting rooms and offices on its second and third levels, the infirmary and dormitories on its fourth level, offices on its fifth level, dormitories on its sixth and seventh levels, and offices on its eighth level. Wing F has the boiler room on its first level, laundry and maintenance room on its second level, the cafeteria, kitchen and staff dining room on its third level, classrooms on its fourth, fifth and sixth levels, the library on its fifth level and a fan room on its seventh level. Wing G has store-rooms and a garage on its one level.

There are only two elevators for the shelter. These are both located near the center of the structure, and are used for the transportation of both people and supplies.

Outdoor play areas are located between the wings and include a softball diamond, shuffleboard, paddle tennis, basketball, handball and volleyball courts. Other outdoor areas are used as a service yard and parking lot. High walls surround the entire facility.

The Spofford facility is fraught with problems related both to architectural layout and to maintenance. The building is an extremely large complex. The distance from the north end of A Wing at the northwest corner of the structure, to the south end of G Wing, at the southeast corner of the structure, is approximately 750 feet, or about  $\frac{1}{4}$  of a mile. A staff member or maintenance man traversing this distance has the problem of unlocking and locking the many corridor and stairway doors.

The building is poorly designed for its functional purpose. Adequate space was not provided for receiving and searching children who enter the building, so that the searching is frequently done in a makeshift manner, often in the toilet facilities. There is a lack of sufficient area for visitation. Visiting is usually handled in areas where the institutional staff has a difficult task watching for the smuggling of contraband into the facility. The Admissions Office is much too small and is often crowded with children, visitors and staff. In addition, the school is divided among three separate floors. The single

central staircase, which is used for traffic to and from the schoolrooms, as well as movement to and from the Social Service Department and Recreation Units, necessarily creates traffic problems.

The maintenance staff is not sufficient to meet the needs of this large complex. Lighting is generally inadequate. The gymnasium floor is warped and loose, thus creating a hazardous condition. Windows, particularly in the dormitories, were not planned, installed or maintained properly and in the winter the north wing rooms are often cold. In addition, the fire alarm system is in a state of disrepair.

##### Manida

The Manida Shelter for Delinquent Children is located on a three-acre site in the southeast Bronx, at 75 Manida Avenue, in an area containing both residential and commercial structures. The shelter consists of three structures: a main 3-story building, a 2-story cottage, and a 1-story dwelling attached to the cottage. Outdoor play areas include a volleyball court and a baseball diamond.

The main building was constructed in 1904 as a monastery. It was renovated and made fireproof in 1954, and includes a kitchen in the basement, classrooms on the first floor and an auditorium on the second floor. The dining room in the basement, offices on the first floor and dormitories on the second and third floors were not part of the renovation and survive as remnants of the monastic era. Each of the seven dormitories holds a maximum of 14 beds, connected to a bathroom and a "day room" or small recreation room. The "gymnasium" in the basement is merely a medium-sized, dilapidated room with two large poles in the center which restrict any mobile activity. The cottage was also constructed in the early part of this century. It was renovated in 1954 to include a locker room, a clinic and an infirmary. It is a non-fireproof building and is not presently being used. The one-story dwelling attached to the cottage was constructed in 1963, and is used as a waiting room. A high wall surrounds the entire facility.

In April 1963, John J. Downey, detention consultant, Division of Juvenile Delinquency Services, Department of Health, Education and Welfare, submitted a report to the Executive Director of Youth House, Inc., in which he stated that the physical facility of Manida was unsuitable for the detention care of children, that no remodeling or repair could make it suitable, and that it should be replaced by a specially designed detention facility. Because of the dormitory sleeping arrangement, lack of space for necessary activities, and the general layout of the building, a functional detention program could not be provided. Since this report in 1963, the situation has not improved.

Physically, the Manida facility is depressing. In the corridor on the first floor and in the auditorium there is wet and falling plaster and cracks in the ceiling. Throughout the building there is evidence of present or previous plumbing leaks. There is a need for painting throughout. Dormitories are small and ill-lighted, and fail to provide sufficient space for storage of personal belongings.

In addition, there is a serious chronic condition of flooding in the basement. Whenever there is a heavy rainfall, children must wade through many inches of water in order to get into the dining area. Not only does this cause unsanitary conditions, but could easily result in a child's falling and seriously injuring herself.

The deplorable condition of Manida was exacerbated by a fire on November 14, 1970 which destroyed two dormitories. All of the children are now being housed in the remaining dormitories, which adds to the problems of the institution.

##### Zerega

The Zerega Temporary Shelter for Delinquent Children is located on a two-acre marshy tract in the central east Bronx, at 1183 Zerega Avenue, in an area containing vacant lots and commercial structures. It was constructed in 1962 as a temporary detention facility.

The shelter contains eight rectangular, one-story metal structures (quonset huts): 5 dormitories, an administrative building, a recreation building and a laundry building. A skating rink, basketball court and shuffleboard court are at one end of the lot and a service yard is at the other end of the lot.

Each of the five dormitory buildings contains a shower and a bathroom, a recreation room, also used as a classroom, and sleeping accommodations for 16 children. The recreation building contains the laundry, an unused beauty parlor and a shop.

The buildings are sinking. This becomes particularly apparent after periods of heavy rainfall. The settling of the buildings causes cracks in the hot water

pipes suspended from the ceilings, which could result in serious injury if a pipe should burst. Leaks in the roof are common, and repairs must be constantly made. Due to the fact that the buildings are constructed of metal and not properly insulated, they are hot in the summer and cold in the winter. Administrative offices are very small and crowded with people and equipment, thus forcing the superintendent of the facility and the school principal to share their offices with other staff members. In addition, there are insufficient waiting room facilities for visitors, which discourages visiting during inclement weather.

Plans are pending to condemn the Zerega facility to permit the development of an industrial park. It is contemplated that the facility will have to be abandoned.

#### REVIEW UNIT

Although the Riverview Unit for younger boys was moved from its condemned facility on Welfare Island to Spofford Juvenile Center on April 23, 1970, it has remained a basically autonomous unit under the directorship of a head juvenile counselor. It has its own classrooms and dormitory and its positions are budgeted separately from those of Spofford.

#### RECOMMENDATIONS

1. The Panel urges the expedient replacement of both the Zerega Temporary Facility and the Manida Shelter. Both of these facilities are in such deplorable condition as to constitute a serious danger and hazard to the health and safety of occupants.

2. The Panel proposes that more suitable structures be planned in keeping with the decentralization proposals elsewhere in this report.

Since the Spofford facility does not appear to be in such condition as to represent a physical danger to its occupants and thereby require immediate replacement, it can be used temporarily but only for those children who require maximum security detention.

3. In keeping with the concept of differential remand, the Panel urges the removal of the younger children from the Spofford facility as soon as possible. Until such time as separate facilities are available, care should be taken to keep the Riverview children separate from the rest of the Spofford population.

#### CHAPTER VI—THE ADMINISTRATION OF JUVENILE DETENTION IN NEW YORK CITY

There is confusion of authority and lines of responsibility between the Office of Probation and the juvenile detention centers, and within the institutions themselves. The Office of Deputy Director in Charge of Detention was created when the Office of Probation was given the responsibility for the operation of the three facilities at the beginning of 1968. The physical location of this office was maintained in the Spofford Juvenile Center until the summer of 1970, at which time it was moved to the headquarters of the Office of Probation. For approximately two and one-half years after Probation took over operations, there was a high degree of centralization of authority. This resulted from a combination of physical presence and lack of definition of staff relationships in the juvenile detention centers. The Deputy Director of Probation in Charge of Detention tended to operate as Superintendent of the Spofford Institution with a Director of Operations of the juvenile centers acting as his assistant. Institutional superintendent decisions were made by the two individuals. The "step-down" principle seems to have been continued. Many appear to be doing the jobs of their subordinates. Staff does not have a clear idea of the extent of their responsibility, precisely what their positions entail, or to whom they are to report in a particular incident. The resultant confusion is everywhere visible.

Beginning with the two top men directly responsible for the operation of the institutional complex, there has been confusion in terms of job responsibility and lines of authority. The Superintendents in the three institutions do not know to whom they are to report in a given situation, and as a result they report without uniformity to the Director, Office of Probation, and both the Deputy Director of Probation in Charge of Detention, and the Director of Operations. Indeed, the last-named two individuals were themselves uncertain as to those matters which were to be reported to them.

Confusion is evident within and between departments as to responsibility and lines of authority. There is evidence that workers report to any supervisor who may be present at a given moment. The Panel has also found uncertainty as to

which individual is responsible for the institution in the absence of the Superintendent. No department within the institution appears to have a clear idea of the functions and procedures of other departments. Tour heads do not understand or know how the medical unit handles drug withdrawal; there is no communication between the medical and psychiatric units within the institution; the school used one fire drill system, while the institution had another. This lack of communication and understanding has led to a basic mistrust within the institutions. No group or department feels that it has proper support and all feel their functions are misunderstood.

To a great extent the confusion over organization and operation is attributable to the lack of standard operating procedures. It is also caused by the failure to establish clear lines of authority within various departments. The lack of interdepartmental communication contributes to the chaos and confusion.

Where institutional administrators do not have direct line authority over all departments in the facility, as is the case with regard to education and medical services, effective institutional administration becomes almost impossible. The New York City Board of Education provides educational services to the institutions. This places the institutional person directly in charge of education under the administrative control not of the institution, but of the New York City Board of Education. The same applies to the medical services which are being provided to the facility under contract with Montefiore Hospital. Here again the doctor in charge of the infirmary is responsible directly to his superior in Montefiore Hospital, and not to the institutional superintendent. To further complicate this matter, the psychiatric unit in the facility indicated to members of the Panel that they consider themselves responsible to the Family Court rather than to the institution. This condition raises a number of administrative questions. Does the school have the right to refuse to pick up a child for class in the morning? Does Group Services have the right to refuse to accept a child returned to it in the middle of school hours by the school? Does the infirmary have the right to determine that a child on medication for drug withdrawal should be in the school? Should psychiatric referrals be made directly by the infirmary to the psychiatric unit without being screened by the Social Services Department in the facility? And, of course, what is the role and the authority of the institutional superintendent in all of the above matters?

The uncoordinated operation and organization and blurred lines of responsibility are perhaps more than any other factor responsible for the lack of a smooth and efficient operation at the juvenile center. The Panel feels that meaningful improvement will not be possible unless this situation is remedied.

#### RECOMMENDATIONS

1. A Director of Detention should have responsibility for policy, innovative programming and future planning for nonsecure as well as secure detention. He should have the responsibility for developing lines of communication and cooperation with the other agencies with which Detention must work—the Board of Education, Montefiore Hospital, and Jacobi Hospital; the other divisions of Probation, particularly Family Court Intake; drug addiction treatment programs; State Department of Social Services; etc. He should at no time become involved in the daily operation of the institutions.

2. A Director of Operations should be responsible for the overall operation of the three institutions. He should be responsible directly to the Director of Detention. All three institutional Superintendents should report directly to him. He should be responsible for the aspects of juvenile detention common to all three institutions such as developing manuals of procedure; training programs; inter-institutional staff meetings. He should be involved in the day to day running of the institutions only in emergencies.

3. There should be developed clearly stated guidelines for institutional reporting to those offices above superintendent including what events should be reported and to whom.

4. There should be regularly scheduled meetings between all institutional superintendents and the Director of Operations.

5. There should be frequently scheduled meetings involving all department heads within each institution—Group Services, Social Services, Recreational, Medical, Education, Food Service and Maintenance.

6. There should be a clearly defined line of responsibility for the operation of the institution in the absence of the superintendent.

7. A manual of operations describing general procedures to be followed by all personnel should be issued without delay.

8. There should be a Director of Group Services for each institution. Directly under this Director should be the tour heads for each shift.

9. There should be regularly scheduled meetings for all child-caring personnel at which attendance is mandatory. School and medical staff should attend.

#### CHAPTER VII--GROUP SERVICES

The Group Services Department is the hub of the Juvenile Detention Centers. Comprising the juvenile counselor line, it carries the direct responsibility for 24-hour supervision of all children.

Group Services is the largest department within each of the juvenile centers. There are, in all, budgeted positions for 5 head counselors, 11 principal counselors, 35 senior juvenile counselors, and 286 juvenile counselors. As of October 30, 1970, there were 15 vacancies for juvenile counselors and 16 vacancies for supervisory staff. In addition to those counselors assigned to the institutions, there are those assigned to a court services office whose duties are to transport the children between the institution and court and supervise children in the waiting rooms of the courts.

Employment criteria for juvenile counselors are flexible. In reality, there is no minimum education requirement and a period of loosely defined child care experience will often fill the two-year experience requirement in lieu of education. There is no formalized training procedure for new counselors. After going through a brief series of lectures basically concerned with overall orientation to the facility, a new counselor will be assigned to his permanent position, generally on a dormitory. Usually a new counselor will be teamed with an experienced one. Any training will be what experience the older counselor chooses to impart to his "trainee." However, at times a new counselor may find himself alone in a dormitory with only the minimum of orientation.

Prior to this Panel's inquiry there was no manual setting forth operating procedures for Group Services for any of the institutions in the complex. During the course of our study, such a manual was issued. The manual, together with all memoranda from the Office of Probation which concern operating procedures, is required in each dormitory.

While the majority of juvenile counselors are assigned to dormitories, there is a sizeable number manning non-dormitory positions. In Spofford, especially, juvenile counselors are on permanent assignment to the Intake Office, Operations Office, Infirmary, or with court services. Due to a policy relating to juvenile counselor and recreation worker positions initiated under Youth House, juvenile counselors are also on permanent assignment as recreation workers.

All Group Services personnel are on three shifts. The a.m. shift (7 a.m.-3 p.m.) completes the supervision of the children's showering and dressing and takes them to breakfast. At 9 a.m. the children are picked up by teachers for school. In the approximately 2½ hours that the children are in school, the dormitory counselor is required to conduct contraband searches and note in the daily log any contraband he finds before turning it over to his superior. He should also use this time for writing special incident reports. However, at times of peak population there will be more children in the dormitories at Spofford than the school will accept, and these extra children are left in the dormitories under the supervision of the counselor.

The children are returned to the dormitory after the morning school session. The counselor escorts them to the cafeteria and supervises them at lunch. He performs miscellaneous housekeeping duties from 1:00 to 2:50 during the afternoon school session. The shift changes at 3:00, immediately after the children are returned from school.

During the p.m. shift (3 p.m.-11 p.m.), the counselor has the most contact with children of any worker in the institution. Children in his dormitory are constantly under his supervision throughout the shift. He is with them through the afternoon recreation period, dinner, and the evening recreation period. He is with the children during their evening free-time and puts them to bed. In Manida, Zerega and Riverview, the children sleep in dormitories. Spofford boys are housed in individual rooms which are locked at night. Except at times of abnormally high count, boys are assigned one to a room.

During the night tour (11 p.m.-7 a.m.) the children are supposed to be asleep. The night counselors' duties are to provide general supervision, deal with any

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emergency which might arise, and wake the children at 6:30 to start them on their morning ablutions.

The counselors working in the two reception dormitories at Spofford have specialized duties. They take newly remanded children to the infirmary for medical examination. Since there is no caseworker assigned to the boys' dormitory, the a.m. counselor makes all dormitory assignments to both the Riverview unit for the younger children and the other dormitories at Spofford. All children not on court remand, such as those from outside the city, are held in the reception dormitory as are girls who require continuing medical care but who are not housed in the infirmary. Also, when both Manida and Zerega are at capacity, new female admissions are held in the Spofford reception dormitory pending availability of bed space in Manida or Zerega. There is no schooling, recreation or programming for these children.

As Group Services is the hub of the institutions, so Operations is the heart of Group Services. While structure and function are basically the same for all institutions, Spofford, being the largest, has the most activity. In Spofford, Operations is supervised by a senior counselor. Calls for help in emergencies go directly to Operations and counselors are dispatched to aid the counselor in difficulty. Children going to an outside hospital will be escorted by an Operations counselor, as will a child who has to be taken to the infirmary at times other than sick call.

Counselors in Intake who admit children are not part of Operations. After initial processing by Intake, the children are turned over to Operations who search the children, take them to the infirmary for a preliminary medical examination, and then to the Reception dormitory.

Ultimately, it is the responsibility of Operations to know at all times the assignment of all Group Services personnel and the location of all children.

There appears to be a correlation between the size of the institution and the efficiency of the Group Services Department. Zerega has a well-structured system of staff communications and meetings. It has the fewest operational problems and best defined lines of authority and responsibility. Spofford is the institution in which Group Services staff is haziest about its function and lines of reporting. Manida falls somewhere in between.

An analysis of the problems of Group Services at Spofford highlights the morass of administrative mismanagement unhappy characteristic of the juvenile centers. Almost nonexistent interdepartmental communication has led to latent and sometimes overt hostility between Group Services and every other department in the institution. There are no regularly scheduled meetings which include Group Services and other institutional departments. Counselors do not know the operating procedures and functions of the other departments with which they must work every day. As a result of a series of major and minor confrontations with school staff over such matters as picking-up of children for school and the expelling of children from school, counselor-teacher relationships seem to be the worst in the institution. Rarely do teachers and counselors meet to resolve problems of mutual concern and exchange information on specific children.

Problems of communication are also serious within the Group Services Department itself. With no standardized orientation or in-service training procedures and no thorough, universally available manuals of procedure, the habits of the senior members of the staff become self-perpetuating and permeate the institution. There are no training manuals or guides either for trainees or supervising counselors. Lack of standardized procedures, specific format for reports, and supervision results in confusion of duties and responsibility and a necessarily slipshod operation. Senior supervisory staff are uncertain about their own function and responsibilities within the institution. This uncertainty is reflected in the relationship between the senior staff and counselors.

Lack of procedures directly hampers counselors in effective working with children.

There is no formal programming available for the use of the counselor in the dormitory. There are no activities prescribed for children not taken by or returned from the school. There are no activities prescribed for those children who are not scheduled to engage in active recreation after school hours. There are no activities prescribed for girls kept in the reception dormitory. All responsibility is left with the individual counselor whose options are usually limited to quiet games or the ever-present television set.

An even more important procedural deficiency relates to discipline. With the exception of a general philosophy of non-punitive detention, there is no specific

code of conduct or system of discipline in existence at the juvenile detention institutions. There is no procedure for disciplining a youth who attacks a counselor, molests another youth, is found with drugs, etc. Often no punishment or discipline is administered at all, with the youth simply being watched more closely, sent to Operations, or placed in another dorm. In extreme cases at Spofford, an individual will be removed from his dormitory and placed in a special solitary detention room devoid of all furniture and furnishings. In addition, there are no means available to staff to reward good conduct or to discourage serious disruptive behavior.

The Panel believes that the problems discussed in this chapter are independent of the size of the institutional population. An inefficient administrative structure under normal conditions completely breaks down under the weight of increased numbers.

#### RECOMMENDATIONS

1. To give increased cohesion and direction to the Group Services Department there should be a position of Supervisor of Group Services responsible for all of the counselor activities in the institution.
2. It should be clearly specified who is responsible for the operation of the institution in the absence of the superintendent.
3. The Operations Office should function as a true communications and nerve center of the institution. The Operations Office should be under the direct supervision and control of the tour head. This office should have all information about conditions within the institution at all times. Counselors should not be routinely assigned to the intake section, but should be referred there from Operations when there are children waiting for admission.
4. There should be a Training Officer responsible for all pre-service and in-service training in the institutions. There should be a training manual covering orientation and ongoing in-service training. The manual should include specific subjects to be covered, length of time to be devoted to every aspect of training, specific lectures by administrative personnel, orientation period to be spent in every department of the institution, training during dormitory assignment, participation in case consultation, and supervisory meetings.
5. A manual of operations describing general procedures to be followed by all personnel and specific manuals of operations for each position should be issued without delay.
6. A code of conduct for children should be prepared for the institutions immediately, listing all institution rules and regulations. A copy should be given to each child upon admission.
7. A system of rewards should be devised to encourage good conduct on the part of children while in the detention facilities.
8. The practice of using special solitary confinement or isolation rooms should be discontinued immediately.
9. Every counselor shall have specific instructions as to what incidents are to be reported. These reports should be made on a standardized form which should include date, time, place and specific details of the incident.
10. Full report should be made to the court of serious assaultive acts by children against children or against administrative personnel, and other such acts which if committed by an adult would constitute a serious crime. The court should then determine whether a supplemental petition should be drawn.
11. There should be available detailed programming for all times that children are in a dormitory.
12. There should be a daily schedule for counselors outlining specific duties, meetings and reports.
13. There should be well-defined procedures for emergencies such as fires, suicide attempts and serious assaultive attempts.
14. There should be greater flexibility in the assignment of Group Services and Social Services personnel among the three institutions in order to best meet their needs and permit the most efficient use of staff.

#### CHAPTER VIII—SOCIAL SERVICES DEPARTMENT

Together with Group Services, the Social Services Departments form the heart of child care activity in juvenile detention. Each of the three institutions has its own autonomous unit headed by a supervisor of social work, responsible directly to the superintendent of the particular institution. The supervisor of Social Services for Spofford is responsible for scheduling all appointments with the institutional psychiatrists and psychologist.

There are 20 caseworker lines for the institutions—11 for Spofford, 2 for Riverview, 4 for Manida and 3 for Zerega. The starting salary is \$7500. The only academic requirement is a bachelor's degree. At the time of this report, the Social Services Departments at Zerega and Manida were at full strength, while Spofford had only three caseworkers and the Riverview Unit had none. Children at Zerega and Spofford are assigned to social workers by dormitory or cottage and at Manida they are assigned on an individual basis.

All of the Social Services Departments in the juvenile detention centers operate under a Manual for Social Service Workers prepared in 1964-65 by Mrs. Dorothy Filene, supervisor of Social Services at Zerega. A revised manual has been in the developmental stage for the past year. The specific duties of caseworkers are to interview children, prepare adjustment reports for the court after a child has been in the institution for 10 days and thereafter whenever necessary or so requested by the court, prepare reports on children committed to state training schools, and interview children regarding allegations against juvenile counselor staff. While the underlying philosophy of Social Services in these institutions is to assist the child with his problems and to aid him in making a satisfactory adjustment within the institution, in actuality the caseworkers see their role as serving the courts by providing information which will aid in the final disposition of the cases.

All caseworkers receive a two-day agency orientation. Those who have not had previous experience in child care will then spend two months working as a member of Group Services in a dormitory assignment. After this time the individual will assume regular casework duties, working under the direction of his particular supervisor. There is a six-month probationary period for caseworkers. With the extremely high turnover of Social Service personnel at the Spofford institution, caseworkers rarely finish their training period. Also, because of the extreme shortage of workers, they are often assigned immediately as caseworkers in the dormitories without the two-month period in Group Services.

Any information, other than that needed for identification and a description of charge, is forwarded by the courts to the institution only on an extremely irregular basis. The probation officers in the Family Courts prepare intake reports which contain invaluable information concerning the background and the problems of the individual child. During the course of this inquiry, the Panel's repeated efforts to have the intake reports forwarded to the institutions on a regular basis have been futile.

The forwarding of any court-ordered psychiatric reports is expressly forbidden as violating confidentiality. However, the Social Services Department in the institutions will receive a copy of the results of any psychiatric examination conducted in the institution by the institutional psychiatrists upon court direction before it is sent to the court. Practically all information on a child must be gleaned through interviewing him. Caseworkers do talk with parents, but evidently only at the parents' request, usually on a visiting day, or to check on the availability of the home situation for the probation officer.

Theoretically, all boys are supposed to be seen at least twice by a caseworker—once in the reception dormitory for assignment and again after the child has been at Spofford for two weeks. The purpose of the second interview is to prepare the adjustment report for the Office of Probation. As a result of the extreme shortage of casework personnel at Spofford, however, a boy may never see a caseworker.

The reception dormitory for boys is informally monitored by the supervisor of Social Services for Spofford, who is also responsible for all dormitories which have not been assigned a caseworker. While the caseworker is supposed to be the individual who assigns the child to his permanent dormitory, in reality the juvenile counselor makes that decision, drawing up a tentative list which is then supposedly approved by the supervisor of Social Services. A child will be seen only if there is an obvious problem or if the juvenile counselor so requests.

Children in dormitories at Spofford to which caseworkers are assigned will be interviewed after they have been in the institution for two weeks. Children in dormitories not covered by caseworkers will not see a caseworker at all unless the juvenile counselor requests such an interview or the child becomes involved in an incident which must be reported.

Girls will generally be interviewed three times: by the caseworker in the reception dormitory at Spofford for institutional assignment; shortly after arrival at Manida and Zerega; and then after two weeks for the Adjustment Report.

In Spofford all caseworkers are physically located in the dormitory which they serve. The caseworker and juvenile counselor are supposed to work together, conducting group sessions and exchanging a constant flow of information concerning their children. At Manida and Zerega, caseworkers have their offices in the administrative section of the building. There is no established procedure for the exchange of information concerning children between an individual caseworker and counselor at these institutions. Zerega does have frequent regular meetings called "rounds" for the entire Group Services Department and Social Services staff of both the a.m. and p.m. tours. Individual teachers may be invited to these meetings, depending upon the situation to be discussed. Manida conducts frequently scheduled rounds for both the a.m. and p.m. tours, to which representatives of the child-caring services are sent on a revolving basis. At no time do the two entire departments meet together. Spofford has no procedure whatsoever for meetings between Group Services and Social Services.

There are no regular case consultations at Spofford. The supervisor speaks informally with the caseworkers in the dormitories, unless there is a specific problem which the caseworker wishes to bring to his supervisor's attention. Zerega also does not have regular individual case consultations. The supervisor at Manida holds individual consultations with caseworkers once a week. All departments have regularly scheduled staff meetings. Informal meetings are held among the three supervisors of the Social Services Departments as they feel necessary.

In an attempt to establish better exchange of information within the department itself and among all departments in the institution, a series of meetings was planned during the course of this inquiry. The first meeting was held in November of 1970 and was conducted by the psychiatrist for the Social Services Department at Spofford. The casework staff was required to attend the meeting and both the Medical and Group Services Departments were invited. The plan calls for inviting the school guidance counselor and teachers familiar with the child under discussion. In addition, monthly meetings held by the head of Medical Services with the entire child-caring staff have been planned to discuss medical problems of children. A joint Social Services and Group Services training program has also been proposed.

The problems in the Social Services Departments fall into two categories: those which affect only Spofford and those which are equally true for the three institutions. The recruitment and retention of Social Services staff has been a constant long-term problem at Spofford. At one time salary paid to the social working staff in juvenile detention was comparable with salaries for equivalent positions elsewhere in the City. The present starting salary of \$7500, however, is no longer competitive with the private sector. Coupled with this problem is the fact that the casework position in juvenile detention does not provide opportunities for upward advancement unless the individual obtains an additional degree. An individual cannot transfer to the Probation Officer line without going through the position of Probation Officer Trainee or without acquiring two years experience as a caseworker. Individuals accepting the casework position at Spofford generally move to agencies with more opportunities for advancement and higher paying salaries once they have received experience in the detention institution.

A more fundamental and basically more serious problem which runs throughout all three of the institutional Social Services Departments is that of the relationship among Social Services, Group Services, the Office of Probation and the Family Court. While the function of Social Services within juvenile detention is solely an institutional one—to assist the child to adjust to the atypical situation in which he finds himself—many of the caseworkers see themselves as existing outside of the institutional framework. They identify either with probation officers, preparing pre-dispositional reports for the courts, or directly with the Family Court itself, seeing themselves as a court service. This is particularly true at Spofford where a director of Social Services controls intake to the two psychiatrists and psychologist, 60% of whose work is devoted to court-ordered psychiatric evaluations.

There are grave problems of status, communication, and authority between the Group Services and Social Services Departments. Caseworkers tend to consider themselves "professionals" and superior to juvenile counselors. This is undoubtedly due to a great extent to the different educational requirements for the two positions. Communication between the caseworker and juvenile counselor on an individual child depends solely on the personalities of the individuals

involved. Often it is totally lacking. Assignment to and transfer between institutions is vested wholly with the Social Services Department, while assignment to and transfer between dormitories lies wholly within the discretion of Group Services. There is an indication that these two departments jealously guard their own areas of authority. There is no procedure set for a group decision-making process regarding what happens to a child in detention. Spofford does not even have case conferences at which the two child-caring services are present.

The confusion over function and rule of the casework staff and the Group Services staff often leads to distrust and at times overt hostility between individual caseworkers and individual juvenile counselors, which works to the detriment of the children in the facilities.

#### RECOMMENDATIONS

1. The Panel believes that Social Services in juvenile detention should be considered only as a function of the institution rather than of the court. Its aim should be to aid in the adjustment of children within the institutional setting. While the Social Services Department should continue to provide information to the Probation Department, it should not be involved in planning programs for the child's future.
2. A caseworker should be assigned at all times to the reception dormitories for the purpose of classification and placement of the child within the institutional complex, with daily regularly scheduled meetings between the caseworker and juvenile counselor assigned to each dormitory for case conference purposes.
3. Salaries of caseworkers should be at least equal in amount and range to that of counselors.
4. There should be routinely scheduled meetings among all child-caring staff.

#### CHAPTER IX—ASSIGNMENT AND CLASSIFICATION

The heart of any successful institutional program is a classification system which will provide maximum homogeneity within a particular group. In the past, juvenile detention utilized a system of differential remand based on age, physical size, and degree of aggressiveness. Small, more passive boys, generally under the age of 12, were assigned to Riverview, while the older, larger, more aggressive boys were housed in Spofford itself. For the girls, Zerega received the younger, more passive group, while the Manida facility was used for the older, more aggressive girls. Until the spring of 1970, girls who presented serious behavioral problems were housed in a dormitory at Spofford. Within the institutions, further refinement of classification was made according to dormitory assignment.

With the closing of the Riverview facility on Welfare Island and the subsequent transfer of those boys to Spofford, the girls' dormitory at Spofford was eliminated and girls previously assigned there were housed in Manida. After this time differential remand for girls was not uniformly followed. Institutional and dormitory assignments are now made often on the basis of available bed space, using only the grossest of criteria. The moving of the Riverview unit from Welfare Island to the Spofford facility has caused a breakdown in the concept of segregating smaller, passive boys from the larger, aggressive boys who might taunt, abuse or assault them. The Panel has noted that boys of all ages and sizes are mixed in such places as the cafeteria, the gymnasium and the swimming pool.

Control of institutional placement of girls is vested completely in the Social Services Department. Original assignment is made by the caseworker in the girls' reception dormitory at Spofford following brief individual interviews with each girl. The caseworker may take into consideration any recommendations made by the court probation officer or the juvenile counselor in the dormitory, but is not obliged to do so. There is no review of such assignments. Institutional transfers between Manida and Zerega are also completely controlled by the Social Services Departments. However, assignments to dormitories within the two institutions rest completely with the Group Services Department.

Due to the fact that there is no caseworker assigned to the boys' reception dormitory, all assignments to both Riverview and Spofford dormitories are made by the juvenile counselor in the reception dormitory. Change of dormitory assignments within the institution is completely at the discretion of Group Service, which does not have to take into consideration any recommendations made by the Social Service Department. In reality, all such assignments and transfers are made unilaterally by the controlling department.

The division of assignment responsibility, as well as its unilateral nature, has caused friction between the Social Services and Group Services Departments, each one of which feels its recommendations are not given proper consideration. The failure to provide more homogeneous groupings of children has caused serious problems in both supervision and programming for the juvenile counselors in the separate dormitories.

#### RECOMMENDATIONS FOR CLASSIFICATION

1. Decisions on the institutional placement of the individual children should be made by a Classification Committee which includes representatives of Group Services, Social Services, and the Psychiatric Unit, which should review and test each new admission. Similarly, all transfers between and within institutions should be decided by this Committee.

2. There should be separate dormitories established for those boys and girls who are most disturbed and disturbing. These dormitories should be double covered at all times by specially trained counselors. Children assigned should include those with psychiatric problems, the suicide-prone, the violent and the drug addicted. For the drug addicted children, residence in the dormitory should be at least until they are no longer receiving medication and are certified by the medical unit as being able to be transferred to a regular dormitory. Assignment to these special dormitories should not be used as a disciplinary measure and should be made by the Classification Committee.

#### CHAPTER X—EDUCATION

Under the New York Education Law, Section 3205, all children from 7 to 17 years of age must be provided with full-time day education. In accordance with this law, the schools in the juvenile detention facilities have been operated by the New York City Board of Education since the inception of the original Youth House in 1944. At present there are two schools being operated within the physical facilities of juvenile detention: P.S. 188, Bronx, which includes the Riverview School, located within the Spofford facility; and P.S. 187, Bronx, located within the Manida facility with an annex at Zerega.

The institutional schools are completely autonomous. The school principals are responsible only to the New York City Board of Education administrators: Sidney Lipsyte, Director, Bureau of Education for Socially Maladjusted Children; and Murray Hart, Assistant Superintendent, Office of Special Education.

The school administrators reading tests to each boy in the reception dormitory. The resultant reading scores are to be used in determining the proper class assignment for the child within each dormitory. However, some children are not tested prior to class assignment.

For the purpose of class assignments, each dormitory at Spofford is supposed to be evenly divided into two sections on the basis of reading score. In practice, however, the division is not always equal, and reading scores may be disregarded.

School hours are from 9 a.m. to 11:45 a.m. and from 1 p.m. to 2:45 p.m., five days per week. At 9 a.m. and 1 p.m., teachers go to the dormitory and pick up the children supposedly assigned to their classes by the Pupil Accountability Office within the school. However, the individual teacher appears to have wide latitude as to the children he chooses to have in his class and the numbers of those students. In addition, within prescribed subject areas, teachers have a wide range of discretion as to the subject matter they will teach.

#### MANIDA—P.S. 187

P.S. 187, while having a similar administrative organization and relationship to the facility as P.S. 188, has certain operational differences. Reading tests are no longer administered because they were felt to be invalid. As an outgrowth of the discontinuance of testing, there is no attempt at classifying students for classroom assignment purposes. Classes are chosen at random from the dormitory.

Unlike P.S. 188 in Spofford, the Manida school routinely returns 6 to 8 children a day to the dormitories for being overly disruptive. The problem is then assumed by the institution's staff counselors and caseworkers.

The school annex at Zerega, while administratively similar to the other facilities, creates a more pleasant, educationally conducive atmosphere through its cottage-style physical arrangement. The location of classrooms in different buildings provides the girls with the opportunity of moving from one building to another for class changes.

As with all schools in the New York City public school system, most teacher-administration relations are governed by the United Federation of Teachers (UFT) contract. Class size for children such as those in the detention center is limited to 15 by contract. However, despite class maxima as described by UFT contract, the institutional schools have set an arbitrary maximum of 10 students per class. While Manida (P.S. 187) is flexible in increasing class size at times of high count, Spofford (P.S. 188) holds class size to 10, which at times of high count necessitates leaving some children in their dormitories. This practice is contrary to New York Education Law and the UFT contract which state that class size may exceed the stated maximum if the alternative is part-time education.

Effective September 1970, the official rules of the State Board of Social Welfare for secure detention facilities place a limit of 12 students per teacher in detention facilities. What action the State Department of Social Services would take if classes are permitted to rise above this number to the maximum permitted by UFT contract is not known, nor is it known whether the New York State Education Law, which states that class size may exceed the stated maximum if the alternative is part-time education, supersedes the official rules of the State Department of Social Services.

A new project emphasizing teacher training of present school staff and Fordham University "interns", curriculum development, supportive services to children and community involvement has been funded by the Law Enforcement Assistance Administration to begin February 1971. The project, directed jointly by the Board of Education and Fordham University, will seek to improve services in guidance and counseling, introduce new and varied instructional material and improve the quality of teachers and teacher support staff. Teachers presently on the staff at the juvenile detention centers have been selected for participation on the basis of seniority.

A number of problems in the Spofford Institution are attributable to the autonomous nature of the school. The teachers are not required to abide by the rules governing the institution staff, since they are responsible only to the Board of Education. The teachers or school administrators have made their own rule as to maximum class size. As a result of this practice, some children receive only part-time education. In addition, teachers often return troublesome children to their dormitories or refuse to pick them up for school. These factors have led to widespread antipathy between juvenile counselors and teachers.

Within the Spofford school itself there has been much dissension, particularly along racial lines. The black-white conflict had its origin in the New York City teachers' strike in the fall of 1968 when a majority of the white teachers went out on strike, while a majority of the black teachers did not. The racial discord among the members of the school staff, which began then, is still evident. This racial strife among the teachers makes a coordinated educational program immensely difficult. Since virtually all of the teachers in Manida and Zerega schools worked during the strike, similar problems have not developed in those two institutions.

#### RECOMMENDATIONS

1. The rules of the institution should apply to all personnel within the institution, including teachers.

2. The institutional superintendent and the school principal should hold regular meetings in order to establish lines of communication between the institution and the school.

3. The Panel believes that the present curriculum is not properly geared to the needs of children in detention and has reservations about the efficacy and advisability of having a purely academic program for children in a temporary detention setting. It therefore looks forward with interest to the curriculum which is developed as an outgrowth of the Fordham Project.

4. If the school and the institution administrators cannot reach an agreement on the implementation of the recommendations concerning the establishment of one set of institutional rules and procedures, the Panel believes the present situation to be so intolerable as to warrant the removal of educational services from the New York City Board of Education and the assumption of operational responsibility by the agency in charge of juvenile detention.

## CHAPTER XI—RECREATION

At present there are 4 recreation workers budgeted for Spofford, 3 for Zerega, and 1 each for Manida and Riverview. Only 3 of the 4 positions at Spofford are filled. The single position at Manida is "filled", but the staff member is on leave until February of 1971. In his absence, 2 per diem workers attempt to run the entire recreation program at Manida.

As a result of the deliberate policy of Youth House, recreational staff positions at all three institutions were reduced to their present number of 9. Recreation positions were removed from the budget as they became vacant. The function of the recreation worker was absorbed by specially assigned juvenile counselors. These counselors are supposed to be used in full-time recreational staff capacity. At various times, however, they are called up to cease their recreation duties and help regularly assigned juvenile counselors in the dormitories.

Manida has the most antiquated, poorly maintained recreation facilities of the three detention centers. The indoor "gymnasium" consists of a medium-sized room divided by two large pillars and with peeling, cracking, graffiti-filled walls. The outdoor playing fields, although somewhat ill-kept, could be effectively used if there were a sufficient number of motivated recreation workers or juvenile counselors.

Spofford has the best facilities, notably a swimming pool which is also used by Riverview boys and Manida girls. It also has a gymnasium with basketball courts, a billiard room, and other playrooms. The outdoor play area may be adapted for baseball, tennis, volleyball and other games.

Zerega has outdoor facilities that may be used during warm weather, but cold or inclement weather basically limits the girls to non-mobile games within the dormitory.

Recreational activities are scheduled to be held weekdays, except Wednesday, 3:30 to 5:00 p.m. and 7 to 9 p.m. (6:30 to 8:30 at Zerega); Saturday 8:30 a.m. to 12 noon, and 1 to 3 p.m.; and Sunday 7 to 8:30 p.m. Most recreational activity at the juvenile centers seems to consist of no more than watching television and playing checkers. It appears that, until recently, organized recreation was conspicuously absent from the detention facilities.

There is no afternoon weekday recreation program at Manida and during the time allotted for recreation the girls remain idle in the dormitories. At Spofford there is evidence that during October 1970 an effort was made to initiate a planned program of recreation for each dormitory unit. However, until that time a functional recreation program was certainly lacking, possibly non-existent. The recreation program at Zerega appears to be dull, repetitious and unimaginative.

When the Panel began its inquiry, the juvenile detention facilities were virtually devoid of any program of active recreation for children, particularly on weekends. This condition was brought to the attention of facility administrators at which time a more structured recreation program was established at Spofford. The amount and type of recreational programs within the detention facilities are still inadequate.

There is an extreme shortage of skilled recreation workers at the facilities. Many staff counselors resent having to supervise recreational activities without receiving extra remuneration. As a result there is only a modicum of active recreation.

There is a noticeable lack of recreation planning. Even where trained recreation workers are available, the time, place and type of recreational activity are rarely scheduled by the facility or adequately planned by the worker himself.

If constructively used, the facilities for recreation seem to be sufficient at Spofford. At Manida and Zerega, however, the physical facilities are plainly insufficient to have adequate indoor recreation.

For these reasons the children have vast amounts of idle time and no way to expend their energy. This may lead to stagnation and disruption.

## RECOMMENDATIONS IN RECREATION

1. A planned recreation program must be established at each of the facilities to occupy as much free time as possible.
2. More lines for recreation workers must be established in the budget.

## CHAPTER XII—MEDICAL AND PSYCHIATRIC SERVICES

One of the areas in which there has been great improvement since the Office of Probation became responsible for the administration of juvenile detention is the medical service being provided to the children.

Prior to July 1, 1968, when an affiliation contract between Montefiore Hospital and the Office of Probation became effective, the medical service at Spofford and its satellites was highly inadequate. There was no systematic screening procedure, no attempt at preventive medical care, and inadequate methods of providing care to those who became ill while in the institutions. Children were seen on a session basis by local physicians, and often there were as many as 100 new arrivals awaiting medical examinations.

The complex had no formal association with any hospital, although a small percentage of children were sent to Lincoln Hospital for serious disorders. The only laboratory tests administered were those ordered by the court and those which the nurses chose to perform themselves.

As the result of the death of a child in 1966, a Grand Jury investigation into the conditions at Spofford was launched by the office of the Bronx District Attorney. The investigation was supervised by then Chief Assistant Burton B. Roberts and resulted in a Grand Jury presentment filed in 1967. To effectuate improved medical services, the Grand Jury recommended that an affiliation be worked out between detention centers and nearby hospitals. As a result, the Office of Probation, with the assistance of the Department of Health, executed a contract with Montefiore Hospital and Medical Center on July 18, 1968, whereby Montefiore agreed to deliver comprehensive medical care to the children in the detention centers. On July 1, 1970, this contract was renewed for two years.

Montefiore has complete responsibility for the medical program, which includes dental but not psychiatric care. The 14-bed infirmary is located at Spofford. The medical unit is under the directorship of the Assistant Director of the Adolescent Medicine Division, Department of Pediatrics of Montefiore Hospital. Four pediatricians, one of whom is a specialist in obstetrics, gynecology and gastro-intestinal disease, and a Pediatric Surgeon, provide medical coverage. When a doctor is not on duty there is one on call. Montefiore also supplies one head nurse, seven registered nurses, and two practical nurses. There are also six civil service practical nurses (unaffiliated with Montefiore), two laboratory technicians and a night attendant.

General sick call at Spofford is from 8:30 to 10:30 a.m. and from 3:30 to 4 p.m. New female admissions are seen between 10:30 and 12:30, and males between 1:30 and 3:30. Only emergency cases will be accepted at the infirmary during the times of physical examinations of new admissions. All medication at Spofford is dispensed in the infirmary.

The juvenile counselors are assigned to the infirmary on the a.m. shift. One is responsible for the children in residence and the other for controlling any children in the waiting room. There is one counselor on each of the p.m. and night tours. The juvenile counselors assigned to the infirmary are responsible jointly to the nurse in charge and their own unit supervisor.

A doctor and registered nurse from Spofford hold sick call at Manida and Zerega once a day, five days a week. A registered pharmacist visits those institutions three times daily to dispense medication. There is no medical personnel assigned to either institution.

Every child is given a medical examination on admission to the institution. This includes the taking of a medical history and administration of such laboratory tests as urine analysis, tuberculosis and blood tests when indicated. All suspected drug users are given a urine analysis and a liver function test for hepatitis. The infirmary usually receives no previous medical history on a child and must rely on information the child gives and any clinical signs or symptoms.

Drug users going through withdrawal are classified as those whose condition merits full hospitalization (Montefiore), residence in the infirmary or residence in a dormitory, with or without medication. Thirty percent of the admissions to juvenile center have a history of drug use.

All referrals of children to the Spofford infirmary from school and from Manida and Zerega at times other than sick call are made by telephone. The duty nurse, evaluating symptoms described over a telephone by non-medical personnel—generally teachers and counselors—makes the decision as to whether it is necessary to see the child before the next scheduled sick call. A record is supposed to be kept in the individual's medical folder. The panel found that this practice was only sketchily adhered to. A case from Manida or Zerega will be brought to Spofford for treatment at the direction of the nurse. Any child who cannot be treated in the Spofford infirmary will be transported by

an Operations counselor to Montefiore where he will be admitted as a regular patient in the pediatric ward.

Since Montefiore does not accept emergency psychiatric referrals from the detention centers, the Office of Probation entered into an agreement with Jacobi Hospital to handle such cases. The agreement, however, is vague and ambiguous. For example, on occasion when children have been brought to Jacobi, the doctor on duty has refused admission on the grounds that the children were not residents of Bronx County.

When the original contract was negotiated with Montefiore Hospital, agreement was made by the City to provide an adequate and proper physical set-up for the infirmary. Reconstruction commenced in the fall of 1970, and it is expected that the new 18-bed infirmary will be ready for occupancy in March of 1971. With the installation of a dental chair, dark room and laboratory, it will be possible to provide more comprehensive dental services to the children.

Although the Panel has found what appear to be examples of error in professional judgement, it wishes to stress that it believes that the quality of medical services at Spofford is high caliber.

Despite the great improvement in medical care being provided as a result of the contract with Montefiore Hospital, the same administrative weaknesses noted in other sections of this report apply to the relationship between the infirmary and the rest of the institution. The Director of the infirmary is responsible directly to the administration of Montefiore Hospital and has only a tenuous formal relationship with the institutional Superintendent and with the Principal of P.S. 188 and P.S. 187. While we have not noted any major friction, we believe that there should be a clear definition of administrative lines of authority and responsibilities of the infirmary in relationship to the institutional administration and the schools.

#### RECOMMENDATIONS

1. We would propose regularly scheduled staff meetings involving the school principals, the medical director of the facility, and the superintendent to discuss problems affecting the various departments involved.
2. Since the medical service is directly responsible to Montefiore Hospital and not to the administration of the juvenile center, the infirmary should assume responsibility for all children in residence. These children should be under the supervision of infirmary personnel and not juvenile counselors from the Group Services Department. There should be sufficient attendants from Montefiore to care for the children.
3. Juvenile counselors in the infirmary should have the sole function of supervising children awaiting medical examination or treatment on an outpatient basis. There should be sufficient juvenile counselors assigned to the infirmary so that dormitory or Operations counselors do not have to stay with a child who is awaiting treatment.
4. While there is a 24-hour nurse coverage at Spofford, there is no nurse coverage at Manida and Zerega. Any problem that arises is evaluated first by a juvenile counselor who decides whether to call the duty nurse at Spofford. The nurse in turn decides the immediate course of treatment based on the description of symptoms given by a lay person over the telephone. The Panel believes that such procedures are inadequate and recommends that there be a nurse on duty at both Manida and Zerega during the night shift to handle any problems that may arise.
5. In any case where a child shows evidence of illness or injury, that child should be taken directly to the infirmary and diagnosis should not be made over the telephone.
6. A urine analysis should be given to every child as part of his routine medical examination.
7. Physical and psychiatric examinations, including examinations for drug usage, should be given to all prospective employees.

#### PSYCHIATRIC SERVICES

A child in the juvenile detention centers normally sees a psychiatrist in one of two ways: by court order for a diagnostic work-up to assist the court in ultimate disposition or because of an emergency. A court-ordered psychiatric examination can be given either in the detention complex by one of two psychiatrists who service the center or at a court clinic for psychiatric services administered

by the Bureau of Mental Health Services of the Family Court. There is some difference of opinion even among those most closely associated with the psychiatric services as to why some children in detention are examined by BMHS and some are examined by the juvenile detention center's psychiatrists in the detention center. In some instances a judge may order a psychiatric examination to be done specifically at BMHS or specifically at the detention center. At other times a judge may order an examination without specifying the place and the probation officer can contact and arrange an appointment either with the BMHS or the psychiatric intake section in the detention center.

Most of the youngsters seen by the court clinics are not on remand. However, some four or five detention cases are seen each week, with no preference in scheduling being given to them. Since about 50% of the children scheduled for examination in the Manhattan clinic fail to appear, an unfortunate practice has been established of bringing a surplus of youngsters down from the detention room as fill-ins in the event that scheduled appointments are not kept. This results in children very often being required to wait needlessly all day in the closed waiting room.

Two psychiatrists and a per diem psychologist make up the psychiatric unit at juvenile center. One psychiatrist works approximately 15 hours a week and the other approximately 20 hours a week. Each does psychiatric examinations and, in addition, is on call 24 hours a day for emergencies. Each sees roughly 10 to 15 children a week for court-ordered examinations. At both the court clinic and the detention center, the purpose of the examination for the courts is diagnostic to aid the court in determining how a youngster should be dealt with. No therapeutic work is done.

In addition to regular psychiatric examinations, the detention center psychiatrists deal with emergencies such as suicide attempts or highly disturbing behavior. Requests for emergency psychiatrics are routed through the chief social workers at Spofford, Manida and Zerega, with the supervisor at Spofford having ultimate authority in scheduling.

One psychiatrist holds staff conferences about once a month for the social service staff at Spofford. Juvenile counselors are invited. Discussions center around specific cases and specific problems. In addition, the two staff psychiatrists are sometimes requested to interview employees where some problem has arisen which might have psychiatric overtones.

There are several problems related to the psychiatric services in the juvenile detention centers. As in the case of problems discussed in other sections of this report, these problems divide into those of theory and function on the one hand, and those which relate to day-by-day operation, on the other.

The most serious problem relating to the psychiatric services in the detention center is what the Panel believes to be an erroneous philosophy concerning the role of the psychiatric unit. Presently the function of the psychiatric unit is one of advising the court of the results of psychiatric interviews and making recommendations as to ultimate disposition. They play on a minor emergency part in children's institutional problems and view themselves as aides to the court. Thus, the psychiatrists, in practice, are responsible to no one in the juvenile detention centers.

#### Recommendations

1. The Panel believes that the basic function of the psychiatric service in the institutions should be therapeutic rather than diagnostic, and that it should focus on helping the individual child adjust to his institutional life. Further, psychiatrists can also be used advantageously in training child-caring staff to deal constructively with the children in their charge at the center.
2. All court-ordered psychiatric services should be performed by the Bureau of Mental Health Services of the Family Court and not by the psychiatrists at the juvenile center.
3. With a change in orientation of the function of psychiatric services in detention to therapeutic rather than diagnostic, the present psychiatric service should be made an integral part of the medical unit, incorporated with the existing medical services being provided by Montefiore Hospital. To insure integration of the psychiatric staff within the detention center, all members of the staff should take part in regular child-care staff case meetings.
4. A more specific problem relating to day-by-day operation concerns emergency psychiatric treatment. The Panel strongly recommends that there be a standard operating procedure developed for emergencies involving incidents

which endanger the lives or safety of persons within the institution. This would include homicide or suicide attempts. Whenever there is such a serious incident, it should be a psychiatrist and not a lay person who decides the steps to be taken.

#### CHAPTER XIII—FOOD SERVICE

Food service at all three institutions is under the direction of a senior chief dietitian who is stationed at Spofford. This individual is responsible for menu planning and food requisitioning. There is a Food Service Supervisor directly in charge of the Spofford kitchen and a dietitian for each of the kitchens at the two satellite institutions.

The Senior Chief Dietitian has a yearly food budget with emergency supplements available. Requisitions are submitted to the food department of the New York City Department of Purchase to be let out for bid. Deliveries are made directly to each facility where they are checked by the dietitian and an inspector from the Comptroller's Office. Milk tests are routinely made.

An attempt has been made to vary the menu in accordance with the different ethnic groups in residence. Soul food and Spanish dishes are frequently included. Each dietitian at the satellite institutions can amend the central menu in accordance with their own food inventory.

The children receive three meals a day and snacks of milk and cookies in their dormitories at bed-time. There is a specially stocked refrigerator in the Spofford Intake dormitories for those children who may be brought in during the night. Meal tickets costing 30 cents for lunch and 40 cents for dinner are available for staff, many of whom eat their meals in the institution.

On the occasions when the Panel visited the centers, we found the kitchens to be clean and orderly and the food generally to be adequate and well prepared. While the portions meet basic nutritional requirements, with each child receiving a quart of milk a day, the Panel recommends that extra milk be available for those children who request it, in the same way that extra portions of bread are now available.

The fact that a large number of employees purchase meal tickets weekly and eat the same food as the children in the institution is some indication of the adequacy of the food.

#### CHAPTER XIV—DISPOSITION AND PLACEMENT

The ultimate disposition of children requiring placement is often slowed because of the cumbersome placement procedures followed and the lack of available resources. As a result, children may be held in detention for inordinate lengths of time, increasing problems in often overcrowded institutions.

To aid in the placement process, a Placement Unit was organized in the Probation Department in January 1968. This unit at the present time is servicing about 55 of the most difficult placement cases each month. The remaining children are placed by their individual probation officer.

#### PRIVATE AGENCIES

Because of charter or arbitrary policy restrictions, many private child care agencies do not accept children of certain ages, sexes, ethnic groups or legal classifications. For instance, it is extremely difficult to place children of minority groups. Other exclusions include those children with low I.Q.s, arisonists, homosexuals, drug users and children with histories of previous state mental hospitalization.

Private agencies have an absolute right of approval or rejection. Once a child has been accepted, the agency has the right to return him to the jurisdiction of the court on an application for transfer (which is rarely refused). The child may then be remanded back to a juvenile detention center to await further action by the court.

#### RECOMMENDATION

In view of the close working relationship developed between the placement unit and the voluntary placement agencies it would seem advisable that all referrals for placement should be made through this unit, thus guaranteeing utilization of its expertise. This unit should also have the right, after careful consideration, to request that the court reconsider its recommendation of placement if the child's needs cannot be met by a voluntary agency or are best met by another type of disposition such as return to the home with the intensive support of a community resource. This should reduce the length of time a child is needlessly held in detention.

#### INTAKE AND ALLOCATION

Placement of children from New York City in New York State Training Schools is handled by the Intake and Allocation Office of the New York State Department of Social Services. Located in Spofford, this Office, in the absence of a court designation of a specific institution, decides to which training school the child should be sent. These decisions are made on the basis of reports prepared by the Office of Probation and requirements of the individual training schools.

While the decision should routinely take only one day, several factors serve to slow the process. Probation reports may be delayed for periods up to 3 or 4 weeks. A judge may delay the signing of the Placement Order. The child may be undergoing medical treatment. Finally, the training schools may be at capacity and refuse to accept the child until bed space becomes available.

Children who are mentally retarded are not eligible for placement at a New York State Training School. The only public resource for the majority of these children are State Schools for the Mentally Retarded. This requires court certification pursuant to special proceedings under the New York State Mental Hygiene Law. Unfortunately, facilities for these children are limited and at times as many as 1,500 children throughout the state are awaiting admission. Only a small percentage are Juvenile Delinquents and PINS.

#### COMMUNITY SERVICES UNIT

The Community Services Unit, located in the Spofford facility, is a division of the State Department of Social Services. Its purpose is to supervise in the community youngsters who it considers are not in need of long term institutionalization. Children under commitment to but not yet placed in State Training Schools are referred to the Community Services Unit by the Intake and Allocations Office. Children accepted in this program are paroled by the State Training Schools although they are never physically received at the Schools.

The first phase of the Community Services Unit program involves a maximum of ninety days residence at the detention centers, although the child usually stays approximately six weeks. During this period the youngster is exposed to an intensive program which includes individual social work with the child and his family and group counselling. After a period of time, he will be allowed weekend visits home. During the time the child is in the residential phase of the program, he participates in the daily programs of the juvenile detention facilities. When the child is returned home, there is a follow up of intensive service for an additional three month period which includes bi-weekly visits to the Spofford facility. If it is determined that the child is failing to adjust to the program, his parole may be revoked and he may be sent to a State Training School.

#### RECOMMENDATION

The development of intensive community services in lieu of institutional placement is laudable and if possible should be expanded. The Panel questions, however, the use of a secure detention facility for the initial placement of these children and recommends instead that the Community Services Unit be relocated outside of the Juvenile Detention complex. The youngsters in this program would be better housed in a small group home where a more intensive program might be conducted. A facility of this nature could also serve the State Department of Social Services for the purpose of after-care work with children on parole.

#### CHAPTER XV—SPECIFIC PROBLEMS

During the course of the inquiry, the Panel discovered certain incidents which are either being investigated or have been reported to the proper authorities.

#### HOMOSEXUALITY

While the Panel did not find evidence that overt homosexuality is a widespread problem in juvenile detention, there have been a number of incidents of forced homosexuality among children. There was also one example of sexual assault on a child on the part of a maintenance worker who was arrested and prosecuted. The Panel did find, however, that sexual activity of a consensual nature involving children is not an uncommon occurrence in the center. Although this activity has occurred at all three institutions, the most severe problem appears to be at Manida and, to a lesser degree, at Spofford. It should be pointed

out, however, that the Panel did not find evidence that a majority of the children detained engage in homosexual activity.

It must be emphasized that the incidence of homosexual activity is directly related to conditions at the Center. The problem becomes more acute at times of overcrowding and on occasions when confirmed homosexuals are detained.

Another contributing factor is that recreational programs are woefully inadequate. At Manida in particular, with its lack of indoor recreation areas, girls are crowded into unusually small day rooms, passively to view TV, and they seek other diversions. For individuals who are going through a sex experimentation age, and who are separated from persons of the opposite sex, these diversions necessarily tend to be of a homosexual nature.

A well-planned recreational program and shortening of the time the individuals are uncertain of their future should reduce any sexual activity among children.

#### PHYSICAL ABUSE

Charges have frequently been made of acts of physical abuse on the part of institutional and educational staff against children, and children against staff. Based on an examination of records at the institution and interviews with staff and children, the Panel found evidence that on occasion children in fact have suffered physical abuse at the hands of counselors and teachers. Some staff members have advised the Panel that the principal reason for the use of physical force is the absence of any system of rewards and discipline governing the conduct of children. Thus, it has been stated, there is no motivation for good behavior and no deterrent to disruptive behavior. The Panel has also found that there have been incidents of unprovoked assaults by children against teachers and counselors. At least some assaults on staff by children have taken place after provocation by staff. At times of overcrowding the problem becomes more severe as the staff becomes more tense and threatened and the children become more restive and difficult to supervise and control.

In an effort to protect staff from attacks by children, and children from attacks by other children, the administration instituted a policy of locking the Spofford boys in their rooms at night. While the Panel understands the reason for this action, it believes that the practice of indiscriminately locking all children in their rooms, regardless of the threat they pose to other children and staff or the dangers presented by other children to them, cannot be condoned and should be discontinued.

Until such time as our recommendation for the establishment of non-secure facilities is fully implemented, we believe that proper classification will allow many children to be placed in dormitories with unlocked rooms.

#### THE DRUG PROBLEM

Among the many charges that have been aimed at juvenile center is that of drug usage within the institution. There is no question that many of the children have had experience with drugs prior to being admitted to the center. The Medical Department records show that approximately 30% of all children entering the facility either admitted to the use of drugs or showed signs of drug usage, and many of these undergo withdrawal within the institution. Since these records do not include those children who may be drug users but deny this fact when questioned and show no physical evidence upon physical examination, the actual number is undoubtedly higher.

Most of the testimony heard by the Panel indicated that while drug usage within the institution is certainly a problem, it is not of epidemic proportions. There is no question, however, that at times drugs have been brought into the institution and used by the children.

There are four main ways by which drugs can enter the institution. They can be brought in by new admissions, visitors, children returning from court, or staff members. At the present time all new admissions to the juvenile centers are searched, as are all children returning from court. The boys are stripped and their clothing is checked; the girls are made to "loosen" their clothing. After visiting hours on Wednesday and Sundays, the children undergo a more cursory "pat-down" search. There is no policy of "stripped searching" at the institutions.

Treatment for the withdrawal of children seriously addicted varies with the type of drug used and the severity of the addiction. Usually, children are kept in the general population. These children, however, can be a problem to the staff and teachers, and can be somewhat disruptive to the other children.

Since at least 30% of the children being detained in the juvenile centers have had a history of drug usage, and since narcotics have been brought into the facility, the Panel recommends the following administrative changes in order to protect children from being exposed to drugs while in detention.

#### RECOMMENDATIONS

1. The development of an isolation area inside the facility to which all children entering the institution are taken for proper searching. This area should be inaccessible to all children already in residence.
  2. Every child, both male and female, should be given a "stripped search" on every occasion when he enters the institution, including those children reporting to the Community Service Unit. At this time all clothing should be removed and the child should be provided with institutional clothing. Personal clothing which has been removed should be thoroughly searched and stored in a place not accessible to the children.
  3. Within 24 hours of arrival in the institution, all children should receive a urine analysis for the purpose of detecting possible drug usage.
  4. A thorough background investigation should be conducted of all employees before employment to determine whether there is anything in the history of the individual which should bar him from working in close contact with children.
- When the Panel's recommendation that non-secure facilities be established is carried out, the search and security procedures as enumerated above should apply only to those few children who require secure detention.

#### RACIST LITERATURE AND RELIGIOUS PROSELYTIZING

Allegations have been made to the Panel that anti-white racist literature has been available in the institution with the approval, if not the active involvement, of the administration.

The Panel found that on occasion some children in the institution, particularly a group known as the "Five percenters," had access to literature which could be considered objectionable. It was also found that the administration on occasion made such literature available to members of this group on request. The literature of this group is clearly derogatory of certain sects and races, both black and white. We recognize that in any institution of the nature of the juvenile detention center, there will be individuals of different religious and political persuasion. Although the Panel does not believe that these children should be deprived of literature which espouses their political and religious beliefs, it is the Panel's strong opinion that if such literature is responsible for physical abuse or violence directed against other individuals within the institution, it should be prohibited.

During the course of its inquiry, the Panel uncovered a condition which it considers potentially serious and which should be remedied. A member of the institutional staff has engaged in active proselytizing for his religion among the children within the institution. While the Panel believes that representatives of all recognized religions should be available to the children for consultation and religious services, it feels strongly that active proselytizing by staff has no place in an institutional setting. Not only does it cause internal dissension among staff and confusion among children, but it also violates the basic tenets of separation of church and state.

#### SUICIDE ATTEMPTS

While generally not great in numbers, suicide attempts constitute a recurring and serious problem within the institutions, most notably at Spofford. During the course of the Panel's inquiry, a wave of attempted suicides occurred. An investigation of the 24 attempts between October 21 and November 16 disclosed the following:

1. During this period, 6 individuals made at least two attempts on their lives. In all, there was a total of 24 attempts by 18 individuals.
2. Of the 18 individuals who attempted suicide from October 21 to November 26, incident reports were found only in the case files of two. Information on the remaining 16 was obtained from the Tour Supervisor's report, psychiatric interviews and from other sources.
3. Of the 18 individuals who attempted suicide during this period, 14 were reported to have had a drug history, 12 of whom were reported to have used

heroin for as long as three years, one to have used heroin and cocaine, and one to have been a heavy user of barbiturates and amphetamines.

4. Of the 6 individuals who made two suicide attempts, 2 did not see a psychiatrist until after the second attempt. A third, who made an attempt on his life on November 9, was not seen by a psychiatrist until November 12, despite the fact that he was known to be a psychiatric problem.

It is difficult to pinpoint actions taken by various staff members in the institution when attempted suicides occur, since written reports are not systematically prepared and maintained in the child's file.

Such records, if properly kept, can be an invaluable help to 1) the juvenile center in its treatment of the individuals; 2) at a later date if the individual is returned to the juvenile center; 3) the court and the probation officer preparing the predispositional investigation report; and 4) the residential treatment center or agency which eventually has the responsibility for long-term treatment.

It is also our opinion that the wave of attempted suicides appeared to be the result of "contagion" and not due to any particular change within the institution.

#### RECOMMENDATIONS

We would propose that the following recommendations be immediately implemented:

1. A standard operating procedure should be established and rigidly adhered to which specifies immediate steps to be taken by all levels of personnel in the institution when a suicide is attempted.

2. The Panel firmly believes that the seriousness of the intent of an individual who attempts suicide must be determined by a psychiatrist and not by lay staff personnel. Arrangements should be made whereby an immediate psychiatric examination be made on all attempted suicides, either by a psychiatrist in the facility or through an immediate transfer to a psychiatric unit in one of the hospitals of the City. If a satisfactory operational procedure cannot be developed between the juvenile center and a psychiatric unit in close physical proximity to the institution for emergency transfers of all attempted suicides without court order for a period of 24 hours, then an alternative of having available to the Deputy Director of Probation in charge of Institutional Services, a judge of the Family Court to sign court orders should be implemented. A third alternative, although less desirable, would be immediately to place the individual in the infirmary under medical supervision until such time as a psychiatric evaluation can be made. The child under no circumstances should be left in his room or dormitory.

3. An incident report should be prepared by the staff member who first discovers the attempt, detailing time, date, place, circumstances, and action taken. Subsequent reports should be made by each person directly involved in the case, detailing action they have taken. Copies of all reports should be filed in the individual's case record.

#### FIRE DRILLS

When the Panel began its inquiry, it was apparent that fire drills in the institution were highly infrequent, fire extinguishers did not work and the fire alarm systems were in a state of disrepair. These conditions were immediately brought to the attention of institutional authorities who have held fire drills, repaired and filled the fire extinguishers and are in the process of improving the fire alarm system.

#### RECOMMENDATION

The Panel believes that the fire emergency equipment and programs are of such importance that they should always be kept in a state of repair and readiness and that fire drills should be held on a regular basis.

#### CONCLUSION

The Panel urges that its recommendations be implemented as expeditiously as possible. It recognizes that not all of its recommendations, such as the transfer of the juvenile centers from the judicial to the executive branch and the establishment of the required number of non-secure facilities, can be put into effect at once. In the interim, however, it is essential that our recommendations for the improvement of the present internal administration and management of these juvenile centers be implemented immediately and that an impartial body of observers be appointed to make spot inspections of the juvenile centers and insure that the Panel's recommendations are being carried out.

## CHILDREN IN TROUBLE: A NATIONAL SCANDAL<sup>1</sup>

(By Howard James)

"It is interesting to note that in this nation there are lobbies for oilmen, tobacco companies, farmers, manufacturers, workers, taxpayers, teachers, bankers, arms makers, space, booze, guns, and nearly anything and everything else you can think of.

"But who speaks for the children?"

"You do!"

"Because if you won't who will?"

<sup>1</sup> David McKay edition published April 1970; Pocket Book edition published June 1971.

**END**