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Maine 

Juvenile Intake Service;
York County Pilot Project

National Center for State Courts

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August 30, 1974

Chief Judge Ralph Ross
Maine District Court
73 Hammond Street
Bangor, Maine

Dear Judge Ross:

We are pleased to transmit to you a copy of the pilot project proposal for a Juvenile Intake Program in the state of Maine.

It has been a pleasure for us to assist you in this important effort and we shall be pleased to provide you any further assistance in establishing the pilot program.

Very truly yours,



Samuel Domenic Conti
Regional Director

SDC/clc

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Foreword

The National Center for State Courts wishes to express its thanks to the judges, clerks, police officers, probation officers, and others in the state who contributed toward the completion of this project. Special thanks are extended to Janice Lynch, Esq., Lewiston, Sgt. Joseph Friedman, Bangor Youth Aid Bureau, and James E. O'Neil, Esq., U. S. Department of Justice, for their help during the course of our study.

We are indebted also to the several consultants who aided in the project, especially David Berkman and Harvey Goldstein of the Administrative Office of the Courts of New Jersey, upon whose work we relied extensively. In addition, material was reviewed from the states of Colorado, Massachusetts, Rhode Island, Utah, and Florida.

A. The Maine Juvenile Court

The Maine District Court has exclusive original jurisdiction over juveniles and juvenile offenses except for some traffic cases. When considering juvenile matters, the District Court is designated the Juvenile Court (15 RSA 2551).

Juvenile offenses include all offenses when committed by juveniles (persons under 18. See 15 RSA 2502;) as well as conduct proscribed explicitly for juveniles, while not unlawful for adults,¹ including the following (15 RSA 2552):

habitual truancy

behaving in an incorrigible or indecent and lascivious manner

knowing and willfully associating with vicious, criminal or grossly immoral people

repeatedly deserting one's home without just cause

or, living in circumstances that manifest danger of falling into habits of vice or immorality.

¹These offenses are generally designated "delinquency behavior," as contrasted with "status offenses." Delinquency behavior is behavior which would be criminal if committed by an adult, whereas the status offense is behavior which is only improper because it is committed by a juvenile. The terminology used by the Maine Youth Services Coordination Agency, "criminal offenses" versus "substantive offenses," does not define this distinction with sufficient clarity.

Any person having reasonable cause to believe that a juvenile has committed offenses within jurisdiction of the juvenile court may apply to file a petition with the juvenile court having territorial jurisdiction over the act or offenses. 15 RSA 2601 provides that, upon such application, the court shall make a preliminary inquiry, examining the applicant and any witnesses, "to determine whether the interests of the public or of the juvenile complained against require that further action be taken." This inquiry may include a more extensive court-ordered investigation. After the inquiry, "if it appears that further action should be taken, the juvenile court may authorize a petition to be filed."

The juvenile court's discretion to investigate the case and determine whether the judicial process should go forward with respect to the particular alleged offense is the essence of the juvenile intake system.

Upon the court's authorization, a petition may be filed. 15 RSA 2601. Any petition may be amended by the juvenile court at any stage of the proceedings as may be appropriate so that juveniles "be treated not as criminals, but as young persons in need of aid, encouragement and guidance." 15 RSA 2602 (incorporating by reference 15 RSA 2501).

When a petition is filed, the court shall issue a citation directing appearance of the juvenile and other appropriate persons. 15 RSA 2603. Hearings before the court are informal. "The court may adjourn hearings from time to time and may, at any stage of the proceedings, order any suitable person to make such investigation as the court deems appropriate." However, "a petition may be dismissed and the juvenile discharged without a hearing when the court deems it appropriate to do so." 15 RSA 2610.

The juvenile court has broad discretion as to case disposition but cannot sentence to jail or prison subject to transfer on petition. Moreover, juvenile court may not commit a juvenile to the Men's Correctional Center, the Women's Correctional Center, the Boys' Training School or the Stevens School if the juvenile offense was a status offense rather than a delinquent act. 15 RSA 2611. In addition to its power to dismiss the case at any stage, the court may continue the case for up to one year while placing the juvenile on probation. Should the court find a juvenile culpable, eight options exist:

- a. commit to the Men's Correctional Center or the Women's Correctional Center if the juvenile is of proper age;
- b. commit to the Boys' Training Center or the Stevens School if the juvenile is of the proper age;
- c. commit to the custody of the Department of Health and Welfare;

- d. commit to the custody and control of the State Parole Board;
- e. commit to the care of the family subject to supervision by the State Probation and Parole Board;
- f. suspend the imposition of sentence, or continue the case for sentence, or impose sentence and suspend execution, in each case placing the juvenile on probation;
- g. dismiss the action or refer the juvenile to the Department of Mental Health and Corrections, if it is determined that the juvenile is mentally retarded or mentally ill;
- h. make other disposition of the case, including requiring payment of a fine within limits fixed by statute or a fine for an offense considered a criminal offense, as may be in the best interests of both the juvenile and the community. 15 RSA 2611.

This broad discretionary power, especially the preliminary inquiry powers conferred by 15 RSA 2601, provide a sound base for an active juvenile intake program. However, the statutes providing for arrest of a juvenile, 15 RSA 2607 and 15 RSA 2608, severely restrict the court's power, and potentially infringe upon the rights of arrested juveniles. 15 RSA 2608 provides that an arresting officer may deliver the juvenile to a place of detention "until the juvenile is brought before a juvenile court." More-

over, "said juvenile shall be received and held at such place of detention, with or without process" (emphasis added). There is no provision for immediate appearance of an arrested juvenile before the court for bail or other release. Moreover, our interviews indicate that, in practice, a juvenile may remain in detention up to a week before being brought before the court. By contrast, the Maine statutes provide that a warrant shall be issued for arrest of an adult offender, and that civil remedies may be had against an arresting officer if he "detains a person without a warrant longer than is necessary to procure it." 15 RSA 704. A less strict protection of juvenile rights may be a statutory defect of constitutional dimensions. In any event, " 15 RSA 2608 seriously restricts the authority of the court to include arrested juveniles in an intake program prior to the formal court appearance for bail or charging purposes.

15 RSA 2607 provides that, upon arrest, the arresting officer shall notify the juvenile's parents or guardian and the State Probation and Parole Board "as soon as reasonably possible under all the circumstances." One probation officer estimated that notice to the State Probation and Parole Board **actually** occurs less than half the time. In any event, an effective intake program should also include immediate notice to the court so appropriate means can be taken as early as possible to minimize unnecessary detention of the juvenile.

Present juvenile practices.

Currently, probation officers appear too overworked to undertake extensive or intensive intake responsibilities. Partly to fill the void, the Bangor Police Department and Portland Police Department have established Youth Aid Bureaus, based upon funding from the Maine Law Enforcement Planning and Assistance Agency. The Bangor Police Youth Aid Bureau screened 602 juveniles in its first ten months of operation in 1973. Services included investigation of alleged juvenile offenses and counselling by police officers. Until the Chief Judge of the Maine District Court requested the National Center for State Courts to prepare a pilot juvenile intake program in York County, the state had no such court program.

B. The Philosophy of Intake

A Juvenile Intake System is a service provided by courts to expand the range of alternatives available for disposition of juvenile cases. At the same time, juvenile intake provides more suitable disposition for the juvenile offender. Moreover, the experience of other jurisdictions shows that, after an initial investment, juvenile intake systems can also save money for the state justice system, allowing allocation of valuable resources to other priorities.²

Juvenile intake is essentially a court-directed process of screening and identifying juvenile cases while directing juvenile offenders into the proper treatment program. In Maine, this screening function is expressly mandated by law, 15 RSA 2601, which provides that, upon application by a complainant, "the Juvenile Court shall make a preliminary inquiry, examining the applicant and witnesses, if any, to determine whether the interests of the public or of the juvenile complained against require that further action be taken. At this juncture, or at any subsequent stage of the proceedings, the court may order an investigation..."

² For example, see the ABA Commission on Correctional Facilities and Services, Correction Economics Center, *Cost Benefit Analysis: Three Applications to Corrections*, "Drade County Pre-Trial Intervention Cost Benefit Analysis," p. 17-23 (May 1974).

A major function of the intake program will be to bring the Maine Juvenile process into compliance with that provision of the law. As envisaged by the law, the proper screening of juvenile cases will prevent unnecessary or inaccurate complaints from entering the courts. Moreover, by establishing uniform procedures and forms, the Intake Service may be expected to upgrade the quality of petitions which go to court. The Intake Service, while carrying out its screening and referral functions, should also provide information to complainants, including notification of the petitioner's opportunity to bring the screening decision before a judge. This will assure petitioners that their interests, as well as those of the alleged offender, are being served by the program.

In line with 15 RSA 2601, the Intake Service will need to investigate in order to obtain the information necessary for a sound decision as to how cases should be handled. Investigation is also necessary for preparation of court pre-sentence reports in those cases referred for formal adjudication.

Another major function of the Intake Program will be to insure judicial control over detention decisions. Not only is unnecessary juvenile detention expensive for the state, but it also has been shown to produce adverse effects

on juveniles.³ The Intake System is intended to facilitate more appropriate pre-trial care of children, including release or referral to a shelter-care facility. When necessary, the intake officer can supervise and counsel those juveniles released prior to trial.

A major benefit of the Intake Service will be improved coordination and relations among police, community groups, social service agencies, and the court. The Intake System will provide a focus for formal as well as community-based juvenile assistance programs, including juvenile assistance conferences and private shelter-care facilities. The intake officer will refer juveniles to the appropriate private or state programs and follow up to determine the effects on the juvenile. In appropriate cases, the intake service itself might provide pre-judicial counseling of juveniles prior to possible dismissal of the case. 15 RSA 2601.

In some states, the intake service function has been placed in the executive branch with probation and parole services. However, the placing of juvenile intake under court auspices is strongly preferable for several reasons: as a co-equal branch of government, the judiciary has power to organize itself, promulgate court rules, and administer

³See the National Advisory Commission on Criminal Justice Standards and Goals, *Corrections*, p. 257-259.

the case flow and work flow incident to its role and function. The juvenile intake system allows the court to control its case flow and work flow. Moreover, because of the potential adverse effects on juveniles of unnecessary court intervention, the court must exercise special care in screening juveniles in the intake process.

Maine lawmakers clearly felt the court would be especially qualified to oversee disposition of a juvenile case, especially as compared with the prosecutor or police with their view limited to law enforcement. The need for the juvenile court to conduct preliminary investigations of its widely based referrals was recognized by Maine lawmakers in 1959, in promulgating 15 RSA 2601, which mandates an investigation of all applications for petitions, to determine whether the interests of the public or of the juvenile require further action. Appropriately, the court is to determine those matters requiring court intervention. While in the adult system, grand juries and prosecutors serve as the independent preliminary monitors of police referrals, the Maine lawmakers preferred a different approach for juveniles.

Moreover, in any criminal or juvenile court, following proof of or admission to an offense, the sentencing or disposition of an offender is a judicial function best performed in reliance on a pre-sentence or pre-dispositional

investigation, which provides a judge with a summary of the facts of the offense, prior offenses, employment, family, education, and related social and psychological information.

Although it is inappropriate for the judge to conduct the investigation, he should utilize the report of these investigations, supplemented by inquiry from the bench, to determine what measures are necessary to enhance the best interests of offender and community. It is most appropriate for those persons performing the investigations to be employed by and responsive to the judiciary, to perform their functions under judicial guidelines and monitoring, and to obtain information most needed by the judiciary for the effective performance of judicial responsibilities. Thus, while Standard 10.1 of the National Advisory Commission on Criminal Justice Standards and Goals, Corrections, places post-dispositional probation services in the executive branch of state government, Standard 9.4 urges all court systems "to establish centrally coordinated and directed intake services," while Standard 8.2 urges that each juvenile court jurisdiction "establish within the court organized intake services." In fact, a majority of states have also implemented the belief that the probation officer who provides investigation, supervision and assistance to offenders ordered on to probation status by a judge most properly

belongs within the judicial branch of government. Nevertheless, such a recommendation for Maine would go beyond the scope of this project.

In fact, it is important to point out that the qualifications of officials of the Maine Juvenile Intake Service will differ from those of officials of the Maine Probation Department. While Maine probation officers are not now required to have college educations, juvenile intake officials should be required to have degrees. Regardless of whether higher standards are necessary for dealing with adult offenders convicted in criminal cases, it is important to note the need for high standards for intake personnel serving the courts in the cases of juveniles who have not yet been found guilty of any offense. Once again, this conforms to the statutory intention of Maine legislators in prescribing special offenses for juveniles which would not be criminal were they committed by adults. The purpose of the statutory provisions providing for juvenile offenders "is to provide that in proceedings pertaining to juveniles... the care, custody and discipline of said juveniles shall approximate as nearly as possible that which they should receive from their parents or custodians; that as far as practicable, they shall be treated, not as criminals, but as young persons in need of aid, encouragement and guidance."⁴

⁴15 RSA 2501

As a result of this difference in purpose, personnel of juvenile intake services may differ from the current staff of the Maine Probation System.

C. Intake Service Guidelines

1. Custody

The initial decision by an arresting or investigating officer to detain a juvenile is clearly an important stage in the juvenile justice system. Effective supervision of this broad discretionary power is necessary and should be shared with the court. Detention other than for purposes of preventing imminent harm or flight, or while awaiting court permission for more extended detention will be prohibited. Policies and standards relating to pre-deposition custodial status of juveniles shall be set by rule of the court; further policies may be promulgated and implemented by personnel appointed by the court.

- a. When a police officer or other duly empowered law enforcement officer apprehends a juvenile suspected of delinquent behavior or a juvenile status offense, that officer retains immediate discretion as to the need for custody following apprehension. If the officer, reasonably exercising discretion, determines that custodial care, whether in detention or shelter facilities, is not needed, the juvenile is immediately released. If he determines that an offense, either delinquent or juvenile status, has

been committed and that the juvenile is the likely defendant, the jurisdiction of the juvenile court and its designated agents arises immediately.

If the decision to take the juvenile into custody is made, the police officer must notify the juvenile and his parents (or other adult responsible for the juvenile) that the matter will be referred immediately to the Juvenile Intake Service.

At this point, intake personnel will be available to aid the officer in drafting a proper petition.

- b. A police officer who, having determined that detention or shelter care may be necessary, must, during court hours, bring the juvenile to the court and request temporary shelter care if the matter involves a status offense. If the alleged offense involves delinquent behavior, a request for temporary detention must be submitted. When the Juvenile Intake Service has been notified, the request forms may be filed with the intake officer or, in his absence, directly with the court.
- c. During those hours in which the court is not in session (0 a.m. to 0 p.m.; weekends and legal holidays), the police officer must contact the

juvenile intake officer or supervisor by telephone. Several procedural alternatives are available:

1. The intake officer will be prepared to determine with the officer whether delinquent behavior or a status offense is alleged (guidelines for this determination shall be approved by the court).
2. Regardless of which type of case is determined, the intake officer, under supervision, will decide whether temporary custody is appropriate. If, under promulgated guidelines, custody is authorized, the intake officer will complete a detention authorization or a shelter authorization. If the decision to place the juvenile into custody is made, the intake officer must immediately notify the parents or a legally responsible adult of the decision, the place of custody and the subsequent procedural steps. The intake officer will also provide the police officer with a copy of the appropriate custody authorization in order that the officer may convey and commit the juvenile to the designated location.

- d. If the intake officer determines that custody is not appropriate, an authorization must be filed for release.

In all cases where the intake officer has determined that the juvenile be detained or sheltered, that decision shall be subject to review by the court at a hearing on the next day the Maine courts are open, but in any event, no longer than 48 hours, even if this necessitates a special hearing.

Prior to the hearing, the juvenile intake officer will prepare for submission to the court a custodial status history. This report shall summarize pertinent available facts concerning the juvenile's social history, basis for preliminary custodial determination, and a brief statement of the facts of the alleged offense (or a copy of the police report).

- e. At the judicial hearing as to custody, the court may decide among: (1) release from custody, (2) continued custody, (3) transfer from detention to shelter custody or vice-versa. The court may, of course, take such additional judicial steps as may be necessary concerning the sufficiency of the petition, setting of bail or interim treatment.

The court shall note its disposition as to the custodial alternative on the custodial status history. This form shall then be referred to the intake officer for case review.

- f. The preliminary custodial status steps outlined here shall not abrogate the right of the juvenile to be admitted to bail.

At the time of the initial determination by the intake officer of custodial status, the juvenile and his parents or guardian shall be advised of a bail amount. This amount may be set by the intake officer with the approval of the court.

If a police officer commits a juvenile to a custodial institution pursuant to 15 RSA 2608, the police officer should, in addition to notifying the parents, guardian and probation authorities (pursuant to 15 RSA 2607), notify the juvenile intake officer.

C. Intake Service Guidelines

2. Intake Case Review

The essence of the statutorily prescribed intake process is review of cases prior to authorizing a petition to be filed. The "preliminary inquiry" prescribed by 15 RSA 2601 should consider all available information, including the acts complained about, the juvenile's previous record, attitude, school, report, and examination of the applicant and witnesses.

The intake case review should include:

(1) The intake officer shall review all applications for petition with the police officer or complainant.

(2) The intake officer shall review intake, police, probation, and juvenile court files to learn whether the juvenile has previously been involved with authorities.

(3) Intake personnel shall attempt to assess the willingness of the parents, the juvenile, and the complainant to cooperate with the juvenile assistance conference or with intake personnel conducting a pre-judicial conference.

After examining all of the available information, the intake officer shall recommend the best ways to proceed with the case.

At the time of the intake case review, one of the following decisions shall be made:

- (1) refer to the appropriate Juvenile Assistance Conference;

- (2) maintain the case for pre-judicial conference;
- (3) place the case on the court calendar; or,
- (4) transfer the case out of the county.

This recommendation should be based on the following guidelines:

(1) If this is a first offense, and the complaint is a minor one (for example, a minor trespass, violation of the curfew laws, a minor assault) the case shall be referred to the appropriate juvenile assistance conference.

(2) Cases should be referred to the pre-judicial conference if the offenses are prescribed in 15 RSA 2552 as those which would not be criminal if committed by an adult (see Section A, above). This includes an application for petition by parents or school personnel. The pre-judicial conference may also handle less serious offenses which would be criminal if committed by an adult, provides that the applicant for petition, the victim, the parents, and the juvenile cooperate.

(3) Complaints of a serious nature, consolidated complaints or those involved in prior court history must be referred to the juvenile court. Also, in cases where the parent, applicant for petition, or juvenile do not cooperate with either the juvenile assistance conference or with intake personnel during the pre-judicial conference, the case should be forwarded to the juvenile court.

(4) Before making an out-of-county transfer, the intake service shall first contact the juvenile court clerk, intake service, police and probation department of the county residence of the juvenile and a joint recommendation shall be made to the juvenile court judge as to the desirability of transfer. This recommendation shall be incorporated in the intake decision processing form.

The recommendation of the intake officer shall be reviewed by the Intake Service Director, who shall decide and notify the presiding juvenile court judge of his decision by means of the Intake Decision Processing Report. The actual processing may be altered at the discretion of the presiding juvenile court judge, who shall indicate the reasons for the change on the Intake Decision Processing Form.

C. Intake Service Guidelines

3. Reference to Juvenile Assistance Conference

Courts, and particularly juvenile courts, have become increasingly aware of potential community resources in providing assistance in the disposition of cases before the court. To the end that these community resources may be effectively used by the juvenile courts, the Juvenile Assistance Conference will, with the court's approval, provide the Intake Service with a forum where juvenile matters can be adjusted outside the usual court adjudicatory process.

If, following intake case review, officials of the Juvenile Intake Service determine that the complaint is minor, a decision to divert the matter to the Juvenile Assistance Conference may be made. The Intake Service worker shall direct copies of the complaint (whether by police or private citizen) to the Juvenile Assistance Conference. This complaint must be accompanied by a formal referral which will initiate the convening of the conference. Within a reasonable period of time after the receipt of the matter the conference members shall convene in an informal hearing to meet with the juvenile and his parents or guardian. The hearing shall be a non-compulsory process and may not require the appearance of police, complainants, or witnesses.

The decision reached at the hearing must be transmitted to the Court and to the Intake Service. Among the several alternatives which might be available to conference members are: (1) dismissal, (2) reference to counseling, (3) continuance with counseling and supervision requirements, and (4) referral to court.

Juvenile Assistance Conference

Any of the judges of the district court in his discretion, may appoint volunteers, individual or groups, to help to hear, supervise and counsel juveniles charged with specified categories of offense. The volunteers, each of whom shall be sworn to a confidential relationship by the court on matters before them, shall serve two-year terms to which they may be reappointed, but all volunteers shall serve at the pleasure of the court.

Volunteers shall convene in conferences between three and five members to review and decide matters referred to them by the court or its designee. The conferences shall be representative, insofar as possible, of the community in which they serve.

In the resolution of matters before it, a conference shall try to assure conformity of the juvenile to specific limits of behavior to avoid future misconduct. In these efforts the conference may require the juvenile to participate in supervision and counseling programs. The conference

shall follow up and report to the court on the progress of individual cases referred to it.

The juvenile shall not be compelled to appear before the conference: all referrals and recommendations shall be voluntarily accepted. Should the juvenile or the parents or guardians not be satisfied with proceeding before the conference, the matter shall be referred to the court.

All matters before the conference shall be fully confidential but conference members may, with the consent of the entire conference and the court, publicize the work of the conference without reference to names of affected juveniles.

C. Intake Service Guidelines

4. Pre-Judicial Conference

Should it be determined that a case be referred to pre-judicial conference, materials should be gathered in a social investigation and made available in an informal conference attended by the intake service officer, the juvenile, the parent or guardian, and the complainant and witnesses. The adjustment alternatives available at the conclusion of the conference would include:

(a) reference to diagnostic service agency or counselor;

(b) reference for medical treatment or professional counseling;

(c) reference to and supervision by a volunteer counselor;

(d) supervision and counseling by intake service personnel;

(e) dismissal with or without conditions; and

(f) reference to the court for formal disposition.

The court shall be advised of the disposition alternative selected by the intake service worker. If, upon review of the case material, the court determines that another alternative is more suitable, the intake service determination shall be vacated and the matter brought before the court.

C. Intake Service Guidelines

5. Court

When prior alternatives have been rejected, vacated, or superseded, the intake service worker pursuant to 15 RSA 2601, shall draft the petition in proper form and with proper statutory citations. Thereafter, in cooperation with the clerk of court, the intake service shall notify the complainant (police or private citizen) witnesses and co-offenders of the scheduled court hearing date. The juvenile and his parents shall be advised that assistance of counsel is advisable before the court. If investigation discloses that the family is indigent or if a request for assignment of counsel is made, the intake service worker shall assist in the preparation of necessary forms for court use in assigning or appointing counsel.

At the court hearing, the intake service worker and all materials gathered by him during the course of his investigation shall be available to the court. Investigative material inappropriate for submission to the court prior to adjudication may be included in a pre-disposition investigation submitted by the intake service to the court.

D. Proposed Pilot Program for York County⁵

1. Structure

The Juvenile Intake System for York County should be organized with three staff members and a secretary. The intake service could be located in any one of the three district courthouses in York County, depending upon the quality of the facilities and the accessibility of the courthouse to the county generally. The three major functional divisions in the office would be:

- (a) Intake - The intake function would include detention screening, assistance in wording petitions relations with the police and the court, pre-judicial conferences, supervision of released juveniles, recordkeeping of intake decisions, and provision of formal notice to the court of the outcome of each case passing through the intake system.

⁵Although the Chief Judge of the District Court has indicated York County will be the first pilot program, it may be that another intake program could begin simultaneously in another part of the state. One possible location for the second program would be the Augusta-Waterville area. This area may be desirable because of projected development of mental health services there which could be coordinated with the juvenile intake program. See the MLEPA grant application of Dr. Charles Robinson, Department of Mental Health and Corrections.

- (b) Investigation - This function would include preliminary investigation for detention decisions (including social history, details of the offense, etc.), pre-disposition investigations, record-keeping, appearances in court, and provision to the judge of investigation information.
- (c) Community coordination - This function includes establishing relations with organizations providing relevant social services to the county, referral of particular juveniles to the proper service, monitoring of those juveniles referred, identification of needs for new programs, assisting juveniles as a community advocate (e.g., providing assistance with jobs, re-entry to school) and coordination of the juvenile assistance conferences (including volunteers and others).

Judging from the experience of another jurisdiction, once this four-person office (three staff members and a secretary) was operating, it could effectively serve up to 600 juveniles annually. In the beginning, however, the many tasks of establishing the office can be expected to consume considerable time. Foremost among these tasks will be the creation of working relationships with the court, the police, juvenile service groups, corrections officials, and the community. This must be followed by development

of guidelines, manuals and standards governing the many facets of the intake process.

In the year from July 1972 to June 1973, 360 juveniles were referred to court in York County. Considering the burdens of initially establishing the office, a four-person team appears to be the proper size to begin the York County pilot project. Caseload may rise as cases from other counties are diverted to York County to take advantage of the intake services there. Once the office is well established, it will be possible to use York County intake personnel to start up other offices in the state.

2. Relations with the Court

The intake service will be fully responsible to the court, and solely to the court. Because the Chief Judge of the District Court will have full final responsibility for administering the intake service pilot project, he must have considerable influence in shaping the directions of its development. The support of the Chief Judge will be essential for the success of the program in developing effective relationships with the system and in familiarizing other judges of the district court with the functions and benefits of the intake program. Although the Chief Judge

might eventually delegate day-to-day management of the intake service to a sitting juvenile judge in York County who would be available for detention decisions, the Chief Judge should retain final authority.

3. Relations with the Police

The police in Maine have major discretionary authority for informal resolution of juvenile cases before they reach the courts.⁶ The intake officer will be available to provide a number of services to the police including guidance for resolution of uncertain juvenile cases and technical assistance in the drafting of proper petitions. It is anticipated, judging from experience in New Jersey, that telephone communications from the police to the intake office with respect to detention decisions about apprehended juveniles may save considerable police manpower and travel time. It is important that the police and intake service develop a working relationship especially with regard to pre-trial juvenile detention. The present statutory provision, 15 RSA 2608, is of dubious constitutionality, both

⁶See the National Advisory Commission on Criminal Justice Standards and Goals, *Corrections*, Chapter 8, "Juvenile Intake and Detention," pp. 249-250.

as written and as now carried out. Proper process is an essential and constitutionally mandated part of any detention decision.⁷ As is pointed out by the National Advisory Commission on Criminal Justice Standards and Goals, "Since the ultimate responsibility for detention of children rests with the court, it will need to assume full responsibility over juvenile detention and admission control on a 24-hour basis."⁸ Before a juvenile can be detained, the police will notify the intake service prior to placing the juvenile into detention for any reason. Moreover, as is recommended in the statutory discussion below, it should be mandatory that the court approve a detention decision before the detention facility may actually accept the juvenile from the police officer. In many cases, the police officer will bring the juvenile directly to the intake service or to a shelter-care facility designated by the intake officer, rather than to a detention facility.

⁷ By contrast, 15 RSA 2608 provides that police, at police discretion, may deliver juveniles to be held in detention "with or without process."

⁸ *Corrections*, Chapter 8, p. 250.

Should the police officer and intake officer disagree as to the detention decision, a juvenile court judge will be available, by telephone if necessary, promptly to decide the issue. Judging from the experience of other jurisdictions, the establishment of smooth working relationships between the intake service and police will result in considerable manpower savings to the police as well as establishment of essential control by the court over juveniles at an early stage of entry into the justice system.

4. Relations with Corrections

Currently in Maine, detention facilities receive juveniles without court authorization. Moreover, notice to the state Probation and Parole Board required by 15 RSA 2607 is provided only sporadically. As noted above, the detention facility should not be permitted to admit any juvenile except upon authorization of the court. Although the statutes now do not require detention notice to the court when a juvenile is received, the need for court authorization will automatically cure this defect, since it will be possible for the intake service to maintain its own records on all detained individuals. As a result of effective coordination between intake service and corrections, considerable savings can be expected in terms of reduction in detention caseload and resource requirements. The National

Advisory Commission points out, "While empirical studies on this topic are few, there are indications that appropriate pre-detention screening available on a 24-hour basis could effectively reduce use of detention by at least 25%." ⁹

5. Relations with Juvenile Service Groups

An important function to be performed by the intake service is evaluation of all relevant private and governmental services within the county and, eventually, the state. Juvenile case decisions are now made without complete knowledge of alternatives available. Moreover, the court currently has insufficient follow-up capability to insure the continuing quality of juvenile services. The act of monitoring by the intake service, followed by evaluation and planning, can lead to proposals for new private and public services to fill gaps between existing organizations. In our interviews, we have been told that juveniles are shunted from one facility to another in search of the proper services. No one was sure whether the desired service was available for the juvenile, or where it might be available.

⁹*Corrections*, Chapter 8, p. 259. Our interviews with correction officials in Maine indicate the general validity of this prediction, although it would be difficult to assign a percentage figure. Moreover, of course, since the York County project encompasses only a small part of the entire state, a dramatic impact cannot be expected from the pilot project alone.

The intake service will provide a central location for this crucial information. Juveniles can then be directed to the most adequate service rather than being shuffled blindly among well-meaning officials.

6. Relations with the Community

Through the intake service program, the juvenile court can promote a feeling among members of the community of involvement with the justice system. This, of course, is important to reduce alienation which can develop between a community and the courts. One means for community participation in the justice system is through the juvenile assistance conference. The juvenile assistance conference is one means of settling a juvenile case. The offender appears before a conference of community members in order to arrive at a voluntary agreement to carry out certain responsibilities in the future, in return for a diversion from the formal court process. In some cases, it may be expected that the juvenile assistance conference will result in restitution to victims by the offender rather than in mere punishment. Finally, as a result of minimizing penetration of the juvenile into the justice system, as well as increased use of the other intake services, the community will likely benefit from a reduced rate of recidivism among

juvenile offenders. To be sure this possible benefit is one to be measured over time rather than confidently predicted.

7. Relations with the Juvenile

Intake services may be expected to enhance the relationship between the courts and juveniles coming into contact with the justice system. The process of identifying juvenile offenders and matching their needs with available community services will be valuable in applying the optimal program for each individual. In contrast to the present system, which often shunts a juvenile from office to office, the intake service will provide a clear structure to determine quickly the most appropriate resolution of the case.

E. Measuring Effectiveness of the Pilot Program

It is recommended that effectiveness of the pilot program be measured after one year of operation in York County. If, as is expected, the benefits of the program exceed the costs, thus demonstrating enhanced services and reduced costs to the state, the program should be expanded. There are a number of ways to measure the effectiveness of the pilot juvenile intake program. As available data may not be sufficient for all evaluation purposes, the court should determine those measures it wishes to utilize and provide for the ongoing collection of data throughout the first year of program operation. Four measures of evaluation are as follows:

1. Measure of community protection: recidivism rates

As a part of standard operations, care should be taken to monitor court cases so as to assess the rate of recidivism among juveniles passing through various facets of the program. Preliminary recidivism rates should be apparent within a year after the first full year of intake service operations. However, success of this measure is limited by the absence of reliable statistics of recidivism of various categories of juvenile offenders prior to

institution of the intake service program. Although national juvenile recidivism rates might be utilized, the comparison will not be as valid as a comparison would have been with York County data gathered before inception of the program.

2. Efficiency measure: cost-benefit analysis

An important tool to measure possible cost savings of the program is cost-benefit analysis, a means of comparing present costs of processing juvenile offenders with processing costs after the intake service program begins. Present costs include costs of the court, correctional facilities, and police. Costs after intake services begin will include these plus the cost of the intake service itself. The intake service program can pay for itself if it costs less than the amount of money it saves in court costs (because of cases diverted from the court), detention costs (because of diminished use of detention facilities compared to less expensive shelter-care or juvenile release), police (because of services provided by intake to the police such as the saving of police travel time to bring the juvenile unnecessarily to a detention center).¹⁰

¹⁰A good example of this technique is found in the ABA Commission on Correctional Facilities and Services' Correctional Economic Center Report, Cost-Benefit Analysis: Three Applications to Corrections, May, 1974.

3. Effectiveness Measure: Impact of Intake Services on the Police, Courts, Corrections, and the Community

Although the impact of the program may not be as capable of quantification as the two previous measures, the qualitative benefits may be so substantial as to be noticeable even without concrete measurements. For example, increased diversion of cases from the courts will have several positive effects including the ability of the court to reduce delay in hearing juvenile cases and reduction in juvenile cases, which will free court time for other important cases. Police may benefit from intake services in a reduction in unnecessary police travel time, which includes both savings in gasoline and maintenance costs as well as savings in police time available for other work. Detention facilities will benefit both in a possible reduction in costs as well as creation of a more favorable ratio of counselors to inmates. Other service programs in the community may benefit from increased utilization as well as an increased sense of purpose in the total environment of services available to juvenile offenders. The degree of improved coordination of services can be ascertained at the end of a year of intake service operations. Measures of success in this area might be the number of referrals and reduction in re-referrals of juveniles who previously had been sent initially to improper services. Intake service provision of informational publications for the community providing guidance to available services might be another benefit in this area. Finally,

a major benefit may be the enhanced stature of the courts, and of the juvenile justice system in particular, as increasing numbers of community members, including complainants, alleged offenders, and volunteers, have favorable interaction with the court system.

4. Rehabilitative measure: provision of services to juveniles

This is a measure of minimized entry of juveniles into the justice system. As noted above, it is generally accepted that increasing involvement of the juvenile with the justice system tends to have adverse effects.¹¹ Juvenile intake may be expected to reduce unnecessary entry into the system.

This measure of impact of intake services may profitably be considered together with the change in recidivism rate to ascertain validity of the generally-accepted theory

See for example the President's Commission on Law Enforcement and the Administration of Justice, Task Force Report: Juvenile Delinquency and Youth Crime, p. 2. The two theories which have led to this conclusion have been called the "labeling theory" and the "association theory." Simply put, the labeling theory contends that individuals who are labeled delinquent become what they are said to be, fulfilling the role they feel is being assigned to them by the police, courts, and society in general. The association theory contends that individuals engage in delinquent behavior according to the degree of interaction, association, and reinforcement of behavior patterns favorable to delinquency, which is to say, the degree of association with criminals or other delinquents. These two theories are competently discussed in Diverion from the Juvenile Justice System by Donald R. Cresse and Robert A. McDermott, U.S. Department of Justice, Law Enforcement Assistance Administration, January, 1974.

for the pilot project as well. Moreover, this measure might provide a fruitful field of inquiry for volunteer or paid researchers, for example, from the University of Maine.

It is important that the intake service pilot program gather the necessary statistics from its inception. Without these statistics accurate measurements of the costs and benefits of the program are liable to be reduced to hunches, subject to considerable uninformed disagreement. Among the forms which might be kept for each juvenile entering intake services are the two forms included in Appendix A. These forms will allow intake services to have a clear record of offenders appearing before them more than once. In addition, they provide the necessary statistical base for a number of the measures indicated. They also lay important groundwork for subsequent assessment of treatment offered to juveniles by the various service agencies where juveniles may be referred.

F. Recommended Statutory Changes to Accompany Implementation of Intake Service in York County

1. Amendment of 15 RSA 2607 to require police notice to the intake service when a juvenile is arrested.

Commentary: Currently, 15 RSA 2607 requires the arresting officer shall notify parents, or another adult responsible for the juvenile, as well as the State Probation and Parole Board.

2. Amendment of 15 RSA 2608 to require intake service authorization before police may deliver a juvenile to a place of detention and before the detention facility may receive or hold the juvenile.

Commentary: Now, the statute permits the arresting officer to deliver an arrested juvenile to a detention facility, and requires the facility to hold the juvenile "with or without process." This provision is most likely a violation of due process, and must be changed.

3. Modification of 15 RSA 2606 to require that arrest records be expunged from juvenile court records in cases later dismissed; deletion of the provision permitting use of these records by state officials "as a matter of course."

Commentary: The privacy provisions for juvenile court records are seriously undercut by liberal provisions

permitting state correctional, enforcement, or welfare authorities to use them "as a matter of course." Expungment of arrest records is necessary to protect from potentially deleterious effects those juveniles not convicted of the alleged offense and who avoid committing subsequent offenses.

4. Amendment of 15 RSA 2610 to delete the explicit denial to juveniles whose cases are dismissed of an otherwise valid cause of action.

Commentary: Currently, 15 RSA 704 explicitly provides a civil remedy for adults unlawfully detained by police. By contrast, 15 RSA 2610 explicitly denies any such cause of action to a juvenile similarly mistreated when the juvenile's petition has been dismissed by the court and the juvenile discharged. This amendment will eliminate unfair restriction of juvenile rights.

APPENDIX A
JUVENILE INTAKE FORM

Name:

Referred by:

Date reference received:

Age:

Sex:

Offenses: a. criminal (law violations)

b. substantive (juvenile only violations):

Date of offense:

Intake decision:

File:

Informal supervision:

Dismiss:

Date:

With restitution:

Victim no longer wishes official action:

With referral:

To whom:

Returned to county or state of residence:

Legally insufficient:

Other:

Court number:

Police number:

Investigation number:

One year later, follow-up:

Re-offense:

Date of re-offense:

(This form prepared in consultation with Ted Rubin, Director of Juvenile Justice, Institute for Court Management, Denver, Colorado)

DETENTION/SHELTER SOCIAL HISTORY

Name of Juvenile:

Birthdate:

Summary of Family Contact:

Summary of prior record:

Summary of contact with school:

Name and Title of person contacted:

Name of School:

Address:

Additional information:

D/S HEARING

Name of Judge:

Date:

Decision

Time:

Part:

A.M.

P.M.

Intake Officer's Name:

(This form taken from the Essex County, New Jersey
Juvenile Intake Program.)

END

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