UNSDRI
UNITED NATIONS
SOCIAL DEFENCE
RESEARCH INSTITUTE
Via Giulia 52, 00186 Rome, Italy

JUVENILE JUSTICE: AN INTERNATIONAL SURVEY

Publication No. 12
Rome, February 1976

UNSDRI
UNITED NATIONS
SOCIAL DEFENCE
RESEARCH INSTITUTE
Via Giulia 52, 00186 Rome, Italy

JUVENILE JUSTICE: AN INTERNATIONAL SURVEY

Country Reports, Related Materials and Suggestions for Future Research

Publication No. 12
Rome, February 1976

PREFACE

This volume is based on a pilot survey conducted essentially in the years 1974 and 1975. UNSDRI wishes to express its gratitude to the United States National Institute of Mental Health for the financial support which made this pilot work possible. It also wishes to thank the World Health Organization for its collaboration in what was designed as a joint venture, as well as to the officials and experts in the field who contributed to this volume, or facilitated and guided our research. Particular thanks go to Satyanshu Mukherjee as the UNSDRI research expert in charge of this project, and to Lawrence Christy, who undertook the editing of the materials received from the field.

TABLE OF CONTENTS

		Page
Preface		5
Introduction		9
CHAPTER 1	The Juvenile Justice System in India	15
CHAPTER 2	The Juvenile Justice System in Japan	55
CHAPTER 3	The Juvenile Justice System in Scotland	83
CHAPTER 4	Afghanistan: Notes on the Juvenile Justice System	129
CHAPTER 5	France: Notes on the Juvenile Justice System	141
CHAPTER 6	Indonesia: Notes on the Juvenile Justice System	175
CHAPTER 7	Italy: Methodology of a Pilot Study on the Operation of the Juvenile Justice System in Naples; a Progress Report	183
CHAPTER 8	Mexico: Notes on the Juvenile Justice System	189
CHAPTER 9	South Australia: Notes on the Juvenile Justice System	199

		Page
CHAPTER 10	USSR: Effectiveness of Treatment Measures and Problems of the Typology of Juvenile Delinquents	221
CHAPTER 11	Methodology of the UNSDRI/WHO Pilot Survey, and Implications for Follow-up Research	243
APPENDIX A:	Survey Guide	*i*
APPENDIX B:	A Follow-up Research Proposal .	*ix*
APPENDIX C:	List of Contributors and Correspondents	*xxvi*

INTRODUCTION

It is clear that in most societies crime is increasingly a problem associated with youth, involving young adults, teenagers and at times even the very young. This truth is not a pleasant one to hear; it does not square with the conventional image of crime as the attribute of hardened social misfits, nor is it consistent with the protective, somewhat condescending view of the younger generations traditionally held by adults. Yet the evidence is there: some types of deviant behaviour — for instance drug abuse — are primarily (and in some settings almost exclusively) a juvenile problem; the same is true today for a large share of violent crime — including violent dissent, and street violence ranging from senseless brutality and muggings to purse-snatching — whether committed by individuals, by groups or by gangs.

It is equally evident that the juvenile justice systems which seemed innovative and promising in the last century — in most countries that model still prevails in prevention as well as in adjudication and in what is euphemistically called " treatment " — are no longer sufficient to ensure a fair and effective handling of youth problems, nor — ultimately — to provide adequate protection of society from juvenile crime. Yet characteristically juvenile justice tends to be seen as a panacea, encouraging by that very fact the abdication of other, non deviance-oriented agencies of social control (family, school, etc.). In fact, there is increasing evidence that some types of juvenile justice interventions may aggravate maladjustment phenomena at individual and

at social levels. It is quite clear, for instance, that the young are particularly vulnerable to the alienation, contamination and stigmatization which flow not only from institutional treatment, but from any referral to criminal justice (whatever its name may be). Conversely, there are indications that punitive measures (whatever their label) do not have a marked deterrence effect on juveniles: indeed, it appears at times that exposure to punishment is seen by the young as a way to achieve status and adulthood, or as an expression of protest against the world of adults.

There have admittedly been improvements in the sense of humanizing (or " de-formalizing ") the system, and providing guidance, education, treatment and a dialogue between the world of adults and that of the young. But there is evidence that, over time, some of the best-meant improvements proved illusory, and that in reality they introduced nothing more than a paternalistic terminology and pseudo-therapeutic approach to conceal what essentially remained a punitive criminal justice system untempered by the due process guarantees offered to adult offenders.

It is against this background that the United Nations Social Defence Research Institute (UNSDRI) and the World Health Organization (WHO) decided to give top priority to a cross-cultural research programme on juvenile maladjustment, juvenile justice and related coping systems. UNSDRI's institutional perspective was that of a policy research body focussing on deviance and its criminal justice connotations, while WHO was particularly concerned with mental health aspects of deviance. It appeared, however, that neither of these specialized perspectives was broad enough to deal with juvenile problems, and it was therefore agreed to conduct an initial multi-country survey as a joint venture of the two institutions [1].

[1] Funding was provided under a grant by the National Institute of Mental Health, (Grant Submission No. 1R 12 MH 250 20-01, dated 2/19/1973).

It was also agreed that this joint venture should take the form of a descriptive survey conducted in a series of representative countries or locations [2], and intended to elicit information on nature and magnitude of juvenile problems, on the operation of juvenile justice, mental health and related coping mechanisms as a system, and on the availability of data for more specific research and analysis; simultaneously, UNSDRI and the Italian Ministry of Justice commissioned an in-depth pilot study of the operation of the juvenile justice system in Naples.

The choice of a descriptive systemic approach was not meant to negate the importance of etiological research — e.g. studies on environmental factors of juvenile maladjustment and delinquency, and specific correlations with living conditions, family, school, employment and social setting [3] — or of evaluative research on the effectiveness of particular coping measures and policies. It did, however, seem reasonable to begin by a general descriptive survey that could serve as a " toile de fonds " against which specific trends, problems, innovations and their significance could be identified and assessed.

This volume presents some, though not all, of the results of our survey; it is subdivided into country chapters which contain the responses to a standard survey guide and to supplemental inquiries by the UNSDRI staff, as well as a series of special papers obtained from other countries. Every effort was made to present the country reports in a standard-

[2] The United States, Canada and several other countries for which ample descriptive information on juvenile justice systems is available were not included in our survey. It was hoped, however, that data from these countries — as well as the results of major ongoing research — would be considered side-by-side with our studies.

[3] Cf. " Delinquents and Non-Delinquents in Puerto Rican Slum Culture ", Ferracuti, Dinitz and Acosta de Brenes (Ohio University Press, 1975), based on research co-sponsored by the University of Puerto Rico and UNSDRI.

ized format [4]; however, the differences among systems and the varying nature and quality of the data received precluded a uniform narrative. The volume is published under the responsibility of UNSDRI, and does not cover the results of the in-depth pilot study conducted in Naples [5], nor some of the materials received by WHO.

The picture emerging from the country chapters and other papers presented in this volume will — we hope — provide policy-makers and scholars with some new information and with a stimulus for further reflection. It is evident, for instance, that additional efforts are needed not only to describe and assess systemic performance over time, but to elicit trend data and especially to identify and evaluate the effectiveness, viability and potential transferability of particular innovations or improvements for coping with juvenile maladjustment and deviance.

This introduction is not the place to discuss specific aspects of future research in the juvenile justice area [6]. We would nevertheless want to signal, by way of examples, three significant areas of innovation which — in our opinion — should be given priority by scholars and policy-makers.

One such area of priority interest relates to the development of community resources for coping with juvenile maladjustment and many kinds of deviance without referring to specialized agencies, proceedings or institutions. It is increasingly evident that this type of non-interventionist approach is desirable both functionally and from the viewpoint of economics. Some positive operational experience is available: tolerance levels have at times risen, with a consequential drop in the flow of referrals to juvenile justice (which is primarily used for serious offenders); schools can be equipped

[4] Editing and translation of materials received from the field was effected under the responsibility of UNSDRI.

[5] These results will be presented in a separate publication.

[6] The implications of the pilot survey for follow-up research are considered in greater detail in Chapter 11.

to work with rather than to expel or emarginate problem children; and so on. Yet one knows little about the processes operating in that context, about the alternate community resources which must be developed to enable society to tolerate deviance in its midst, and generally about the sociology of innovation in the area of juvenile justice, mental health or welfare [7]. A series of field studies initiated in Sweden under the joint auspices of the National Board of Health and Welfare and UNSDRI constitute a first step in that direction. It is our hope that the preliminary work will be continued, that its results will be published and that parallel studies will be undertaken in other countries.

A second interesting area of innovation relates to the development of new youth services for coping with particular problems on a real community basis; often such services, which may be instituted originally for a specific objective (e.g. drug abuse prevention and treatment), develop a potential for multi-purpose action. This appears to be the case, for instance, for the Centros de Integración Juvenil (Youth Integration Centres) established in Mexico with Federal, State and local support by the Centro Mexicano de Estudios en Farmacodependencia [8]. An analysis and impact assessment of these and similar institutions would, in our opinion, be of great practical value.

Thirdly, we would refer to the operation of juvenile justice services in developing countries. Even though terms such as " development " — and the dychotomy " developed/developing country " — are too general to be really significant for our purposes, it appears that developing societies are, in fact, confronted with a series of common problems in

[7] Our Swedish colleague Kerstin Elmhorn reports that the most interesting innovations in juvenile justice appear to have a very limited life-span. Somehow enthusiasm seems to wane after a year or two, and official support often gives out just when it would be most needed, and when a pilot experience could be transposed to an operational setting.

[8] CEMEF; UNSDRI has been closely collaborating with it since its inception. Some 30 Centros de Integración are currently in operation.

the juvenile justice area. This might justify special cross-cultural (and interregional) research and planning efforts for *and by* Third World countries, or at least an exchange of information on recent experience and innovations in the juvenile justice area. In most of these countries resource levels tend to be low. So are (or were) crime — and delinquency rates — though some Third World countries now report a serious rise of crime and delinquency levels, especially in new or megalo-urban environments. All this has generated a new impetus for policy change and innovations. It may well be that, rather than to emulate juvenile justice policies and institutional models which originated in economically more advanced settings, the Third World could provide positive guidance to developed societies by devising new approaches to the problems of youth in a context of social and economic change.

PEIDER KÖNZ
Director

CHAPTER 1

THE JUVENILE JUSTICE SYSTEM IN INDIA

Summary of Findings of the Three Sub-Studies in Bombay, Delhi and Madras

by S.D. GOKHALE and N.K. SOHONI

Introduction

The objective of the preliminary study as defined by the sponsors was:

" to develop appropriate methods for long-term cross-cultural research on the various ways in which society copes, or may cope, with various types of juvenile maladjustment and deviance. In particular, it is intended to identify a basic model for this cross-cultural research ".

The inclusion of India in such a study should help identify some of the conceptual and practical strengths and weaknesses typical to a developing economy and a society undergoing rapid changes. The low level of resources available both to the individual family and to the State has an important bearing on the capacity of a society to cope with problem areas and problem groups. The traumas involved in a traditional society attempting to modernize itself, on the other hand, become a continuing source of maladjusted individuals and problem groups. An additional dimension is that arising from the magnitude of the problem as it obtains in India.

Underlying Assumptions

The basic assumption underlying the creation of the juvenile justice system in India, as elsewhere, is the accepted need to segregate juveniles from adult offenders as far as crime prevention, treatment and correctional policies are concerned. With this in mind, legislative, judicial and administrative machinery is provided for dealing with various contingencies of juvenile maladjustment and deviance, some of which lead to cognizable and other offences.

The second assumption is again one that is widely shared elsewhere, namely, that the problem of juvenile maladjustment is an outcome of certain conscious and unconscious lapses in the society, and therefore needs to be approached in social defence rather than penal terms. Accordingly, the juvenile justice system has evolved as a social defence mechanism, and in some quarters it is being viewed even as a social security or assistance measure. The system is so conceived as to cater to the preventive, protective and corrective aspects of coping with the juvenile problem. For each stage of the process, viz., precommital, commital and postcommital, it is emphasized that the requisite functions will be performed by a set of services in the system.

The third assumption is the desirability of evolving suitable typologies which can better match the system and the services with the specific needs of identifiable juvenile sub-groups. While nomenclatures may differ in individual areas within the country, the clientele of the system on the whole is basically classified into two categories, viz., *offenders* and *non-offenders,* the latter comprising the socially handicapped, victimized and uncontrollable children. *Offenders* are those who are responsible for breach of law, the most common offences being pilfering, stealing, petty thieving, robbery, house breaking, illicit traffic in goods, gambling, etc. The *socially handicapped* are children who are destitute and homeless, those without either or both parents, those

born out of wedlock, those under disputed custody, and lost or missing children. *Victims* are those children who are exploited by older individuals for illicit activities, including prostitution, gambling, etc., or those whose person is violated through acts committed by older persons such as kidnapping, rape, maiming and the like. The *uncontrollable* are children who are behaviourally maladjusted and tough, hardened or undisciplined cases that cannot be controlled by the parents or guardians. Within these, there are the standard categories based on *age* and *sex.*

It was the purpose of this analysis to determine whether, and to what extent, these underlying assumptions correspond to reality. Comparative findings from the three area studies, viz. Bombay, Delhi and Madras, are drawn upon to identify the factors that can contribute toward a better fulfillment of the aspirations of the system.

I. DESCRIPTION OF THE JUVENILE JUSTICE SYSTEM

Normative Level

The legal norms regulating the juvenile justice system in India date back to 1920s [1]. Although there is a spate of legislation, central and state [2], the most notable and those bearing directly on the juvenile problem are the Children Acts of various states and the Central Children Act for centrally administered territories, and some sections of the Indian Penal Code, the Criminal Procedure Code, and the Prisons Act.

The primary objectives of the Children Acts are: (*i*) to provide for a machinery to effectuate the existing laws;

[1] See Appendix 1 for historical evolution of legislation.

[2] Among others, the Apprentices Act; Reformatory Schools Act; Prevention of Begging or Vagrancy Act; Suppression of Immoral Traffic in Women and Girls Act; Prevention of Juvenile Smoking Act; Prevention of Children Taking Intoxicants Act; Probation of Offenders Act; Child Marriage Restraint Act; etc.

(*ii*) to provide for the protection of neglected and destitute children and prevent them from taking to deviant behaviour; and (*iii*) to make some treatment and rehabilitation provisions in respect of children who are either victimized or uncontrollable. The Acts also define certain adult actions as crimes (e.g., employing children for begging, giving them intoxicants, permitting a child in a brothel or place where liquor or dangerous drugs are sold, exposing a child to the risk of seduction, exploiting child employees). The Indian Penal Code covers crimes such as murder, robbery, dacoity, theft, riots, criminal breach of trust, etc., committed by adults or juveniles (defined as 7 to 21 years of age). The Criminal Procedure Code and the Prisons Act have provisions governing the status of, and procedures pertaining to, juveniles in the judicial and correctional systems.

Despite a common legal and normative framework, it is evident that there are considerable variations from one State to another. In case of the three cities under review, Madras dates its Children Act to 1920 (amended 1966); Bombay to 1948 (amended 1950); and Delhi to 1960. The Madras Act covers children and young persons up to the age of 18; the Bombay and Delhi acts pertain to children below 16. (In Delhi the age limit for girls is 18.)

These age disparities naturally come in the way of meaningful cross-city comparisons[3]. On the practice side, they complicate the even application of laws to juveniles everywhere. Lack of uniformity in the acts makes it difficult to work out a uniform policy at all levels. Yet, since the subject of child welfare continues to remain a State subject[4], the Central Government is unable to impose uniformity on the States. This partly explains why despite the Central Children Act, formulated in 1960 as " model legislation ",

[3] More will be said on this in the Section on Profile of Juvenile Delinquents.

[4] The Indian Constitution earmarks areas of activity as State, Central, and Concurrent.

it has still not been adopted by, or allowed to supersede prevailing legislation in many States, including Bombay and Madras.

Substantively, juvenile legislation in all three cities seeks to describe: (*i*) offenders and non-offenders; (*ii*) the procedures for apprehension, remand, disposition (commitment, release on licence, probation and aftercare); (*iii*) the acts of omission and commission on the part of adults that constitute offences against the child; (*iv*) the authority of the Juvenile Court and the supporting services in the system; etc. Procedurally, some of the outstanding features of this legislation are: (*i*) separate trials for juveniles; (*ii*) strictly confidential nature of court proceedings and hearings pertaining to juvenile cases; (*iii*) no disqualification to be attached to the juveniles convicted under the Children Act; (*iv*) special provisions for protection of young girls exposed to danger of seduction or being induced into prostitution, and of children without visible means of subsistence or shelter; and (*v*) legal protection of probation officers by declaring them public servants, etc.

Organizational Level

At the organizational level, there are minor variations among the three cities. The Bombay system comprises police, Juvenile Courts, Remand Home and Probation Services, Certified Schools and Fit Persons Institutions, and a Probation and Aftercare Association. In Delhi there are the Child Welfare Board, the Children Court, police, institutions to which children are committed, and the Probation Service. The Madras system operates through the Juvenile Court, police, Approved Schools, Vigilance Service and Probation Wing.

Administratively, no single department is exclusively responsible for the work relating to juveniles in any of the

cities. Within the system, as it is set up at the central and the state levels, the component elements are in fact affiliated with different departments. Thus, for example, while the Juvenile Court falls under the Department of Justice, the institutions come under the Department of Social Welfare, and the Borstal Schools for the higher age brackets are under the supervision of the Home Department. A further problem arises from the confusion of administrative links [5]. This organizational dispersal inevitably causes some amount of structural weakness. A proposal from the Madras study is to have a separate department to deal with juvenile delinquency [6]. " A streamlined unified Department of Correctional Services for Juveniles will have a co-ordinated approach to the entire problem from the time of apprehension to the time of rehabilitation of the juvenile in the community ". This suggestion has recurred among many previous assessments of the system, and would certainly make for greater coherence and co-ordination among the different component sections as well as stages of the system.

Practice Level

The organizational machinery reviewed above is entrusted with the implementation of the legislation pertaining to juvenile delinquency. Basically the same practice prevails in all three cities. Juveniles are apprehended either by the police or probation officer as offenders, non-offenders or victimized, and brought before the juvenile court. In Delhi non-offenders are brought before the Child Welfare Board, mostly by the police and other authorized persons, occasionally by individual persons or parents. In case of uncontrollable children in Bombay and Madras, it is the parents who petition the court to commit the child to the institution for correctional treatment. An apprehended child is remanded for safe custody within twenty-four hours to the Remand Home (Bombay), or Reception Home (Madras), or Remand or Observation Home (Delhi). As early as possible after apprehension, the juvenile's case is presented before the Juvenile Court which registers the case and by law calls upon the probation officer assigned to the case to submit his assessment report on a specified date for which the hearing is fixed. Until that time, the juvenile is either remanded back to the Remand/Reception Home or released on bail if his parental or home conditions are found satisfactory. During this stage, if the court feels that the age of the juvenile needs to be assessed, it can authorize the medical officer to do so. Where a clinical study is deemed appropriate by the court, the case can be referred to a specialist body (Child Guidance Clinic in Bombay; Juvenile Guidance Bureau in Madras). The court considers all these reports in determining disposition.

Because of the court's reliance on these reports and other relevant apprehension data furnished by the police, any delay on the part of any of the personnel involved, whether police, probation officer, medical officer or mental health specialist, can mean postponement of court disposition and unnecessary prolongation of the juvenile's remand stay. This has a detrimental effect on the child and on his parents/guardians for obvious reasons. Additionally, inordinate delays in disposal of cases swell the inmate population in the Remand Home far beyond its capacity, at the same time filling up valuable vacancies that could better serve juveniles in real need of being remanded.

Following the hearing, the court issues a disposal order either discharging the juvenile offender after fine or admonition or releasing him on bond; it may also order that he

[5] An example of this may be cited from the Madras study which reports that while the work of the probation officer is mainly with the court, with the institutions to which juveniles are committed, and with those who are placed on probation, yet administratively he is under the Jail Department.

[6] A separate Department of Social Defence has in fact been created in Gujarat.

be placed under custody, or commit the offender to an institution. In respect of non-offenders, the court can decide either to commit them to institutions or to place them under suitable custody. In cases (offenders or non-offenders) assigned to supervision, a written bond is taken from the guardian to ensure that the terms and conditions of supervision are honoured by the juvenile. Any failure to do so could lead to revocation of the court order. For cases released on probation without supervision, this controlling element is completely lost since both the court and the probation officer lose all contact with the juvenile the moment he walks out of court. This practice has inevitable implications for recidivism.

Cases committed to institutions join the primary user groups as far as correctional services are concerned. At least that is the stated intention behind institutional commitment of juveniles. The institutional curriculum primarily caters to the educational and vocational training of the juveniles taking into account his age, previous educational background, and aptitude. The progress of the child is supposed to be observed and assessed on a continuous basis. At the end of two-thirds of his detention period, it is customary to consider him for release on licence. Such an order is issued after a thorough processing of the case. During the period the juvenile is released on licence, he is placed under supervision of the probation officer who assists him toward his resettlement in the society and community. For juveniles that either have no home to go back to, or whose home conditions are unsatisfactory, there is limited residential space at the Aftercare Hostel (Bombay) and the Aftercare Home (Madras).

Ideally, the system expects a precision chain-link between one stage and another, beginning with apprehension and ending with rehabilitation of the juvenile. For this purpose, a legal and administrative framework are provided. In practice, however, there are several lacunae, as reported

by all the three city studies. At each stage, the system is understaffed and overloaded. In Bombay new referrals to the Juvenile Court amount annually to around 3000, with a backlog of about 1000. The court manages to dispose of 75 per cent of the total, leaving a constant backlog of about 1000 cases. Quite apart from the problem of undisposed cases, the court and the related service staff are simply not able to bring a reflective or qualitative approach to the problem of juvenile delinquency. The more conventional penal orientation is really all that the system's present overcrowded machinery can expect to deliver. The basic problems are typical of any welfare activity, viz., sparse resources (staff; services; funds); overcrowding or excessive numbers of target population; and a consequent cut-down in quality and per capita availability of the service.

As recommendations to counter this need/service and norm/practice shortfall, the following operational improvements may be inferred collectively from the three city studies:

(*a*) Tightening of laws and more clear-cut definitions of offences, non-offences, and other categories of juvenile culpability/non-culpability.

(*b*) Screening of existing legal processes and provisions with a view to eliminating those that contribute to unnecessary delays in disposal and cause the effective running of the system to be clogged on account of overcrowding, instances of which are described in one of the studies (Bombay).

(*c*) Setting up of a careful screening system (Classification Unit) which could use members of the police, legal, medical, mental health, and social work personnel to jointly work out the description and type of juvenile, and to draw up an individual correctional and treatment plan for the juvenile. In this connection, limiting the present role of the police in deciding the initial classification of the juvenile, and building up a well organized information system pertain-

ing to existing and projected vacancies in institutions, categories of institutions, type of facilities available therein, etc., are steps that would enable both speedy and responsible dispositions.

(d) Strengthening the existing juvenile bodies in the police (Juvenile Aid Police Unit in Bombay and Juvenile Aid Unit in Madras) and adding new ones (viz., Juvenile Aid Wing). The Madras study suggests that while apprehension may continue to be done by the police, " investigation and procedures in the court may be entrusted to a specialized Juvenile Aid Wing of the police ". This will effectively reduce the existing inordinate delays in police appearances in the court and help speed investigations.

(*e*) Refresher training and orientation of juvenile justice staff (magistrates, police, probation officers, institutional personnel, after care staff, etc.) in the basics of juvenile delinquency, its magnitude and distribution in the city, contributory causes, methods and approaches, impact of alternative measures on lessening delinquency, etc.

(*f*) Better evaluation of the system through improvement of the kind of data collected, and injecting consistency in data maintained individually by the concerned agencies. This will allow for useful pointers in re-orienting future programming and planning of interventions in the area of juvenile delinquency.

(*g*) Use of volunteers to strengthen the probation supervision and aftercare services, and for pre-juvenile detection and prevention work.

(*h*) A better professional rapport between the courts and the probation personnel. One of the studies (Madras) refers to the inadequate attention, and at times unwillingness to pay heed to the advice rendered by the probation officers (in respect of case disposition, probation, supervision, revocation, and earlier termination of probation, etc.)

by the court. This tends to undermine the use of these vital tools of coping with juveniles. Conversely, according to the study, the court often faces difficulty in the speedy disposal of cases on account of inordinate delays in receiving the preliminary investigation reports of probation officers. Evidently, these are mutual inter-departmental irritants, which even when minor, do affect the speed, efficiency and quality of disposals with inevitable repercussions on the juvenile himself.

II. PROFILE OF THE JUVENILE DELINQUENT POPULATION

Comparative profiles of the juvenile delinquent population vis-a-vis overall child and youth populations have not emerged in any of the city studies. A basic problem is lack of parity between the age brackets utilized by the juvenile justice system and by the Census Bureau.

Within the juvenile population, as stated earlier, meaningful comparisons across states or among the three cities are not possible since the operating laws assume different upper age limits for juveniles (varying from 16 to 18). For comparative purposes, the only kind of inter-city profile that can be offered is derived not from the three studies, but from data released by the Home Ministry (Bureau of Police Research and Development)[7]. It should be noted that the Home Ministry's statistics pertain to the age group from 7 to 21 years, and therefore cannot be similar to the data included in the three studies. The years for the data are also different, the former covering 1970 and backwards, and the latter, 1970 to 1973.

Within these limitations, Appendix II gives some comparative tables based on the data released by the Home

[7] Data on the status of juvenile delinquency in India are given in Appendix II.

Ministry. Table III indicates cognizable crime committed by juveniles under the Indian Penal Code (I.P.C.) during 1965-70, as per cent of total crime for 23 cities in India with over 300,000 population. Table IV gives cognizable crime committed by juveniles under local and special laws in the same period. Tables V and VI indicate the distribution of crime under I.P.C. and local and special laws respectively, by type of offence, in the three cities as per cent of the total for 23 cities for 1970. Some of the inferences from the tables are:

(*a*) Collectively, the three cities account for around 30 to 45 per cent of the 23-city cognizable crime committed by juveniles under the I.P.C.

(*b*) For cognizable crime committed by juveniles under local and special laws, the cities collectively account for around 20 to 52 per cent of the 23-city total.

(*c*) While in cognizable crime under the I.P.C. for the period 1965-70, the three cities studied experienced about the same amount of cognizable crime under local and special laws, Madras accounts for nearly double the percentages of Bombay and Delhi put together.

The distribution of juvenile delinquency in the three cities under review therefore tends to skew toward Madras rather than Delhi or Bombay. Yet this is inconsistent with the findings available from the three city studies, as reported below. The preceding merely confirms the difficulty in relying on data supplied from different sources. Furthermore, it has to be recognized that where wide inter-city variations occur, they are possibly more an index of the persisting defects in reporting and registration processes than a true gauge of the actual incidence of delinquency. These observations incidentally further reinforce the needs for standardizing definitions and registration processes, and for entrusting data consolidation to a suitable machinery which can co-

ordinate data compilation by the police, the juvenile courts and the treatment and correctional institutions.

Reverting to the information available in the three city studies, it is to be noted that only the Bombay study has been able to furnish some amount of data on the profile of the juvenile delinquent population spreading over the most recent three years, 1970-73. The Madras study has a brief statistical table on overall referrals and disposals for an individual year, 1973. The Delhi study has scant data to offer. Within these limitations, the following facts may be highlighted:

(*a*) Annually, around 3200 referrals to the Juvenile Court are observed in Bombay as against 2300 reported for Madras. The Delhi study reports a mere 409 as the total number of cases brought before the court in the first nine months of 1974. Of the referrals, girls account for around 25 per cent in Bombay, six per cent in Madras and three per cent in Delhi.

(*b*) Disposals by the court amount to around 73 to 74 per cent (Bombay) and around 40 per cent (Madras).

(*c*) The largest group of juveniles in both Bombay and Madras is that of non-offenders. Uncontrollables account for less than one per cent in Bombay and for far less in Madras.

(*d*) The largest number of offender cases result in admonishment, fine, binding over, etc. Institutional commitments average about 13 per cent in Bombay. The figure for Madras was seven per cent in 1973.

(*e*) On socio-economic characteristics, the Delhi and Madras studies carry further findings from which it may be generally concluded that a majority of juveniles are from large families (5 to 8: Delhi), (4.3: Madras) with both parents living, and of poor means. Educationally, a majority of juveniles are illiterate or with very little schooling. They

are mostly from families that have little education (Delhi). The monthly income of the families does not exceed Rs. 300 (U.S. $40) in case of Delhi, while in case of Madras, it averages Rs. 100 (U.S. $13). In both cities, poor economic conditions rather than intra-family relationships *per se* are believed to be responsible for parental neglect.

III. CLINICAL PROFILE

Approximately five per cent of the total juvenile court referrals in Bombay are assigned to the Child Guidance Clinic for clinical examination. From all three studies, it is evident that no general mental health programme is provided within the juvenile justice system. Even existing services are under-utilized on account of insufficient appreciation of this vital treatment mode. On the whole, it is observed that only extreme and overt cases of inappropriate behaviour or nervous breakdown, and mental retardation are considered worthy of psychiatric and psychological help.

To add to this state of affairs, the law makes no separate provision for apprehension and commitment of mentally retarded children, who are therefore indiscriminately absorbed into the system. The real problem for such children arises upon their completion of detention. On account of their handicap, they become exposed to exploitation by anti-social groups.

In light of these findings, all three studies point toward the need for greatly improved mental health facilities appended to the juvenile justice system to assist the juvenile through all stages from apprehension through release and rehabilitation. The role of the mental health specialist is highlighted at three levels, preventive, curative and rehabilitative (Bombay study). In more than one sense then, the mental health service could be seen as a creative adjunct both to the institutional and non-institutional services of the system.

On the feasibility of the four categories of samples proposed for long-term research, the consensus of all three studies is as follows:

(a) *A representative sample of juveniles presently committed to institutions could be obtained* with variables such as age, sex, education, socio-economic background, reasons for admission to the Remand Home, and details of commitment.

(b) *A representative sample of juveniles placed under supervision* could also be obtained along the variables indicated above.

(c) *A representative sample of juveniles released from institutions* could be obtained only in respect of those released within three years prior to the date of the study. Even then, considerable difficulty must be expected in getting a representative or an exhaustive sample. The experience of two earlier studies in Bombay and Madras reveals that only 25 per cent (Bombay) to 33 per cent (Madras) of the universe would be available for study.

(d) *A sample of juveniles subjected to non-institutional treatment*: the possibility of obtaining such a sample going back five years from the date of the study would be virtually nil on account of lack of follow-up records and the untraceability of respondents due to change of residence, etc.

IV. SOCIAL CONTEXT AND REFERRAL SYSTEM

In the light of the preceding, a sociological survey of the juvenile delinquent population is recommended to include several variables, most of which may be grouped into (i) individual, (ii) family and (iii) social characteristics. These have been identified fairly similarly by all three studies, and essentially concern age, sex, education, employment, personality traits and aptitude of the juvenile; the socio-economic

and educational status of the family and its composition; and the neighbourhood profile. The utility of such a survey cannot be overstated. It should help uncover important dependencies between the social and individual characteristics and throw up valuable pointers to relevant correctional approaches in coping with juvenile maladjustment.

Sources, Reasons and Impact of Referral

The real source of referral differs according to the type of case. In cases of juveniles that have committed an offence (mostly theft, traffic in illicit liquor, pick-pocketting), the juvenile may be handed over to the police by the employer or shop owner or victim or onlooker, as the case may be. In other cases of police apprehension the source of primary referral will be the police. In cases of uncontrollable behaviour or delinquent tendencies the referral in a majority of cases is by the families who submit written petitions. In Bombay the Vigilance Unit is an important source in referrals of victimized girls under the Suppression of Immoral Traffic in Women and Girls Act. In all cases the distinction must be maintained between the source of referral and the receiving agency in the juvenile justice system.

The common reasons for referral are conflict with the law, victimization and uncontrollable behaviour. The juvenile's perception of the reason for which he is referred, however, is not the same as that of those who refer him. Often the juvenile tends to deny his culpability, or in the event of a group crime or offence, to blame it on others. Occasionally, where the juvenile does concede his lapse, he tends to rationalize it as a common phenomenon and feels it unjust that only he is apprehended. Notwithstanding some exaggeration in such perceptions it is nevertheless plausible, as both the Bombay and Madras studies point out, that the motivations for referral are not always sound or primarily in the child's interest. One interesting observation in the Madras study is that children from wealthier families, even with known delinquent traits, tend to remain outside the system. This would imply an unidentified rate of hidden delinquency that actually obtains in the society but never comes to light in a formal sense.

Referral, irrespective of the child's background or the category under which he is apprehended, is observed to have a negative impact on his social, educational, occupational and personal re-integration. This is one area where the legal norm denying any disqualifiation of the apprehended child is virtually nullified in practice (or lack of practice). The child that once enters the system does become unjustifiably suspect, with obvious limitations on his unfettered absorption by the family, the community and the peer group at school and at the place of employment. To that exent, the system is noted to be failing in one vital function, viz., the recuperational or rehabilitative action.

V. CASE FLOW

Cases flow uniformly in all three cities; the component stages are apprehension, remand, referral, disposal, commitment to institutions, release on licence, probation and aftercare. In Delhi, as mentioned earlier, the only difference is that separate bodies handle offender and non-offender categories. The former are referred to the Children Court and the latter presented before the Child Welfare Board.

A detailed breakdown of the case flow at different stages is provided only by the Bombay study. In this section, it is only necessary to highlight some additional considerations.

(*a*) A primary obstacle in making any assessment of the case-flow is the dispersal of data among the constituent agencies, viz., court, police, institutions, and probation and After Care Department. A centralized system of maintain-

ing records and statistics covering each stage of the case flow would be highly useful.

(*b*) From the data supplied in Bombay, it is evident that nearly one half of the disposals are restored, repatriated, transferred, discharged, or that they have absconded. Another fifth of the disposals are admonished, fined, and given probation with or without supervision. Less than one tenth are formally acquitted. Between one tenth and one fifth are committed to institutions, and the remaining are miscellaneous disposals. It is evident that the groupings resorted to are both vague and overlapping, and hardly allow for any candid appraisal of the efficiency or other characteristic of the case flow.

(*c*) In very broad terms, it is easy to discern that more reliance is placed on immediate discharge, restoration or transfer and release after fine and admonition than on commitment to institutions or probation with or without supervision. This may well reflect both a deliberate effort not to burden the already crowded institutions, and a reluctance (as confirmed by the Madras study) to rely upon extra-institutional measures; it seems in fact that probation is still viewed in traditional quarters as letting the juvenile off too easily. Neither of these reservations are fully justified, and they are certainly mutually contradictory. It is evident that impressions about the failure of supervision/probation cases also inhibit court action (Bombay study). All these aspects of the system need to be investigated and assessed, and the findings widely publicized, in order to avoid that an important service element in the system should become obsolete due to non-use.

(*d*) The impact of each disposal-type on the juvenile, and the inordinate delays at various stages of the case flow, are other areas that need to be evaluated on a systematic and continuing basis. So far, only a few such studies have been attempted.

VI. INNOVATIVE APPROACHES

In order to deal with juvenile delinquency within the overall legal and structural framework, certain innovative approaches have been tried out or recommended in Bombay and Madras. The more striking among them are:

(a) *Juvenile Service Guidance Bureau.* The Bureau operates preventive centres in Bombay serving both children and their families. The services include case work, counselling and guidance; recreational and educational activities; nutrition and medical aid; psychiatric and mental health referral. In the two decades since its inception, the Bureau has been able to set up only 12 such centres in Bombay. Many more are needed. A somewhat similar Juvenile Guidance Bureau operates in Madras, the only difference being that it is more specialized and renders only psychological services.

(b) *Police Boys Clubs.* These are run in Madras by the police, and in Bombay jointly by the Juvenile Aid Police Unit and the State Probation and After Care Association. Recreational and reading facilities are provided at these clubs. Through supervised leisure time activities and outdoor games and excursions, the youngsters in congested urban slum areas are offered a constructive outlet for their energies. A proposal is underway in Madras to attach vocational training centres to the clubs to allow the juveniles to become economically self-reliant.

(c) *Aid to Probationers.* This experiment is being tried out in Bombay. Under this scheme, assistance for food, school uniforms, books and training is given to the families or foster homes of juveniles on probation. Such funding, however meagre, can allow the court to restore children to families rather than ordering their commital to an institution. The service is also estimated to be less costly than institutionalization. A somewhat similar proposal is

presently under consideration in Madras where the Government is planning to set up a rehabilitation corporation for all ex-offenders, including juveniles. Work and training centres are planned to assist in the rehabilitation of the ex-offender population.

(d) *Community Centres and Family Service Centres.* Both these types of centres, reported in the Bombay study, represent the preventive phase in coping with actual or potential juvenile delinquency. The Community Centres offer pre- and post-natal service, medical and nutritional aid, family case work, temporary shelter to needy families, recreation and educational activities, and even pre-school child care in one case. The Family Service Centre is geared to screening destitute, neglected and other unwanted children in order to find available foster homes/adoptions/guardianship/sponsorship for them. By aiding, counselling and guiding the family together with the child as a composite unit, it also seeks to avert the prospects of maladjustment and deviance among the younger family members.

(e) *Child Welfare Board.* This is already in existence in Delhi and its creation is authorised by the Children Act, 1960. The underlying concept of the Board is innovative in so far as it seeks to distinguish the treatment and procedures of non-offenders from those applied to offenders.

VII. EFFICACY OF THE SYSTEM AND RECOMMENDATIONS

The findings of the three studies in this area are mainly derived from the personal views of different people associated with the juvenile justice field. The persons selected represent a cross-section of professionals and operatives. In two of the three studies, the ' users ' (juveniles) have also

been interviewed. The persons contacted were asked to offer their personal assessment regarding the system's efficacy and to recommend ways in which it can be made both more efficient and responsive to the felt needs.

In the main, as the Madras study points out, the conclusive impression is that, *legally,* there is very little that is wrong with the system. In fact, the laws provide adequately for dealing with and controlling delinquency, including the problems of pre-delinquency and recidivism. The difficulties arise at the *practice* level where structural problems (staffing, organizational and budgetary) limit the system's efficacy and efficiency.

Excessive case loads, as the Bombay study contends, appear to be at the root of all implementational lags in the system. At every stage, the concerned agencies (whether juvenile court, Remand Home, correctional institutions, or probation, supervisory and after care services) complain of lack of funds or personnel or both. This has two consequences: (i) that the intake is decided not by the felt need, but by the capacity of the system, thus excluding many who might be in need of attention from the system; and (ii) that for those who are admitted to the system, the choices within the system, as well as the quality and per capita availability of the services, are inadequate. There are thus two types of negative consequences for the juvenile population — one against those juveniles who, despite their need, are forced to remain outside the reach of the system, and the other against those for whom the system is able to perform only a partially constructive role.

Specifically, the studies challenge the efficacy of the system on account of its operational failings and of too rapid, delayed, or erroneous dispositions; effect on the juvenile of indefinite stay in the Remand Home; limitations inherent in overcrowded, understaffed institutions; insufficient reliance on non-institutional devices; limited success of the probation, licensing, and aftercare service. All these factors

dilute the overall reform and rehabilitative orientation of the juvenile justice system, reducing it to a limited, penal approach. Yet, given scant resources (staff, service, and budget) and a fairly steady intake, how does one proceed to break the vicious circle ?

Responses to this, at least in personal opinion surveys, appear to be mainly non-commital and even non-judgemental. Among the upper levels of policy-makers, professionals and administrators, there is little recognition that the system needs reform from *within*. More resources (in terms of staff-time, money, etc.), or *external* factors, are believed to be the solutions that can contribute to improved performance of the system.

At the lower levels, practitioners and grassroot workers show less faith in current concepts: the system's operational lapses are definitely attributed to its faulty assumptions and norms, and some longstanding beliefs are challenged. These perplexities, as extrapolated from the three studies, are in essence the following:

(*a*) Can the system legitimately claim to offer an institutional home to the juvenile ? Is this substitute care really a desirable replacement of parental contact ?

(*b*) Is it not unrealistic to expect a single mechanism, the juvenile justice system, to perform penal, social defence, and even social security/social assistance functions ? Consequently, should the onus of preventive or pre-delinquency work not be elsewhere, with other Departments (Social Welfare, Urban Development, Health, Education), rather than with the juvenile justice system ?

(*c*) Is the present classification of juveniles into offender and non-offender categories really justified, considering the intimate overlapping in the " ecology " of both types of juvenile problems ?

(*d*) In a primary poverty society, with destitute, neglected and socio-economically handicapped children forming a typical nucleus of the juvenile population, can the norms and categories relevant to more affluent societies be really valid and worthy of emulation ?

(*e*) Should the precepts established in the 1920s in respect of juvenile maladjustment and deviance not be put through a critical appraisal with a view to introducing amendments or deletions wherever necessary ?

(*f*) In view of (*d*) and (*e*) above, should additional bodies set up to aid the juvenile courts in coping with juvenile delinquency not be centred around age groups (younger and older) rather than by offence and non-offence ? Should the offence types not also be reviewed and redefined to reflect the acts of deviance and maladjustment most commonly resorted to by the juvenile population today ?

The main recommendations to emerge from the three studies are the following:

(*a*) To formulate the concept of juvenile delinquency and maladjustment more clearly, and to define offenders and non-offenders in light of today's environment. In this connection, to review among others, the present role of the juvenile court in respect of less active user categories of juveniles such as uncontrollables.

(*b*) To identify alternate means of dispensing justice to the juveniles either by setting up separate dispensing structures (separate courts for specific age groups) or by setting up supplementary services in the form of Child Disposition Boards, and Classifying Centres.

(*c*) To build up adequate and consistent data in order to evaluate the system in terms of recidivism, success of probation supervision, impact of institutional commitment on reform and rehabilitation of the juvenile, etc.

(*d*) To remove bottlenecks that presently contribute to inordinate delays, whether at the hearing and disposition stage, during commitment or after release. A specific re-

commendation is to redefine the role of the police, of special Juvenile Aid Units and Wings, of probation officers, etc., in a manner that will facilitate speedy and more efficient dispensation of justice. In this connection, the proposal of the Madras study to leave apprehension to the police and investigation and court procedures to a specialized Juvenile Aid Wing is worth considering.

(*e*) To improve the relevance and value of institutional programmes to the post-release requirements of the juvenile. This implies reform of education and vocational training, fostering of services for overall socio-psychological preparation of the juvenile toward an easier return to society, and greater inter-action between institutional and outside children and community to encourage a smoother socialization process for the juvenile; at the same time this forces the community to remain less remote from the juvenile problem.

(*f*) To tighten up extra-institutional follow-up mechanisms and to foster wider use of non-institutional measures e.g. by orientation training of court and supervisory/probation staff, and through planned use of volunteers; this would automatically help reduce the overloading of the institutions and improve their functioning.

(*g*) To encourage wider use of voluntary agencies and private homes for fostering, adopting, and sponsoring juveniles and for improved family liaison work.

(*h*) To encourage a network of family and child guidance services to be set up in the private voluntary sector to cater to mental health and preventive aspects of juvenile delinquency.

This section may by aptly concluded by quoting the views of the juvenile users of the system. Two of the three studies sounded out a few children to obtain their perceptions. The responses are telling both for what they

indicate and what they fail to indicate regarding the users' expectations of the juvenile justice system:

(*a*) The children make no complaints about overcrowding, regimentation, lack of personal attention, etc. This may well be on account of low or even no expectation levels. They seem to have what may be called an existential approach to their commitment. Those in the Remand Home (Bombay) showed very little anxiety or even curiosity about their future. The offender child showed equal lack of concern regarding his parents' and peers' impressions of him. This latter attitude of course may well be peculiar to the offender category.

(*b*) About 50 percent in Delhi showed awareness that their institutional stay was helpful as it enabled them to learn useful crafts and also pursue some education. In Bombay, those in the institutions showed similar awareness regarding the eventual utility of vocational training, even though they were a bit concerned about the insistence on training above educational pursuits. The remaining 50 percent in Delhi saw no value at all in their institutionalization.

(*c*) The suggestions for improvement that came to light were in respect of improved training contents with better employment potential, better accommodation and living aids (such as closets), more palatable meals (even though quantity was found to be satisfactory), better recreational facilities, more humane treatment by police, court and Welfare Board personnel.

(*d*) With regard to the role of case workers, probation officers, etc., the Bombay children showed both respect for and appreciation of their role.

(*e*) A majority of children (Delhi) showed no awareness of the law under which they had been committed; and all children stated that prior to apprehension they had no information regarding the different laws dealing with the

juvenile justice system. This could imply that a lot of the misdemeanours occur on account of ignorance of the law; if so the juvenile system should seek to fill this awareness gap.

In considering these perceptions it must of course be stressed that they originate from a handful of juveniles. Any further research in this area should include the juveniles as one of the primary opinion groups.

VIII. CRITIQUE

One may begin by exposing certain myths operating not only in the three locations of the Indian research, but underlying juvenile justice systems generally.

The primary myth is that of the *correctional approach,* which is still seen by most juvenile justice systems as their fundamental function. Yet neither practice nor the procedures as they are conceived today justify such an emphasis. While the legal provisions do subject the young offender to legal action, and may thus contain the problem of delinquency, it cannot be said that the subsequent treatment to which the juvenile is subjected really exercises a corrective influence over him. The individualized handling of juveniles is inhibited by the following circumstances: i) at the remand stage, and sometimes in the institutions, all types of juveniles, — offenders, non-offenders and others — are co-mingled; ii) the type of correctional care and the institution to which the juvenile is to be committed are determined by the court without the benefit of an exhaustive assessement of the juvenile's personality and correctional needs; iii) the initial categorization of the juvenile as an offender or non-offender is determined by the police without the benefit of specialist assessment and advice; iv) the disciplines most closely related to the child — child welfare, social work, mental health, etc. — are left out of the crucial process of decision-making.

Even in the aggregate, the needs of the juvenile group remain unmet. The system is never fully ready to cope with all juveniles on account of limited capacity and excessive caseload. This means unjustified delays and detention at different stages within the system, which are certainly not in the juvenile's interest. Finally, the treatment plan itself, whether institutional or extra-institutional, is limited in scope, coverage and overall quality. Thus at the conclusion of treatment there is no specific life or career path that is laid out for the juvenile. Since there are few really telling evaluations of the performance and attitudes of the juvenile before, during and after treatment, it is difficult to put too much credence in the " correctional " claims of the system.

Other grounds for questioning the correctional premise are the rigid notions of discipline and regimentation still applied to " straighten out " maladjusted and deviant children. In today's context, where the traditional sanctity of regulatory authority (whether of the family, church, educational institution, or even state) has been rapidly diluted, a treatment and correctional approach based on coercion appears anachronistic. Yet juvenile justice continues to rely on institutional rather than non-institutional interventions, and within the institutions the earlier regulatory routine continues to be followed without substantial changes. Also the continued segregation of the institution and its inmates from the environment and the community — in other words, the closed-door approach — does not equip the juvenile for an easy return to society.

The second myth, closely related to the first, is that the system has a *preventive bias.* This concept attaches in fact also to the overall justice system and to society as a whole. Reality, however, is quite different. Juvenile justice systems punish the youngster for conditions brought about by socio-economic failings — especially with regard to low income families. In that sense, juvenile delinquents are the scapegoats for societal acts of omission. The point can be

stated otherwise: if the rewards of socio-economic and developmental progress were more evenly distributed, there would be fewer vulnerable sections in the population; yet even though this progress may have caused or exacerbated disparities and vulnerability among some sections of the population, society is generally unwilling or unable to assist the vulnerable family as a minimum efficient unit of care; instead, it tends to focus — in what is essentially a symptomic approach — on the more obviously or visibly deprived sub-group, the juvenile deviants. While it would be inconceivable for society to impose sanctions on the entire family, the juvenile (even if he is clearly the product of his environment) can be more easily identified and subjected to specific measures. It need not be stressed that such an approach is neither fair nor, in the long run, effective.

On the *judicial side,* the main problem resides in the fact that the system has remained constant (in terms of procedures, regulations, etc.) even though it relates to values that have changed substantially. The traditional justice system was conceived to protect society from injury. At a subsequent stage, concern for reforming rather than punishing the offender was injected into the system. Still later, social defence concepts became prevalent; implied in them was the postulate of preventing and anticipating crime and offenders, even though these concepts remained ambiguous. In effect, it is by no means clear that the justice system should — or could — really cope with prevention. Generally, courts and institutions have not been provided with the specialized staff and services that would enable them, and the system to which they relate, to attain the aims of social defence. This difference between policy objectives and reality has resulted in a credibility gap. In respect of juveniles this gap has serious implications. Line operators tend to believe that by absorbing juveniles in the system they can protect them, prevent them from taking a deviant path and even reform them; this belief may be shared by

the wider community as well as by the system's users; as a result of these assumptions and of an increasingly deteriorating environment, more and more vulnerable juveniles are likely to be fed into the system. But is the system and its component services really equipped to handle such a flow of clients ? Is the justice system justified in arbitrating on young lives even when the individuals concerned have not, or not yet, come into conflict with the laws of society ? In seeking simultaneously to prevent, to apprehend and treat the destitute non-offender child, is the juvenile justice system not overreaching itself ? Should coping with vulnerable areas and groups not instead be the concern of normal developmental planning and activity ? Conversely, in expecting or allowing the justice system to solve all youth problems, are the society and its governmental structures not in effect shifting their responsibility to an agency which cannot hope to master such a task ?

In view of these many and unanswered perplexities, one may conclude that the juvenile justice system should renounce its questionable authority over the socially handicapped and similar non-offender groups. It would instead be preferable that they be entrusted to regular non-judicial child welfare and social development bodies. The juvenile justice system could then concentrate on the remaining types of juveniles — primarily serious offenders; given the numbers involved, this may represent the optimum of what it can effectively handle. In fact, if the clientele were more specific to the ability and capacity of the system, the quality and speed with which justice is dispensed would automatically improve. More attention could then be devoted to developing an individualized justice and treatment plans for juvenile offenders; to that end, collaboration with ordinary child welfare bodies would of course be both possible and desirable. Among others, it would be necessary to define more clearly the boundary between justice and normal child welfare. Juvenile laws would have to be reformulated to

entrust jurisdiction over the socially handicapped and uncontrollable juveniles to mechanisms other than the juvenile justice system. This could be an inter-departmental, inter-disciplinary mechanism in which the juvenile justice system would be represented. The authority vested in the police and/or in the courts to separate juveniles into offenders or non-offenders will also have to be reconsidered. In respect of children left within the juvenile court's jurisdiction, their disposal should represent a concerted welfare decision formulated and implemented with the help of specialists from relevant disciplines. In that connection it appears desirable to de-emphasize the institutional in favour of an extra-institutional approach, in which live links between the juvenile and his original social environment are maintained. And, finally, qualitative standards, indicators and targets will have to be drawn up to help determine the impact on the juvenile, on his family and on the community at large of the various services rendered by the juvenile justice system.

Clearly, the three Indian sub-studies have focussed on what has been called a primary poverty society; in it constraints of every kind are imposed upon the individual, the family and society. The juvenile justice system must be able to cope with large numbers of individuals who have clashed with accepted legal norms and societal values. It does not seem reasonable, in such circumstances, to extend the system beyond its capabilities by referring to it also the vast category of destitute juveniles; a more promising approach would be to limit and define its functions, and to consolidate its confirmed or potential strength.

APPENDIX I

HISTORICAL EVOLUTION OF JUVENILE LEGISLATION IN INDIA *

The modern origins of the present juvenile justice system in India are to be found in the Indian Jail Committee Report (1919-20), which recommended the introduction of Special Children Acts and the establishment of juvenile courts. But there had been a gradual development in the field from the middle of the last century, indicating that Indian public opinion was not inactive regarding treatment of juvenile delinquency.

Under the Apprentices Act of 1850 magistrates were empowered to commit children between the ages of ten and eighteen years as apprentices to employers, and provision was made for controlling the relations between such children and employers. Children that were found to have committed petty offences or were destitute were treated in this manner. Section 399 of the Criminal Procedure Code provided for the commitment of boys under fifteen to a reformatory established by the local government, where facilities for training and discipline were provided.

The Reformatory Schools Act of 1897 was the next landmark in the treatment of juvenile delinquency. It repealed similar legislation of 1876 and empowered local governments to establish reformatory schools. Under this act, the sentencing court could detain boys in such institutions for a period of two to seven years, but they could not be kept in the reformatory schools after they had attai-

* This note has been derived from a paper prepared by Shri S.V. Joshirao, Chief Inspector of Certified Schools, and Deputy Director of Social Welfare (CA) Maharashtra State, Poona.

ned eighteen years of age. There was also a provision to license out boys over fourteen years of age if suitable employment could be found. In the Bombay Presidency, the act was applicable to boys under sixteen years of age, while elsewhere it applied to boys under fifteen years of age. It may be noted that the act provided for the detention of boys in reformatory schools instead of committing them to imprisonment, and to that extent it was decidedly a step forward.

The Reformatory Schools Act was repealed by the Bombay Children Act, 1924, but before this, many noteworthy changes took place which prepared the ground for its adoption. The passage in England of the Children Act of 1908 and the experience gained in that country paved the way for similar legislation in India. In 1915 a special court for offenders under the age of fifteen was established in Calcutta. The juveniles could not be committed to jail, neither during trial nor after conviction. They were detained in the Juvenile Jail at Alipore. After the end of the First World War, the League of Nations was responsible for furthering interests of children; social workers in India readily took up the work in the area of child protection. As a result, the Madras Children Act was passed in 1920, the Bengal Children Act followed in 1922, and finally the Bombay Children Act in 1924. It became effective, however, only on 1 May 1927 in Bombay. It was extended to Lonavala in the Poona District the same year, and was applied to the Bombay Suburban District in 1934. It may be clearly seen that the application of the legislation was brought about very slowly.

In 1933 the Government of Bombay appointed a committee to inquire into the care of destitute children and young offenders. Many useful suggestions were made which were incorporated into the original Act of 1924, but even the amendments left deficiencies in the legislation. A Departmental Committee to consider this situation was therefore appointed by the Government of Bombay in 1945, and

after consideration of the report submitted by this committee, the original Bombay Children Act of 1924 was repealed and the Bombay Children Act of 1948 was passed and put into effect in Bombay State in January 1949.

Side by side with this development in Bombay State, other States in the Indian Union enacted laws relating to delinquent children. The States of Madras and Bengal already had Children Acts, and other provincial governments enacted similar laws. The Central Provinces Government passed a Children Act in 1928, but it has remained inoperative, while some of the smaller administrative units, such as the centrally administered unit of Delhi, adopted the provisions of the Bombay Children Act of 1924. Where the Children Acts were not put into operation, the Reformatory Schools Act of 1897 remained in force.

After Independence, Saurashtra, Uttar Pradesh, Hyderabad and Mysore enacted Children Acts and West Bengal enacted a new Children Act in 1959, introducing some new provisions. The Government of India, for the first time, brought into being a Central Children Act in 1960 for implementation in the Union Territories.

The main purpose of these Acts is to provide (*a*) for the custody, trial and punishment of youthful offenders and (*b*) for the protection of children and young persons. It is important to note that if a child has committed an offence and is dealt with under the Children Act, he does not suffer any disqualification attaching to conviction of an offence.

The evolution of legislation therefore has been a dynamic process of gradual but distinct shift from a penal to a social treatment in dealing with the problem of juvenile delinquency. Greater stress has been laid in the 1948 legislation and thereafter on treatment and rehabilitation than on mere custody, protection, trial and punishment.

APPENDIX II

STATISTICS ON JUVENILE DELINQUENCY IN INDIA

TABLE 1: JUVENILES APPREHENDED
(By Sex)

YEAR	Boys	Girls	Total	Percentage Girls
1960 (Base year) . . .	46,893	2,383	49,276	4.8
1965	63,111	5,163	68,274	7.6
1966	62,823	4,434	67,257	6.6
1967	66,719	5,390	72,109	7.5
1968	68,657	4,801	73,458	6.5
1969	74,092	4,776	78,868	6.1
1970	94,617	4,228	98,845	4.3
Percentage change 1960-1970	+ 101.8	+ 77.4	+ 100.6	—

TABLE 2: JUVENILES APPREHENDED
(By age groups)

YEAR	7-12 Years	% of total	12-16 Years	% of total	16-21 Years	% of total	Total
1960	6,612	13.4	14,315	29.1	28,349	57.5	49,276
1965	10,542	15.4	15,908	23.3	41,824	61.3	68,274
1966	9,104	13.5	17,072	25.4	41,081	61.1	67,257
1967	10,195	14.1	17,680	24.5	44,234	61.4	72,109
1968	8,262	11.3	16,548	22.5	48,648	66.2	73,458
1969	8,349	10.6	17,200	21.8	53,319	67.6	78,868
1970	11,405	11.5	18,690	18.9	68,750	69.6	98,845
Percentage change 1960-1970 . .	+ 72.5	—	+ 30.6	—	+ 142.5	—	+ 100.6

Source: *Crime in India*, 1970, pp. 40-58.

TABLE 3: TOTAL COGNIZABLE CRIME COMMITTED BY JUVENILES UNDER INDIAN PENAL CODE IN CITIES WITH OVER 300,000 POPULATION

CITIES	YEARS											
	1965		1966		1967		1968		1969		1970	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
BOMBAY												
Number	376	426	1,355	1,368	635	635	900	952	973	1,030	882	910
Percentage	7.9	9.3	21.4	17.7	8.9	9.1	13.3	15.2	14.3	15.8	10.8	12.3
DELHI												
Number	507	605	597	2,269	698	2,424	833	1,145	853	1,116	1,143	1,360
Percentage	9.6	13.2	9.4	29.4	9.8	34.8	12.3	18.3	12.5	17.2	13.9	18.5
MADRAS												
Number	679	635	929	864	920	718	671	624	1,059	1,059	411	459
Percentage	12.8	13.8	14.7	11.2	12.9	10.3	9.9	9.9	15.5	16.3	5.3	6.2
Total of 23 Cities	5,302	4,598	6,319	7,705	7,141	6,960	6,766	6,275	6,812	6,499	8,169	7,404

Source: (For all four tables).

Police Research and Development: July-December 1972, pp. 19-20.

A publication of the Bureau of Police Research and Development, Ministry of Home Affairs, Government of India, New Delhi.

TABLE 4: TOTAL COGNIZABLE CRIME COMMITTED BY JUVENILES UNDER LOCAL AND SPECIAL LAWS IN CITIES WITH OVER 300,000 POPULATION

CITIES	YEARS											
	1965		1966		1967		1968		1969		1970	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
BOMBAY												
Number	1,307	1,568	1,836	1,749	681	681	869	919	1,021	1,064	410	454
Percentage	8.3	9.0	11.7	10.0	4.3	4.0	4.8	4.2	4.3	3.8	2.3	2.1
DELHI												
Number	1,045	1,764	1,092	1,712	816	1,499	195	1,926	943	1,795	1,038	2,148
Percentage	6.6	10.2	6.9	9.8	5.1	8.8	1.0	8.9	3.9	6.6	5.9	10.5
MADRAS												
Number	4,138	4,138	3,195	3,195	3,386	3,386	4,927	4,927	10,504	10,504	2,526	2,526
Percentage	26.5	23.9	20.4	18.3	21.3	20.0	27.4	22.8	44.3	38.4	14.3	11.8
Total of 23 Cities	15,616	17,304	15,665	17,433	15,816	16,924	18,401	21,567	23,697	27,376	17,612	21,358

TABLE 5: SPECIFIC I.P.C. OFFENCES COMMITTED BY JUVENILES IN 1970 IN CITIES WITH OVER 300,000 POPULATION

CITIES	Murder	Kidnapping Abduction	Dacoity	Robbery	Riots	House Breaking	Thefts	Criminal Breach of Trust	Cheating	Misc.	Total
BOMBAY											
Number	1	11	2	—	1	48	215	5	—	599	882
Percentage	1.0	12.4	6.1	—	0.0	4.7	5.9	3.5	—	23.0	10.8
DELHI											
Number	11	29	—	22	25	113	495	19	17	412	1,143
Percentage	14.9	32.6	—	16.1	7.1	11.2	13.5	13.3	15.9	15.8	13.9
MADRAS											
Number	3	2	—	—	4	—	401	1	—	—	411
Percentage	4.0	2.2	—	—	1.3	—	11.0	0.5	—	—	5.0
Total of 23 Cities	74	89	33	137	314	1,005	3,665	143	107	2,602	8,169

TABLE 6: SPECIFIC OFFENCES COMMITTED BY JUVENILES UNDER LOCAL AND SPECIAL ACTS IN 1970 IN CITIES WITH OVER 300,000 POPULATION

CITIES	Excise Offences	Offences under Probation Act	Offences under Gambling Act	Offences on Railways	Offences under Children Act	Other Offences	Total
BOMBAY							
Number	—	—	334	—	76	—	410
Percentage	—	—	6.1	—	2.2	—	2.3
DELHI							
Number	271	2	216	15	416	118	1,038
Percentage	7.8	0.1	4.0	100	11.9	3.7	5.9
MADRAS							
Number	—	—	744	—	1,720	62	2,526
Percentage	—	—	13.5	—	49.1	1.9	14.3
Total of 23 Cities	3,524	1,771	5,552	15	3,518	3,232	17,612

CHAPTER 2

THE JUVENILE JUSTICE SYSTEM IN JAPAN

by. M. SHIKITA and S. TSUCHIYA

I. INTRODUCTION

Basically, there are two laws in Japan under which children of various categories are dealt with: the Juvenile Law and the Child Welfare Law. The objective of the former is " to carry out protective measures relating to the character correction and environmental adjustment of delinquent juveniles and also to take special measures with respect to the criminal cases of juveniles and adults who are harmful to the welfare of juveniles " [1]; whereas the latter law is meant " to promote welfare of all the children in healthy development into adulthood " [2]. The two laws are distinguished primarily in terms of measures; while under the Juvenile Law the competent authority prescribes " protective " measures, under the Child Welfare Law the measures are said to be of a welfare nature. The practice under both laws demonstrates a close working relationship between various administering authorities.

---

[1] The Juvenile Law, 1948, Art. 1.

[2] Children and Families Bureau, Ministry of Health and Welfare: A Brief Report on Child Welfare Services in Japan, p. 3, (1974).

II. DESCRIPTION OF THE JUVENILE JUSTICE SYSTEM

A. *Normative Level*

1. Definition of a Juvenile Delinquent

Under the Juvenile Law, a juvenile is a person under twenty years of age, although one under fourteen years of age is not criminally liable [3].

Those referred to as juvenile delinquents in Japan comprise the following three categories:

(1) Any juvenile under twenty years and not less than fourteen years of age who is alleged to have committed an offence; he is commonly referred to as a " juvenile offender ";

(2) Any juvenile under fourteen years of age who is alleged to have violated any criminal law or ordinance; he is referred to as a " law-breaking child ";

(3) Any juvenile who is deemed likely to commit an offence or violate criminal law or ordinance in the future, given his character or environment and the presence of one or more of the following factors;

(*i*) That he habitually does not subject himself to the reasonable control of his guardian;

(*ii*) That he stays away from his home without good reason;

(*iii*) That he associates with any person of criminal propensity or of immoral character or frequents disreputable places;

[3] The Juvenile Law (1948) Art. 2, the Juvenile Law and the Supreme Court Regulations of Hearing the Juvenile Delinquency Case (1947) are the main procedural law and regulations governing juvenile delinquency cases. There are no significant differences between practice and legal provisions in dealing with them. The jurisdiction and organization of the Family Court is provided for in the Court Act (1947) Arts. 31-2, 31-4.

(*iv*) That he has a propensity to commit acts that harm his own moral character or that of others.

He is referred to as a " pre-offence juvenile " [4].

2. Proceedings for Dealing with Juvenile Delinquents *

(1) The Police and Other Agencies:

Where the police find on the basis of evidence that a juvenile has committed an offence punishable with a fine or lesser penalty, they must refer him to the Family Court directly; if the offence committed by him is punishable with a heavier penalty, they refer him to the public prosecutor. " Pre-offence juveniles " not less than fourteen years of age are referred directly to the Family Court by the police. " Law-breaking children " and " pre-offence juveniles " under fourteen are not sent to the Family Court, but may be referred to the Child Guidance Centre by the police. The Child Guidance Centre is an administrative organ which is authorized to provide temporary shelter for children under eighteen years of age, entrust foster parents with their care and take other measures including the placement of children in various child welfare institutions. Where Family Court Presentence Investigators or any other persons detect a juvenile delinquent, they may report him to the Family Court.

(2) Public Prosecutor:

The public prosecutor to whom a juvenile case is referred conducts a further investigation and sends him to the Family Court if there is reasonable ground to find that he has committed an offence. While the public prosecutor has discretionary power whether or not to institute prosecution in an adult case where there exists sufficient evidence, he has no such power in a juvenile case.

[4] The Juvenile Law (1948) Art. 3.

* A chart showing the procedures is presented in Appendix B, p. xxii.

(3) Family Court:

The Family Court is a court of first instance that has jurisdiction mainly over family and juvenile cases, independent from, as well as parallel to, the District Court [5]. When a juvenile case is filed in the Family Court, it conducts investigations including a social inquiry and medical or psychiatric examination of the juvenile, with the co-operation of the Family Court Pre-sentence Investigator or the classification expert of the Juvenile Classification Home [6]. If the Family Court finds as the result of investigation that there is no jurisdiction over the case, or that it is unnecessary to impose any measures upon the juvenile, it may enter a decision not to have a hearing, concluding the case. If the Family Court finds it proper to open proceedings after investigation, it hears the case after making a decision to that effect. The hearing, which is not open to the public, is conducted by a single judge in an informal or non-adversary way on the basis of the concept *parens patriae*. Upon the conclusion of the hearing the court may enter the following decisions:

(*a*) A decision to refer the case to the Prefectural Governor or the Chief of the Child Guidance Centre. This action is taken when it is deemed that the juvenile should be dealt with under the Child Welfare Law rather than be placed under protective control.

(*b*) A decision to dismiss the case. Such a decision is reached when it is considered unnecessary to make any special disposition of the juvenile.

[5] The Family Court, created on January 1, 1949, has in the first place jurisdiction over all disputes and conflicts within the family as well as all related domestic affairs of legal significance. About 200 judges, 150 assistant judges and 1,500 Family Court Pre-sentence Investigators are assigned to a total of 50 Family Courts and their branches.

[6] The Juvenile Classification Homes established under the Ministry of Justice make an inquiry on the mental and physical conditions of the juvenile. There are 51 Juvenile Classification Homes in Japan, and 179 experts of classification are in charge of the inquiry.

(*c*) A decision to refer the case to the public prosecutor. Such a decision is based on the view that the juvenile should be subject to normal criminal procedure due to the serious nature of the offence or the circumstances of the case. However, when the juvenile is under sixteen years of age, or the offence committed by him is punishable with a fine or lesser penalty, the court may not refer the case to the public prosecutor. The public prosecutor that receives a case referred by the Family Court prosecutes it in a criminal court such as the District Court or the Summary Court. The criminal proceedings afterwards are thereafter controlled by the Code of Criminal Procedure and the principles applicable to the adult cases. However, no juvenile under eighteen years of age at the time of the commission of the offence is subject to capital punishment. When a juvenile is sentenced to imprisonment with or without labour, he is generally given an indeterminate sentence within limits derived from the penalty established for the crime.

(*d*) A decision to place the juvenile under protective measures, which are as follows:

(*i*) The juvenile is placed under probationary supervision by the probation officer of the Probation-Parole Supervision Office, in principle until he reaches twenty years of age [7].

(*ii*) The juvenile is placed in a Child Education and Training Home or a Home for Dependent Children, both of which are established under the Child Welfare Law.

(*iii*) The juvenile is placed in the Juvenile Training School, which is a state-established institution to give

[7] The Probation-Parole Supervision Office is the agency responsible for the community-based treatment of offenders. The offices located at 50 cities are under the jurisdiction of the Ministry of Justice, being responsible not only for probation and parole of both adults and juveniles but also for the aftercare of discharged offenders. Rehabilitation agents working for these offices are 785 government probation officers, 49,000 volunteer probation officers.

corrective education to juveniles, in principle until twenty years of age [8].

B. *Organizational Level*

1. Police:

The organization and activities of police in Japan are guided by the principle of the supremacy of law and democratic administration. In line with these principles, the Police Law was enacted in 1954, replacing an earlier law of 1948. The change resulted in the integration of municipal police into the respective prefectural police. The entire police system operates at two levels: National Public Safety Commission and the National Police Agency, and the Prefectural Public Safety Commission and the Prefectural Police [9].

There does not seem to exist a formal separate juvenile division or unit in either the National Police Agency or in the Prefectural Police. Police work with juveniles is, however, considered a specialized field and police officers working with juveniles are given special training.

2. Family Court:

The Family Court was established in 1949. It is part of the judiciary and a specialized court of first instance independent of and parallel to the District Court. In all of Japan there are 50 Family Courts, 242 branch offices, and 96 sub-branch offices. Generally, the Family Court has three departments: juvenile, family and traffic. The judges assigned to juvenile departments are responsible only for

[8] The 64 Juvenile Training Schools including two branch schools administered by the Ministry of Justice are classified into four types; primary, middle, advanced, and medical.

[9] For jurisdiction and functions of these bodies see Ministry of Justice, Criminal Justice in Japan, pp. 2-7 (1970).

juvenile cases. They are lawyers by training. Five years of professional legal experience are required for appointment as an associate judge and ten years for a judge. Family Court judges are chosen by the Cabinet from a list submitted by the Supreme Court, and are appointed for a term of 20 years.

The Family Court is assisted by Probation Officers who are university graduates in sociology, psychology or pedagogy and who have passed an examination held by the Supreme Court. Furthermore, the Supreme Court has established a special Research and Training Institute for Family Court Probation Officers. Attached to each Family Court is a clinic, staffed by a full- or part-time physician, who is usually a psychiatrist or specialist in internal medicine, and by nurses. Besides, each court is assisted by Councillors and Conciliation Commissioners, who are members of the general public appointed on a year-to-year basis.

3. Classification and Treatment

(*a*) Juvenile Classification Homes

These Homes are established under the Juvenile Law and function under the Ministry of Justice. They provide the Family Court with expert advice on the physical and mental condition of juveniles, including I.Q. and personality tests. The personnel of these homes includes physicians, psychologists, sociologists and social workers. There are at present 51 such homes in Japan, employing 179 experts in the above disciplines.

(*b*) Juvenile Training Schools

These are established under the Juvenile Training School Law and function under the Ministry of Justice. The purpose of these schools is to provide correctional education, e.g., school courses, vocational training and guidance and

medical treatment to court committed juveniles. There are four types of schools:

— Primary Juvenile Training Schools for juveniles with no serious mental or physical defect, and who are over 14 and under 16 years of age;

— Middle Juvenile Training Schools for juveniles with no serious mental or physical defect, and who are between 16 and 20 years of age;

— Advanced Juvenile Training Schools for juveniles with no serious mental or physical defect but more advanced in criminal tendencies, and who are generally between 16 and 23 years of age;

— Medical Juvenile Training Schools for juveniles with serious mental or physical defects, and who are between the ages of 14 and 26.

Generally, there are separate institutions for boys and girls, except for those with serious mental or physical defects. There are at present 64 Juvenile Training Schools of various types in Japan, 5 of which are for mentally or physically defective juveniles.

(*c*) Child Guidance Centres

These centres are established under the general direction of the Ministry of Health and Welfare, as provided in the Child Welfare Law. These centres provide guidance service for children and their parents through advice, counselling and psychotherapy, and arrange placement of children requiring protection and treatment in child welfare institutions. The staff of these centres consists of specialists in medicine (psychiatry, pediatrics), child psychology, case work, etc.

There are at present 149 Child Guidance Centres in Japan.

(*d*) Child Education and Training Homes or Homes for Dependent Children

These are institutions established under the Child Welfare Law. There are numerous such institutions scattered all over Japan.

(*e*) Among non-institutional services for juveniles, systematic probation, rehabilitation and aftercare services were introduced by special acts, viz., the Offenders Rehabilitation Law, the Law for Aftercare and Discharged Offenders and the Volunteer Probation Officers Law. All these services are organized under the direction of the Ministry of Justice [10]. As a point of interest it must be mentioned that pre-sentence investigations are not conducted by a probation officer of the Ministry of Justice, but by the Family Court Probation Officers.

III. JUVENILE DELINQUENCY AND ITS TREATMENT

A. *General Trends of Juvenile Delinquency in Japan*

The number of reported juvenile delinquents in Japan over the past ten years is shown in Table 1. As mentioned earlier, the juvenile delinquents subject to jurisdiction of the Juvenile Law comprise juvenile offenders, law-breaking children and pre-offence juveniles. The absolute number of non-traffic juvenile offenders has generally declined over the last ten years, and the number of pre-offence juveniles and law-breaking children has had a similar trend. Juvenile negligent-traffic offences have shown a general increase [11].

[10] For details see Rehabilitation Bureau, Ministry of Justice, Non-Institutional Treatment of Offenders in Japan (1974).

[11] See: Government of Japan, Summary of the White Paper on Crime, 1973, 31-43, the Research and Training Institute of the Ministry of Justice (1973).

Table 2 presents the population of juveniles (14-19) in Japan from 1960-72, with the estimated population for 1973-75. It is interesting to note that since 1966 there has been a consistent decline in the juvenile population of Japan. Any careful analysis of juvenile delinquency must consider, among other variables, the effects of population decline as well. The importance of such an effort becomes clear when we examine Table 3. While the number of penal code offenders investigated from 1966 to 1972 shows a gradual decrease, except for 1970, the rate of delinquency does not demonstrate such a clear trend.

Detailed information on age and sex distribution of the juvenile population in general and the juvenile offender population in particular are available only for 1972. These are presented in Table 4. The data on offenders relate to cases investigated by the police, excluding traffic negligence offenders. Boys constitute 88 per cent of the offenders investigated. The rate of girls being investigated by the police per 1000 is only 2.47; the corresponding rate for boys is 17.58.

B. *Referral to the Family Court*

As already mentioned, juvenile delinquents investigated by the police and reported by other persons are referred to the Family Court through routes prescribed in the Juvenile Law. As shown in Table 5, more than 87 per cent of juvenile referrals to the Family Courts were through public prosecutors after arrest by the police. If the minor cases which the police directly send to the Family Courts are added, the proportion of referrals surpasses 91 per cent.

Shown in Table 6 is the number of juveniles handled by the Family Courts in 1972, classified by the type of crime. It indicates that, of the total number of juveniles, penal code offenders comprise 92.2 per cent, offenders against laws other than Penal Code 5.3 per cent, and pre-offence juveniles 2.5 per cent.

TABLE 1: NUMBER OF JUVENILE OFFENDERS INVESTIGATED BY THE POLICE, 1964-1973

YEAR	Juvenile Offender			Pre-offence juvenile	Law-breaking child
	Penal code offence		Special law offence		
1964	190,442	(151,083)	14,676	8,890	48,388
1965	190,864	(145,335)	14,422	10,106	44,095
1966	192,189	(148,249)	13,356	9,292	34,006
1967	184,594	(129,520)	13,174	8,699	30,857
1968	188,672	(117,125)	11,681	9,969	30,229
1969	187,029	(107,312)	10,634	8,547	31,365
1970	190,216	(113,295)	9,788	7,343	34,727
1971	180,709	(107,107)	7,925	7,161	34,090
1972	162,312	(100,851)	7,229	4,988	36,129
1973	163,551	(108,211)	7,835	3,361	38,746

*The number in the parentheses shows that of penal code offence excluding traffic negligence offence.

TABLE 2: JUVENILE POPULATION, JAPAN, 1969-1975 (UNIT: 1,000)
(Estimated Numbers for 1973-1975)

YEAR	Juvenile Population				
	14-15	16-17	18-19	Total	Index
1960	3,114	3,846	3,856	10,816	100
1961	3,847	3,556	3,835	11,238	104
1962	4,795	3,107	3,836	11,738	109
1963	4,922	3,840	3,549	12,311	114
1964	4,696	4,791	3,103	12,590	116
1965	4,278	4,876	3,752	12,906	119
1966	3,980	4,674	4,716	13,370	124
1967	3,738	4,275	4,871	12,884	119
1968	3,503	3,980	4,672	12,155	112
1969	3,386	3,740	4,275	11,401	105
1970	3,291	3,482	3,895	10,668	99
1971	3,124	3,378	3,684	10,186	94
1972	3,127	3,336	3,521	9,984	92
1973	3,149	3,112	3,375	9,636	89
1974	3,155	3,062	3,288	9,505	88
1975	3,103	3,145	3,107	9,355	86

Source: Summary of the White Paper on Crime, 1973, Government of Japan, The Research and Training Institute, Ministry of Justice 1974, p. 37.

TABLE 3: TRENDS IN JUVENILE PENAL CODE OFFENDERS INVESTIGATED BY AGE GROUP 1966-1972

YEAR	14-15		16-17		18-19	
	Number	Rate *	Number	Rate *	Number	Rate *
1966	48,239	12.1	54,162	11.6	46,405	9.8
1967	39,212	10.5	45,218	10.6	45,839	9.4
1968	34,535	9.9	40,624	10.2	42,837	9.2
1969	30,903	9.1	37,959	10.1	39,259	9.2
1970	37,818	11.5	40,606	11.7	35,657	9.2
1971	38,988	12.5	38,256	11.3	30,600	8.3
1972	38,591	12.3	36,489	10.9	26,182	7.4

* Rate per 1,000 population of the corresponding age.

Source: Summary of the White Paper on Crime, 1973, Government of Japan, Research and Training Institute, Ministry of Justice, 1974, p. 37.

TABLE 4: JUVENILE OFFENDERS INVESTIGATED BY THE POLICE AND POPULATION CLASSIFIED BY AGE, 1972 (JAPAN)

AGE	Juvenile Population		Juvenile Offenders Investigated by the Police		Rate per 1000	
	Male	Female	Male	Female	Male	Female
14	807.000	778.000	17,267	1,437	21.39	1.84
15	785.000	757.000	17,962	1,925	22.88	2.54
16	829.000	798.000	16,752	2,912	20.20	3.64
17	868.000	841.000	14,128	2,697	16.27	3.20
18	864.000	844.000	11,881	1,835	13.75	2.17
19	912.000	900.000	11,088	1,378	12.15	1.53
Total	5.065.000	4.918.000	89,078	12,184	17.58	2.47

TABLE 5: JUVENILE DELINQUENTS REFERRED TO FAMILY COURTS, BY ROUTES OF REFERRAL, 1972 (JAPAN)

Routes of Referral	
Public Prosecutors Office	177,967
Police	6,320
Prefectural Governors/Chief of Child Guidance	249
Report by Family Court Pre-sentence Investigator	336
Information received from	
— the general public	970
— chief of prosecutors office	127
Others	16,559
Total	202,528

TABLE 6: NUMBER OF JUVENILE CASES REFERRED TO THE FAMILY COURT, 1972 (JAPAN)

Type of Offence	
Penal Code Offences	186,718 (114,706)
Offences against laws other than Penal Code	10,822
Pre-offences	4,988
Total	202,528 (130,516)

The numbers in the parentheses represent penal code offences excluding traffic negligence offences.

C. *Disposition by the Family Court*

After the Family Court has received juvenile delinquents referred to it and made an investigation of them, with or without a hearing, it enters a decision as to the disposition of the case, such as referral to the Public Prosecutor for prosecution, placement under supervision by the Probation Office, referral to the Child Education and Training School, or it may enter a decision to dismiss the case. Table 7 contains the statistical data of the various types of disposition made by the Family Court in 1972. Dismissal without hearing was the most frequent disposition, followed by dismissal after hearing, and these two categories account for almost 87 per cent of the total number of juveniles processed by the Family Courts.

TABLE 7: NUMBER OF PERSONS DISPOSED OF BY FAMILY COURTS, BY TYPE OF DISPOSITION, 1972 (JAPAN)

Kind of dispositions	Number
Total Number	108,786
Referral to public prosecutor	1,450
Supervision by probation office	10,043
Referral to child education and training home or home for dependent children	181
Referral to juvenile training school	2,777
Referral to prefectural governor or chief of child guidance centre	310
Dismissal without hearing	64,465
Dismissal after hearing	29,560

Traffic negligence offences are excluded.

Some nine per cent of the total were placed under supervision by probation offices, while, on the other hand, it is noteworthy that less than three per cent were referred to Juvenile Training Schools. Referrals to the Public Prosecutor comprise about one per cent [12].

The case flow of Penal Code offenders (excluding traffic negligence offenders) in 1972 is shown in Table 8. Since there are three kinds of criminal statistics collected by three different agencies, namely the police, public prosecutor's offices and courts, each using slightly different statistical standards, the figures supposedly indicating the same phenomena are not necessarily identical.

D. *Treatment of Juvenile Delinquents*

(1) Treatment in Juvenile Training Schools

Commitment to the Juvenile Training Schools is one of the three protective measures provided for in the Juvenile Law. The 64 Juvenile Training Schools (including two branch schools) are administered by the Ministry of Justice. The number of inmates in these schools at the end of year 1972 was 3,580. In 1972, 3,534 juveniles were released from the Training Schools, of whom 2,552 were released on parole. The average length of stay in the Training School in 1972 was 446 days for those released on parole and 392 days for those released without parole supervision. Juvenile offenders convicted in courts other than the Family Courts and sentenced to imprisonment are committed to juvenile prisons. Juvenile prisons are more treatment-oriented than adult prisons. An inmate of a juvenile prison may remain there until he reaches the age of 26. At the end of 1972, there were 464 prisoners in juvenile prisons.

[12] As to the organization, staff and jurisdiction of the Family Court, see: General Secretariat of Supreme Court, Guide to the Family Court, Supreme Court of Japan (1965).

TABLE 8: JUVENILE PENAL CODE OFFENDERS AND DISPOSITION BY CRIME CATEGORIES, 1972 (JAPAN)

Offences	Number investigated	Number referred to public posecutor's office from the police	Referral to family court	Kind of Disposition by Family Court							
				Total number	Referral to public prosecutor	Supervision by probation office	Referred to child education & training home or home for dependent children	Referral to juvenile training school	Referral to prefectural governor or chief of child guidance centre	Dismissal after hearing	Dismissal without hearing
Total	100,851	104,500	103,657	95,804	1,357	9,181	118	2,489	215	27,183	55,261
Theft	71,806	73,724	73,043	67,124	466	5,446	97	1,450	189	17,998	41,478
Fraud	521	770	744	504	12	83	0	33	0	159	217
Embezzlement	1,447	1,775	1,768	1,436	2	27	0	6	0	161	1,240
Robbery	777	789	754	605	51	193	1	158	0	180	22
Extortion	5,480	5,670	5,598	5,120	76	917	6	214	8	1,820	2,089
Intimidation	201	62	60	78	0	10	0	3	0	36	25
Assault	6,483	2,921	2,894	2,875	37	170	0	5	2	730	1,921
Bodily Injury	6,847	7,728	7,741	6,915	252	897	5	133	1	2,626	3,001
Indecent Assault, Rape	2,444	2,598	2,596	1,765	215	656	2	313	3	508	68
Obscenity	108	185	181	739	3	156	0	26	4	323	227
Homicide	147	155	153	126	54	18	0	28	0	16	10
Arson	121	164	152	102	7	24	0	27	4	29	11
Stolen Property	1,134	1,120	1,114	1,043	4	31	0	1	0	164	843
Violation of the law for Punishment of Violent Acts	25	3,759	3,738	3,527	64	254	1	30	0	1,105	2,073
Others	3,310	3,080	3,121	3,845	114	299	6	62	4	1,328	2,032

Traffic negligence offence is excluded.

(2) Treatment in Child Welfare Law institutions

These are Child Education and Training Homes and Homes for Dependent Children, of which there are many in Japan.

(3) Probation

Placing juveniles under a probationary supervision in the community for a specific period is also one of the three protective measures that the Family Court may select. At the end of 1972, there were 46,633 juveniles on probation, comprising 60 per cent of the total number of probationers and parolees in Japan. The average length of placement under probationary supervision for juveniles was 998 days in 1972 [13].

IV. MENTAL HEALTH ASPECTS OF JUVENILE DELINQUENTS

As mentioned earlier, when a juvenile case is filed in the Family Court, a Pre-sentence Investigator assigned to the case by the judge undertakes a thorough social inquiry into the personality, life history, family background and environment of the juvenile concerned. If a mental and physical examination of the juvenile is necessary he is placed in the custody of the Juvenile Detention and Classification Home until the examination is completed, or he is required to appear at the Family Court clinic. After examining reports submitted by the Pre-sentence investigator and the classification expert, as well as other evidence, the court renders one of the above-mentioned decisions with or without a hearing.

The disposition of juvenile delinquents according to results of mental examination in Japan in 1972 is shown in Table 9. Of 169,978 juveniles referred to the Family

[13] See: Summary of the White Paper on Crime, op. cit. pp. 39-43.

TABLE 9: DIAGNOSIS AND DISPOSITION OF JUVENILE DELINQUENTS REFERRED FOR MENTAL EXAMINATION, 1972

DISPOSITION	Total	Normal	Quasi-Normal	Feeble minded	Psychopath	Neurosis	Psychosis
Total	14,115	1,066	12,039	618	267	23	102
Referral to public prosecutor	870	83	724	17	41	1	4
Supervision by probation office	5,125	168	4,628	240	63	6	20
Referral to child education and training home or home for dependent children	138	3	124	7	4	—	—
Referral to juvenile training school	2,570	31	2,190	207	100	8	34
Referral to prefectural governor or chief of child guidance centre	70	1	60	7	2	—	—
Dismissal after hearing	4,606	652	3,767	112	52	5	18
Dismissal without hearing	736	128	546	28	5	3	—

Court, 14,115 or 8.3 per cent underwent mental examination, and 85.3 per cent of them were diagnosed as quasi-normal, 4.4 per cent as feebleminded, 1.9 per cent as psychopathic, 0.2 per cent as neurotic, 0.7 per cent as psychotic, and the remaining 7.6 per cent as normal.

The most important institution for the rehabilitation of juveniles with mental disorders is the Medical Juvenile Training School, which cares for juveniles over fourteen years of age with mental or physical infirmities. In the school, the juveniles are given medical treatment, along with such other treatment as school education, vocational training, guidance in daily life and other appropriate training, according to their faculty. If a juvenile is placed under probationary supervision by the probation officer, the officer with sufficient knowledge of psychology, pedagogy or related sciences would treat him, with co-operation of a Volunteer Probation Officer.

Thus psychiatrists, psychologists and other specialists, who work as Pre-sentence Investigators, experts of classification, Probation Officers or personnel of educative correctional institutions have been playing important roles in the classification and rehabilitation of the mentally disordered juveniles. In order to encourage their further contribution, working conditions must be improved in order to attract more qualified recruits, and to ensure better treatment and training as well as mutual understanding among specialists from different fields.

V. RESEARCH ON PERCEPTIONS OF THE OPERATORS OF THE JUVENILE JUSTICE SYSTEM

In 1972, a research team comprising university professors of various disciplines and practitioners involved in treatment of juvenile delinquents, conducted research on how the operators of the juvenile justice system perceive its functioning and efficacy [14]. The operators of the system, the subjects of the research, were policemen and public prosecutors in charge of juvenile delinquency cases, Family Court judges and pre-sentence investigators, classification experts from Classification Homes, Probation-Parole Supervision Officers and personnel of Juvenile Training Schools and Juvenile Prisons. The researchers inquired about the following matters: present practice and function of each organization; needed improvements in practice; co-operation with other agencies or organs and opinion of their activities.

The report of the study is not available in English, but the general conclusion is that each organization functions fairly well in the whole process of juvenile justice, i.e. detection, investigation, hearing and treatment. However, it underscores the necessity of improvement in the following areas:

(1) public participation in prevention of juvenile delinquency;

(2) mutual understanding and co-operation between:

(*i*) the judge and the investigator of the Family Court,

(*ii*) the Family Court investigator and the classification expert of the Juvenile Detention and Classification Home,

(*iii*) the probation officer and the volunter probation officer.

(3) relationship between the Family Court and the Child Guidance Centre;

---

[14] See: K. Matsuo and others, the Present Enforcement of the Juvenile Law and Its Problems to be Resolved, Taisei Publishing Co., Tokyo (1972).

(4) supply of expert manpower (i.e. psychiatrists, psychologists, social workers and other experts of human behaviour) in related organizations.

It is also stressed that each person concerned with juvenile justice should not only understand fundamental principles for treatment of juveniles in harmony with the administration of justice and the promotion of child welfare, but also recognize his own role and the necessity of further co-operation among related organs in the whole process of dealing with juvenile delinquents.

VI. INNOVATORY APPROACHES

A. *Juvenile Guidance Centre*

Juvenile Guidance Centres, established under the direction of the central government in most cities around 1965, are administered by local governments with the support of the police and child welfare and education agencies. The centres are to find pre-delinquent juveniles, give them guidance without judicial intervention and collect relevant information with respect to problem juveniles in the community. When a counsellor working for the centre finds a pre-delinquent or problem juvenile, he counsels the juvenile and, if necessary, advises his parents, teachers and persons concerned about him in order to improve his life style and adjust his living environment. If the juvenile is considered to need any protective measures, the counsellor will report him to the police or the Family Court. Furthermore, the centre conducts necessary surveys on juveniles and wages campaigns for the prevention of juvenile delinquency. It also co-ordinates various programmes for juveniles designed by different organizations into a comprehensive plan for

promoting juvenile welfare. In short, it plays an important role in pre-judicial handling of juveniles [15].

B. *Tentative Probation by the Family Court Pre-sentence Investigator*

As mentioned previously, the Family Court enters one of the decisions prescribed in the Juvenile Law with or without a hearing. However, if the judge feels that it is improper to give judgement immediately, or that further and more thorough study of the juvenile should be conducted before the judgement can be made, the juvenile may be placed under supervision of the Family Court Pre-sentence Investigator. During this period of supervision, the juvenile may continue to live with the person who is charged with his protection under restrictions imposed by the Family Court, or he may be placed under the guidance of a suitable institution or individual. This intermediate disposition, taken while the final decision is held in suspension, is called tentative probation. It not only serves to ensure more careful consideration of the case by the judge, but also aims at avoiding, if possible, final protective measures such as referral to the Juvenile Training School and probationary supervision by the probation officer. Of the total juveniles referred to the Family Courts in Japan in 1972, 14.4 per cent were placed under tentative probation, and 90.6 per cent of these were dismissed upon completion of the tentative probation.

C. *Proposed Juvenile Amendment Law*

In response to the demands of various sectors of society to revise the present Juvenile Law, enacted in 1948, an Out-

[15] As to problems in pre-judicial dispositions, see: the President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Juvenile Delinquency and Youth Crime, 9-22, U.S. Government Printing Office, Washington (1967).

line Juvenile Amendment Law has been under careful consideration in a practitioners', experts' and scholars' sub-committee of the Legal Council of the Ministry of Justice since July 1970 [16]. One of the main proposals for revision of the present law is to establish a category of " young persons " for older juveniles from eighteen to twenty and treat them differently from either younger juveniles or adults. This would make it possible to handle each age group in a more appropriate manner, providing more suitable methods of treatment for each group. For the juveniles under eighteen years of age, protective measures would be given priority, based on the concept of *parens patriae*, while for the young persons formal trial would be adopted; in the latter case the juveniles assume full social responsibility but are assured stricter protection of their rights through principles of legality. Moreover, the court may take either criminal or protective measures for the young persons, according to their physical and mental maturity. In other words, the proposed amendment underscores the necessity of proper methods of treatment based on the maturity of juvenile offenders as well as on considerations of legal fairness in hearing procedures.

VII. PROPOSALS FOR FURTHER RESEARCH

A. *Research on clinical profile and social context of juvenile justice population*

In order to carry out the research on the clinical profile and social context of juvenile delinquents, the following four samples of juveniles will be selected based on a stratified random sampling method: namely, representative samples of (1) juveniles presently committed to the Juvenile Training School, (2) juveniles placed under supervision of the

[16] See: Ministry of Justice, Proposed Amendment to the Juvenile Law (1970), Ministry of Justice of Japanese Government (1970).

Probation Officer, (3) juveniles released from the Juvenile Training School five years ago, (4) juveniles who were discharged from probationary supervision five years ago, in Tokyo. It is possible to collect data for the clinical and sociological survey through examination of records and interview with the juveniles [17]. But for sample groups (3) and (4), it is rather difficult to obtain precise information on the issues proposed, since the only means of survey are based on records and it is practically impossible to interview or administer questionnaires to the juveniles, unless they are now subject to treatment because of a further offence or delinquency.

B. *Perceptions of the operators of the juvenile justice system*

In the international survey on this subject, we could extend the research reported in Section VI. Relevant questions would be the following:

(1) What do you think of the function and efficacy of the juvenile justice system ?

(2) What is or should be your role in the system ?

(3) What should be improved in performing your duty ?

(4) How do you utilize information from other specialists in dealing with problem juveniles ?

(5) What do you think of co-operation among the organizations handling delinquents ?

(6) What juvenile deviants should be diverted from the traditional juvenile justice system to other informal procedures ?

[17] See: K. Hashimoto. " Effect of Treatment of Juveniles in a Juvenile Training School ", Bulletin of the Criminological Research Department, 1967, 89-150, The Research and Training Institute of the Ministry of Justice (1967); M. Katsurajima, " Perceptions and Attitude of Juveniles committed in a Juvenile Training School ", Bulletin of the Criminological Research Department, 1972, 219-246 (1972).

CHAPTER 3

THE JUVENILE JUSTICE IN SCOTLAND

by M.W. McISSAC and F.H. McCLINTOCK

I. *Introduction*

Scotland comprises one of the three separate Criminal Justice Systems of the United Kingdom of Great Britain and Northern Ireland (the other two being England and Wales, and Northern Ireland). Laws in Scotland are in many ways different from the rest of the United Kingdom. The separate system of Scottish courts is linked to the rest of the British judicial system only in the final Court of Appeal, which is the House of Lords. On the executive level there is a separate Secretary of State for Scotland, who is a member of the British Cabinet, with governmental administrative offices in Edinburgh.

The population of the United Kingdom is 55 million, of which 5.2 million are resident citizens of Scotland and are consequently subject to the Scottish legal system. This population is highly localized, approximately 3,800,000 or 72% falling within the central industrial belt and, within this, 50% form the Strathclyde administrative region with Glasgow as its centre. Edinburgh itself has a population approaching half a million, and the Lothians region, of which it forms the administrative centre, has a population totalling 1,032,000. To the North East of this central belt, Dundee and Aberdeen each have a population of about 180,000,

although Aberdeen is currently growing as the city becomes the centre of North Sea oil development. The Border counties south of Edinburgh have small industrial towns which, including the surrounding farming communities, have a total population of 102,000.

Each of the three parts of the United Kingdom developed various innovations for dealing with juveniles within their systems of criminal justice from the beginning of the twentieth century onwards. The most radical changes have in recent years occurred in Scotland where the criminal justice system for dealing with young offenders under 16 years of age has been almost entirely replaced by a social justice system with special welfare tribunals known as children's panels.

The present paper first of all describes the Scottish system of juvenile justice today; secondly it briefly outlines a research project which is currently being carried out by the Department of Criminology at Edinburgh; thirdly, it gives a brief summary of other research into aspects of juvenile justice in Scotland; and finally it indicates some of the problems existing as regard the Scottish system today, with some indications of areas in which further research is required.

II. *The Scottish System of Juvenile Justice*

In Scotland, prior to 1968 it was possible for children to appear in one of four types of juvenile court, the measures regulating such appearances varying according to whether the child had offended against the law, was a truant or was in need of care or control. The Social Work (Scotland) Act 1968 united these strands of delinquency, truancy and care, setting up a system of lay tribunals to deal with any child who may be " in need of compulsory measures of care " [1]. The recommendations of the Kilbrandon Committee Report [2] of 1964 formed the basis for this change and it was made clear from the outset that the needs of the child were of paramount importance and that the system was solely concerned with decisions regarding such needs. The varying juvenile courts had had two separate functions, the finding of guilt and appropriate punishment and also the need to have regard to the welfare of the child, but, to quote Lord Kilbrandon himself, " the treatment appropriate to a given case should depend upon the need for it, not upon moral judgment relating to the circumstances which had given rise to that need " [3]. The system inaugurated by Part III of the 1968 Act is known colloquially as the ' Reporter system ' or ' the children's hearing system ' and it came into operation on 15 April 1971. It is based administratively on local government areas and basically applies to all children up to the age of 16. Geographical and administrative changes in Scottish local government which have just taken place will not materially affect the operation of the Act.

The key figure of the whole system is the official known as the reporter *, and his responsibility in the Kilbrandon Report was compared to that of the Public Prosecutor in the Scottish legal system. To him all children can be referred. He is appointed by the local authority with the approval of the Secretary of State, given office accommodation dissociated from courts and police stations, and provided with the necessary ancillary staff by the local authority. Although paid by the local authority the reporter is autonomous and cannot be removed from office except with the consent of the Secretary of State.

[1] Social Work (Scotland) Act 1968, Part III.

[2] Report on Children and Young Persons (Scotland). Cmnd. 2306, 1964, published by HM Stationery Office. (The Kilbrandon Report).

[3] Lord Kilbrandon: " Some Aspects in the Prevention of Juvenile Delinquency ", p. 16, a report to the Northern Ireland Council of Social Service, Belfast, June 1965.

* See Diagram I.

The reporters, some of whom are women, often have either a legal or a social work training, but there are no specific qualifications laid down for the post and in areas where a reporter and an assistant are needed to cope with the volume of work it is usual to find one with legal qualifications, one with social work training.

The system is essentially a simple one, in that " where any person has reasonable cause to believe that a child may be in need of compulsory measures of care he may give to the reporter such information about the child as he may have been able to discover " [4]. In other words, anyone can report a child as possibly in need of compulsory care. The reasons specified in the Act cover truancy, care, and delinquency. In the main they are that a child is beyond the control of his parents, that through lack of parental care he is falling into bad associations or exposed to moral danger, or that lack of care is causing suffering or impairment to health — the care and protection reasons; that he has failed to attend school regularly — the education reason; or that he has committed an offence * — the delinquent reason. Of course it is not necessarily one child, one reason — a child may be referred several times for several reasons.

On the instructions of the Lord Advocate there are special circumstances under which a child who has committed an offence may still go into the court system. These cover such serious offences as murder or rape, offences where the child is charged along with an adult, and offences where there may be a question of forfeiture of a weapon or disqualification from holding a driving licence — cases which cannot be covered by the powers of the children's hearings, and which must first go from the police to the fiscal. In

[4] Social Work (Scotland) Act 1968, Part III, §, 47 (1).

* The age of criminal responsibility in Scotland is 8.

many instances, however, the procurator fiscal (public prosecutor) will himself deal with the adult but will send the case of the child concerned to the reporter. It should be stressed that every effort is usually made by the fiscals and by sheriffs to ensure that wherever possible cases are dealt with by the reporters. Percentages vary throughout the Scottish regions, but around 10% of cases reach the courts, some of them because it is felt that the resources open to the children's hearings are inadequate or inappropriate for a particular case. These are heard mainly in the Sheriff courts. It is only such exceptional cases as, for example, attempted murder which must be heard in the Court of Session (the high court in Scotland).

A referral having been made, the reporter has absolute discretion in deciding whether or not compulsory measures are likely to be necessary. The Social Work Department can advise the reporter that a children's hearing is thought to be necessary but it cannot insist on one. To aid him in making his decision the reporter can draw on information from many sources. If the child has committed an offence, he will have a police report giving details of this. He can ask for a school report; he will ask if the child is known to the Social Work Department; he may, if he thinks there are home problems, ask for Social Work Department at this stage to visit the home and make him a report. Thus he collects such information as he needs to make the main initial decision — Is this child likely to be in need of compulsory measures of care ? His reason for decision ? — the child's best interest. No other consideration is valid. Should the reporter decide that there may be a need for compulsory measures, then a children's hearing is called [5].

[5] Social Work (Scotland) Act 1968, Part III, §, 39 (3). " Where it appears to the reporter that the child is in need of compulsory measures of care, he shall arrange a children's hearing to whom the case shall stand referred for consideration and determination ".

If there is no indication that the child needs compulsory measures of care there still may be many things done to help. The child may already be receiving voluntary help from the Social Work Department. He may be receiving help in school. In many instances the reporter may see the child, or see the child and parents, or he may write to the child and parents. Help and advice may often be given as to leisure pursuits, but all these measures lack the element of compulsion.

For children who may need compulsory care, what is called a children's hearing is convened " to whom the case shall stand referred for consideration and determination " * and it is at this point that there is the system which has taken the place of juvenile courts, the children's panels. A children's hearing is a meeting of three panel members, one of whom must be male and one female, to discuss with the child and his family, in a full and free manner, the reasons why there seems to be a need for compulsory care. The panel members envisaged in the Kilbrandon Report and now working are lay people giving their services voluntarily, drawn from many walks of life, many backgrounds, many age groups and as far as possible representative of the communities they serve. They are chosen for their personal qualities — people who are qualified by knowledge or experience to consider children's problems. Their selection and training is the responsibility of local committees and their appointments are made by the Secretary of State.

The reporter's responsibility for a children's hearing is that of the administrative arrangements. The child attends on each occasion unless for specific reasons the panel decides this is unnecessary or detrimental to the interests of the child. The parents have a right to be present at all stages of the proceedings and *shall* be present unless they can show good reason why not or are excused. Parents can be fined

---

* See Diagram II.

for non-appearance. Before the children's hearing meets, the reporter must obtain from the Social Work Department a full written background report based on a home visit and on any information already held, and using any other information from any such person as the local authority or reporter may think fit. It is usual for the social worker to make a recommendation as to the decision which should be made by the hearing.

The three panel members will have read and considered the written reports, one of their number act as chairman, and this person is responsible for the conduct of the children's hearing. The three panel members themselves make the decision concerning the child although other people may be present — the reporter is present, and there is a social worker present (wherever possible the social worker who wrote the report). The hearing can take place in a very informal way, chairs round a fire perhaps, or it can be a rather more formal meeting round a table, but the responsibility of the chairman is to introduce all present and to ensure " full, free and frank discussion " as to the needs of the child. The proceedings must begin with the chairman obtaining confirmation of the child's identity, age, and with the acceptance by the child and his parents of the reasons for the referral. It is no function of the panel to decide on facts in the light of evidence, and if the child or parents do not accept the reason for referral then the proceedings end at that point. It is infrequently that this happens, and usually a full discussion lasting half an hour to an hour ensues.

The child and parents have a right to legal representation at a children's hearing but there is no legal aid available at this point. They can be accompanied by or represented by a friend, a teacher, or a member of the family — someone to speak for the child and parents if they wish. The Press can be present, but there are restrictions on reporting and not often is there a journalist in the room.

The decisions open to the panel are limited. They can decide that no compulsory help is needed. If they think that parents can cope, perhaps because they are getting help from other sources, they can discharge the ground of referral and that is the end of the matter.

They can, however, decide that a child needs compulsory supervision in some form. This can be either supervision within the community or supervision in a residential setting. In the more usual use of the term supervision is within the community and a social worker is appointed to help the child and parents, and it should be stressed that throughout the operation of the system the child is viewed as part of a family unit. There is provision in some areas for children's hearings to refer children, if necessary on a short-term residential basis, to special multi-disciplinary assessment teams for assessment and advice. Hostel or similar " half-way " accommodation attached to hospital or clinic is available in some areas for psychiatric assessment or for treatment.

If it is felt (and this is certainly a decision which is never made lightly) that the child cannot be helped at home and needs residential care, then a supervision order with a residential requirement to a named establishment is made. This can mean that the child goes to a children's home, that the child stays in a school offering special educational facilities or it can mean than the child goes to what was formerly known as an Approved School, where the emphasis may be more on discipline and control. These schools, now known as List D schools, cater for children on the basis of age, sex, religion and, as far as possible, on their educational or training needs. (See Appendix A.)

Any supervision order when made is subject to review and one of the main advantages seen in the new system is that the child is given the treatment he needs and that this treatment can be changed as and whenever necessary, whereas a court system imposed a sentence or decision which

could not be changed. A treatment system allows this opportunity for change, and supervision can be reviewed at the request of the social worker at any time; at the request of the parents or the child after three months; and it must be reviewed within 12 months or it automatically lapses. Having been imposed it continues until the child reaches 18, unless it is discharged earlier. Discharge is by a further children's hearing when panel members again meet the child and parents and decide whether supervision should be continued or altered or ended. It is written into the Act that " no child shall continue to be subject to a supervision requirement for any time longer than is necessary in his interest " [6]. The system applies to all the children who enter it up to the age of 16, but decisions made concerning supervision can continue to the age of 18, and between 16 and 17 and six months the court can refer a young person to a children's hearing for advice or disposal.

The children's hearings can not make decisions on points of law, and if at the beginning of any hearing a child or parents do not accept the grounds of referral or a child because of extreme youth (e.g. battered babies) or mental defect is unable to understand the grounds of referral, then the hearing ends immediately. Application must be made to the sheriff sitting in private for a finding as to whether the grounds are established or not. There is an obligation then for a child to appear before the sheriff should he so require. If the sheriff upholds the grounds of referral on

---

[6] Social Work (Scotland) Act 1968, Part III, §, 47 (1). " No child shall continue to be subject to a supervision requirement for any time longer than is necessary in his interests; and where they consider that such a requirement in respect of a child should cease to have effect or should be varied, the local authority shall refer his case to their reporter for review of that requirement by a children's hearing and, if the hearing think proper, they may terminate the requirement, or continue or vary the requirement, and in the last event they may make any such supervision requirement as may be made under section 44 of this Act ".

" the standard of proof required in criminal procedure " [7], then the case returns to a children's hearing for discussion in the normal way.

If the child or parents do not accept the decisions of a children's hearing, that is, if they do not accept some form of supervision, then appeal can again be made to the sheriff and for such an appeal legal aid is available. Should the decision of the sheriff not be accepted, then an appeal can be made to the Court of Session, the highest Scottish Court, but this can only be on a point of law or irregularity in the conduct of the case. There cannot be an appeal to the Court of Session on the sole ground that the treatment is inappropriate for the child.

There are provisions within the Act for the continuation of children's hearings for specialist assessment of the needs of the child as already mentioned, and there are also provisions for police warrants to ensure detention of the child for such purposes or to ensure appearance of a child at a children's hearing. A child arrested by police following a delinquent act and detained by them should appear at a children's hearing within 24 hours.

It is important to remember that this is a very open system with considerable power in the hands of individual reporters. There were from April 1971 to May 1975, 52 local authority areas, each with their own reporter, in Scotland, and each reporter organised his own area as he saw best. Currently, as reporters operate within 12 administrative regions following local government re-organisation, more standardisation in the operation of the system is becoming likely. It is therefore perhaps inappropriate to talk about *the* system, in that there can be as many systems as there are reporters, or perhaps as there are panel chairmen, or even panel members, but the principle is the same - referral by anyone on specified grounds to the reporter; a decision by the reporter who seeks such information as he thinks fit as to whether or not compulsory care may be necessary; and a children's hearing where the panel members may decide on the needs for supervision taking into account the welfare of the child.

It is worth remembering that although this system can apply to all children under 16 who may be in need of compulsory measures of care, there are many children who are given help in other ways. Although arrangements vary in detail in the different local government areas, there is, in principle, provision for referral by schools of children thought to have educational, emotional or behavioural difficulties to Child Guidance Services for educational and psychological assessment or advice; and there is provision for referral through Child Guidance Services or through general practitioners to clinic or hospital out-patient and in-patient facilities for psychiatric assessment and advice. Child Guidance Services are in the main responsible for meeting special educational needs by special classes in ordinary schools, or by the provision of special schools, which may be day or residential. A school medical service, working in conjunction with general practitioners, feeds into a similar system for dealing with children with physical handicaps or illness, but such children on medical grounds alone do not become part of the children's hearings system. Many delinquents in some areas are dealt with by means of police warnings and juvenile liaison schemes. Not all children within the categories of care, truancy or delinquency necessarily come into children's hearing system.

[7] Social Work (Scotland) Act 1968, Part III, §, 42 (6). " Where the sheriff is satisfied on the evidence before him that any of the grounds, in respect of which the application has been made has been established he shall remit the case to the reporter to make arrangements for a children's hearing for consideration and determination of the case, and where a ground for the referral of the case is the condition referred to in section 32(2)(g) of this Act, the sheriff in hearing the application shall apply to the evidence relating to that ground the standard of proof required in criminal procedure ".

A summary of the operation of this system, taken from a Government publication relating to 1972 [8] is attached as Appendix A and quotes figures which may give scale to this descriptive account.

More detailed tables, with comments, are given in Appendix B [9].

As already mentioned, this system applies to juveniles up to the age of 16. Beyond this age there are a range of special provisions which apply before offenders become subject to the adult prison system at the age of 21, and although such provisions are part of the court system and so strictly beyond the scope of this paper an explanatory diagram * is attached which details the range of institutions in Scotland. Courts can in exceptional circumstances, such as for example a finding of guilt in a charge of attempted murder, and a sentence (in the Court of Session) of detention during Her Majesty's pleasure, send a youth under the age of 16 to one of the range of institutions available for young offenders.

III. *Current Research in the Department of Criminology, University of Edinburgh*

A report had been prepared for the Scottish Home and Health Department by the Department of Criminal Law and Criminology on juvenile offenders appearing in police records in a city and in a police division of a county during the year 1967. The county area had been chosen because it was one of the four areas in Scotland to have special juvenile courts. The records of 300 juveniles in each area had been examined in detail and a report on their offences and their background

[8] Social Work in Scotland in 1972. Cmnd. 5337, Scottish Education Department, 1973, published HMSO.

[9] Scottish Social Work Statistics 1972. Social Work Services Group and Scottish Education Department 1974, published HMSO.

* See Diagram III.

had been presented to Scottish Home and Health Department, but not published. (Work carried out by Mrs. J. Duncan and Mrs. A. Arnott, formerly on the staff of the Department.)

In 1970, the Scottish Home and Health Departments indicated to Professor Gordon, then Head of the Department of Criminal Law and Criminology, that there would be interest in a replication of this earlier descriptive study after the new system of Children's Hearing started in April, 1971. Estimates covering a 3-year period from October, 1971 were submitted, and detailed plans and the necessary contacts to obtain access to records were made. It was decided:

(1) that the information would be gained from records in Reporter's offices;

(2) that the areas should be the city and county as before, provided always that the necessary permission, co-operation and access could be granted. This would show the system in operation in a major city and also in a county area which was partly agricultural and partly industrial;

(3) that a *time* basis should be used rather than an equal number of cases in each area because of the considerable difference in total population in the areas.

It was obviously unrealistic to consider collecting data on all children for a year and it was decided that the difficulties of satisfactorily sampling an unknown population were such that it was better to begin by looking at ALL cases referred to the respective Reporters within the 3-month period January to March, 1972. The plan was to organise data collection in a chronological sequence on each child in relation to the decisions made about him. Data collection schedules were prepared, piloted in both areas, and the bulk of the collection was accomplished by the two research staff working full time in the Reporters' offices in the appropriate areas over a period of eight months (March to October,

CONTINUED

1 OF 3

1972). It was essential that this should not in any way interfere with the normal working of the records systems in these offices. There were many problems of desk space, files being in use and so not available to researchers, etc., as well as the complications of the system itself and the fact that each Reporter devised his own office routine and filing system. From the outset, however, all staff in the various offices were most co-operative and the successful completion in reasonable time of this part of the project is very largely due to them.

This phase, too, resulted in one of the very important results of this whole research project — the acceptance of those concerned in a new system of research being done and the trust which came to be placed in the research team who found themselves accepted by and at times almost acting as part of the Reporters' staffs. This acceptance of a research principle and a research team is a very valuable base for all future research.

The analysis of data occupied the next 6 months. Some pre-coding had been possible, and further coding was devised, resulting in approximately 130 items of information being available for each of the 740 children. This material was analysed using the SPSS Programme available at the Edinburgh Regional Computing Centre, and thereafter a preliminary report was written by the three staff concerned * and given to Scottish Home and Health Department and Social Work Services Group in April 1973. This report was intended as a basis for discussion of the future development of the project and by no means included all the information available — rather it gave an indication of the sort of facts which could be 'counted' and also of the more detailed case histories which could be used to illustrate and supplement them.

---

* Mrs. A. Morris, Mrs. M. McIsaac, and Mr. J. Gallacher, all at that time on the staff of the Department of Criminology.

The Scottish Home and Health Department asked for a follow-up study of the children in the 1972 sample for a 12-month period from the date of the first decision made about them, *and* a replication of the 1972 study for a similar 3-month period in 1973.

This meant a considerable increase in the amount of work to be undertaken in the second stage as compared with the amount of work in the first stage because:

(*a*) it was already known that the number of referrals to Reporters was greater in 1973 than in 1972, and

(*b*) the amount of work in the follow-up study was an entirely unknown quantity, but all of it would be additional.

All Reporters and their staff willingly accepted the continuation of the research although all the original problems such as space in which to work, had increased because of the growing number of children referred and consequent increases in the Reporters' staffs.

Benefitting from past experience, it was possible to re-arrange the data collecting schedule, to pre-code more items of information, and in the end to code 154 facts about each decision for each child. The overall plan remained the chronological one for the child within the system — who refers him and why; the information available to the reporter when he makes his initial decision; the further information which becomes available to panel members when children's hearings decisions are made; and any subsequent appeals, continuation of hearings, etc.

The current situation is that working on the basis of the child as a unit and collecting information in relation to decisions made about him, that data is available on a total of over 1,800 children, and computer analysis of this is about to begin. There is also information on any subsequent appearances within the system of the 740 children initially

studied for a 12-month period after the initial decisions were made concerning them.

The finalized plan for the completion of this research is that a detailed factual and descriptive report will be made available to the Scottish Home and Health Department and to Social Work Services Group on the system as it is seen at work in two varying areas. A first draft of this has been completed and submitted by the Department of Criminology in Edinburgh University. It is also intended that by the end of September 1975 the substantive findings from that report will be incorporated in the text of a book dealing with the issues of juvenile justice in a wider and more general context *.

It is not intended in this brief paper to give any detailed results on the operation of the Scottish system, but it is interesting to note several general patterns in the areas studied insofar as they may have a bearing on possible future research programmes:

(*a*) The vast majority of referrals came from the police because children had committed offences.

(*b*) As might be expected boys were in the majority of more than three to one and most of them were in the age range 13-15 years.

(*c*) A considerable proportion of the decisions are made at the reporter stage.

(*d*) Supervision by a social worker in the community and supervision in a residential institution are the decisions made concerning just over half of the cases dealt with by the panels.

(*e*) Panels receive recommendations from the local authority social worker and in the vast majority of cases it

* The provisional title of that study is: Justice for Juveniles by Allison Morris and Mary McIsaac (Mrs. Allison Morris was formerly a lecturer in the Department of Criminology, Edinburgh University and is now a nember of the staff of the Institute of Criminology, Cambridge).

was found that such recommendations were accepted by the panels.

Some of these main points can be seen in the Tables for 1972 which form Appendix B, and the general pattern continues into 1973 and 1974.

A limited number of case histories are given in Appendix C to illustrate the system in operation.

IV. *Research Work in Scotland.*

There has of course been a great deal of public and academic interest in the new system both in Scotland and further afield but very little detailed work has yet been published, although there is continuing comment and criticism from the media. Research work which has been done includes the following:

1) " Policy interpretation and the Children's Panels: A case study in social administration ", by David May and Gilbert Smith, *Applied Social Studies,* Vol. 2, 1970, pp. 91-98.

2) " The appointment of the Aberdeen City Children's Panel: a comment on the Social Work (Scotland) Act, 1968 ", by David May and Gilbert Smith.

3) *Initial selection for Children's Panels in Scotland: an analysis of data from the application forms for Panel Membership,* by A.J.B. Rowe, produced on behalf of the Social Work Services Group by Bookstall Publications.

4) " Children's Act in Trouble ", *Criminal Law Review,* November, 1972, pp. 670-692, articles by Brian Harris, J.D. McClean and Cordelia James; and " Children's Hearings in Scotland ", *Criminal Law Review,* same issue, pp. 693-701, by Allison Morris.

5) David May at the University of Aberdeen is currently working on the operation of the Social Work

(Scotland) Act 1968 in Aberdeen and surrounding county areas.

6) I.D. Willock has completed a small survey (unpublished) entitled " Dundee Children's Panel Parental Attitudes Survey: Report to Social Work Services Group and Social Work Committee of the Corporation of Dundee ".

7) Under the direction of Dr. Sula Wolff, Dr. L.J. Whalley and Dr. T.J. Robinson have been looking at a group of children referred to the Royal Hospital for Sick Children in Edinburgh and also to the reporter in the Criminology Department sample, and a paper is shortly to be published in the medical press.

8) There are a number of others, including students working on theses, who are known to be interested in this field although full details of the particular scope of their work are not currently available.

9) A report has been prepared on work which is ancillary to the children's hearing system — Police Warnings by M. Ritchie and J.A. Mack of the University of Glasgow.

V. *Possible fields of interest for future research.*

A) Allison Morris in her paper " Scottish Juvenile Justice: a Critique " [10] has already highlighted one of the main interests in the Scottish system, namely, has the basic conflict of punishment versus treatment or of the interest of the community versus that of the child been resolved ? It can be asked if a treatment system as such is the right model for dealing with the problem of children in trouble. Is there a recognisable disease and a known and tried cure as there is in the field of medicine ? The use of different models for decision-making by the authorities with respect to young

[10] " Scottish Juvenile Justice: a Critique ", by Allison Morris in *Crime, Criminology and Public Policy*, edited by R. Hood, Heinemann, 1974.

offenders is obviously central both to an understanding of different systems of juvenile justice and to their evaluation. In this connection it would be of considerable interest and significance to look at the English and Scottish systems comparatively, in that England has retained a system of dealing with children within the courts while at the same time extending the power of the social work authorities. The basis on which decisions are taken and the utilisation of the various services (social, medical, educational, penal) in each system could lead to fruitful results. Two socio-economically deprived urban areas could be taken for such a comparison: say, within the Newcastle area in North East of England and within the industrial belt in Central Scotland. Such a study should ideally also have a built-in follow-up of results of from one to two years. The Social Science Research Council in Great Britain is giving consideration to the possibility of supporting such a study.

B) The question of individual rights of young offenders as against treatment needs (social, medical and educational) has become an important issue today in juvenile justice systems in a number of advanced industrial societies (e.g. the USA and the Scandinavian countries). An examination of this issue in relation to the Scottish juvenile justice system, with perhaps a comparison with the hybrid socio-legal system in England and Wales, is another important area of research, especially as some of the developing countries are considering " treatment " oriented juvenile justice systems while such systems are being questioned elsewhere.

C) Many fields of research suggested by the work in the past few years are much more practically oriented. There could be a look at the English and Scottish systems, or just the Scottish system, from the child's point of view, asking such questions as: Is the philosophy of a treatment rather than a punishment system accepted by those subjected to it or concerned in operating it, and basically does the child

see one or the other system as fair ? Does he see the children's hearings system as a punishment or does he see it as " getting away with it " ? How do parents feel about it ? What are the views of the police, the panel members, or the magistrates concerned ? How divergent are the views of the various participants in this system ? Also, how do different sections of the public view the juvenile justice system ? It can be argued that special attention should be given to cases where the child is removed from home and especially to the medical, social welfare or penal issues involved. In this connection the question of different decisions being made about " co-offenders " is also important.

There would clearly be problems of methodology, but basically one would take selected samples of children appearing at children's hearings in Scotland or in court in England. This would build on work done earlier in a similar field by Scott [11] and Voelcker [12].

The practical value of a project of this type would be, we hope, to let those responsible for or involved in the system of administration of juvenile justice, have a truer realisation of what is happening, and from a theoretical angle to look at the problems from the view-point of the social construction of reality. Fieldwork could perhaps be extended to include as well as children on supervision or in residential care, those in Detention Centres, Borstal or Young Offender's Institutions, and also school discussion groups, such as groups of pupils, or Parents' Associations, Youth Clubs, social work groups, etc.

D) It would also be of interest to look at the decisions which are made to refer children into the system. One could look at the assessment of the working of the various agents of social control in relation to juveniles. This would

[11] Scott, Peter D: " Juvenile Courts: The Juvenile's Point of View " *B.J. Del.* Vol. IX, 1958-1959, p. 200

[12] Voelcker, P.M.W.: " Juvenile Courts: The Parent's Point of View " *B.J. Crim.* Vol. I, No. 2, October 1960, p. 154.

include a study of decision-making in relation to resources available in the social, educational, psychological, medical and criminal justice spheres. Basically this would be an assessment of the working of the various agents of social control in relation to juvenile " delinquents " (offence, vagrancy, care and protection, truancy, etc.) covering the following aspects:

1) An area or areas study (possibly those with high social problems).

2) Specific services and specific groups:

Police;

Social services;

Educational system - attendance officers, guidance teachers...;

Youth Employment Service;

Child Guidance Service (now called Department of Special Education Services in Edinburgh);

Medical Services;

... All feeding in to reporters and children's panels;

Procurator Fiscal and Sheriff Court link-up.

3) Working concept of " social behavioural problems " as seen by these services:

How they get information on cases requiring attention;

Organisation of each service in relation to juvenile delinquency and the inter-relationship between services (formal and in practice);

Distribution of resources and time/manpower problems, etc.;

How the personnel see their functions in relation to the other services, and in relation to investment in training.

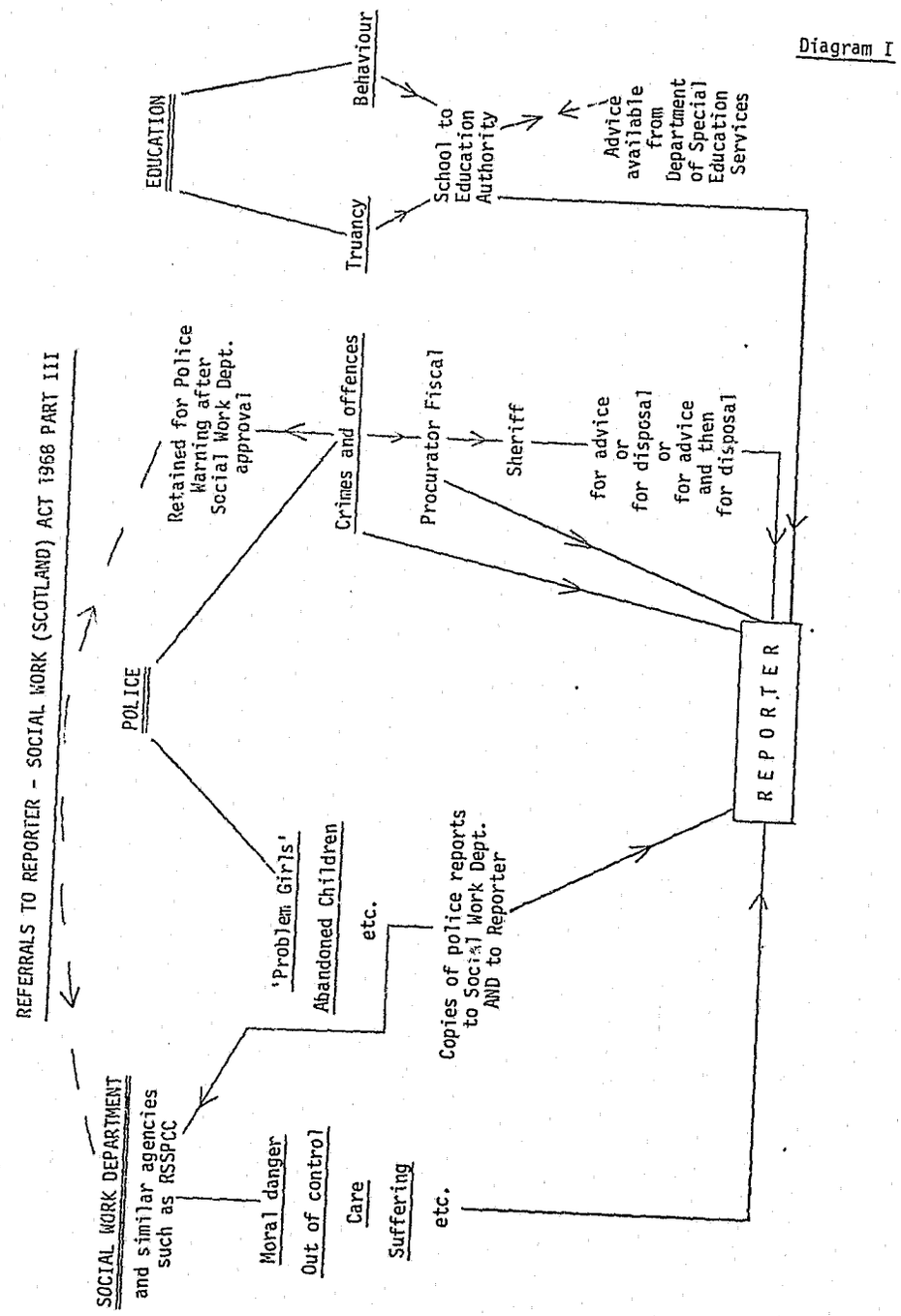
4) Costing of the system as a whole and in its integral parts.

E) The role of the social worker and the medical services in one or both systems. This would be seen as a more restricted aspect of the research proposal D.

F) Finally, there are many specific groups of children about whom little is known but who cause the authorities concern. Most of these groups indicate basic questions related to social and personal maladjustment. There is the current interest in truancy and it would perhaps be of value to look at both the effects of the raising of the school leaving age in this country, and also to look at truancy at the point of the transition from primary to secondary school. This could also be related to questions of educational achievement, particularly reading achievement. A further group about whom little is known is that of the teenage girls within a city who are reported missing from home and sleep with friends or sometimes in the streets. Yet another group are children who become involved with medical, and particularly with psychiatric agencies as well as or instead of with the reporter system, and some initial work in this area has already been done in the Department of Criminology in conjunction with the Department of Psychological Medicine at the Royal Edinburgh Hospital for Sick Children.

These various research proposals related to the Scottish, and to some extent to the English, systems of juvenile justice have not been worked out in great detail. They are an indication of some of the problem areas that have come to the attention of practitioners and research workers during recent years in Great Britain. It is suggested that each of them has value in the wider context of developing juvenile justice models and techniques of research evaluation for the industrial and developing countries.

Diagram I



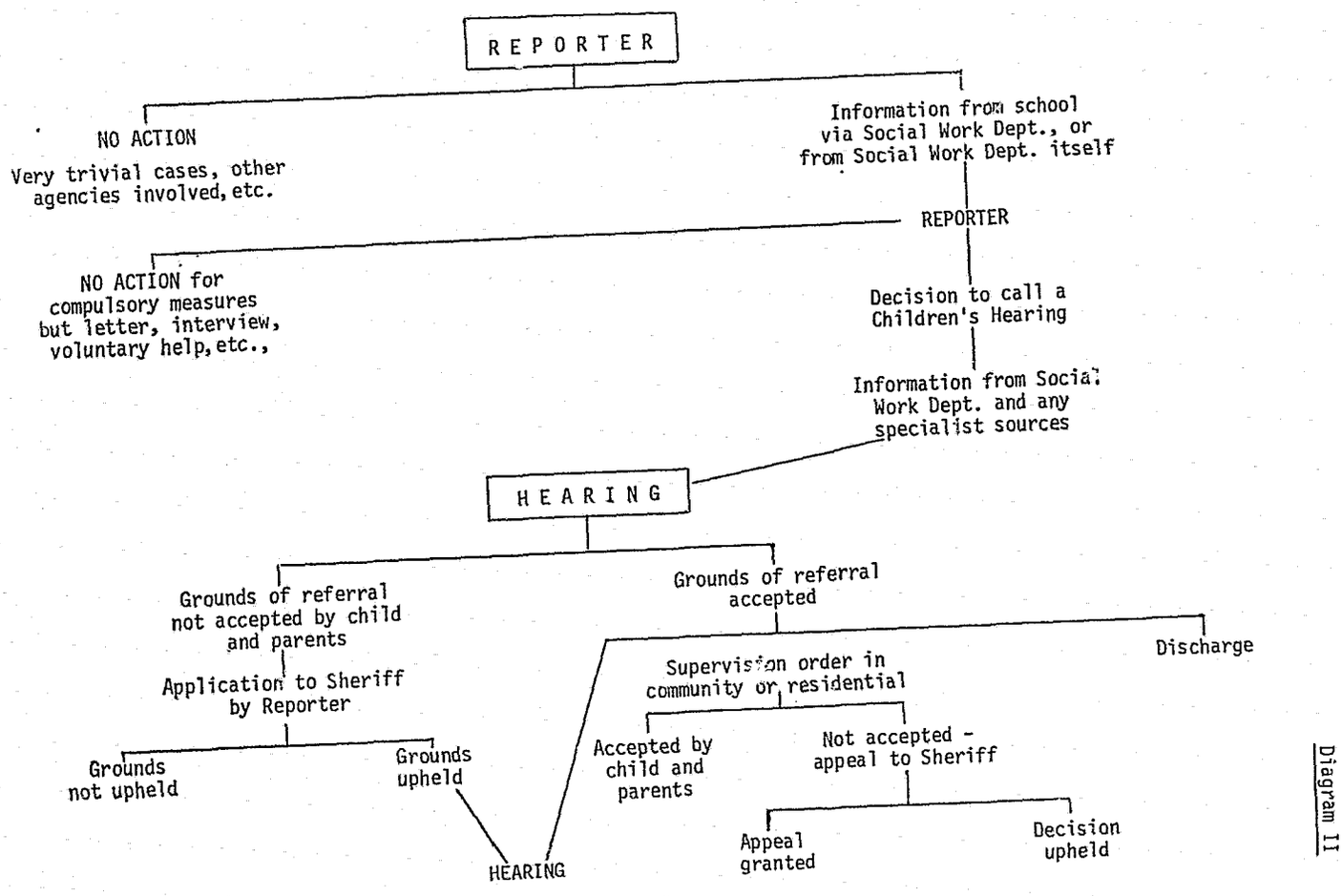
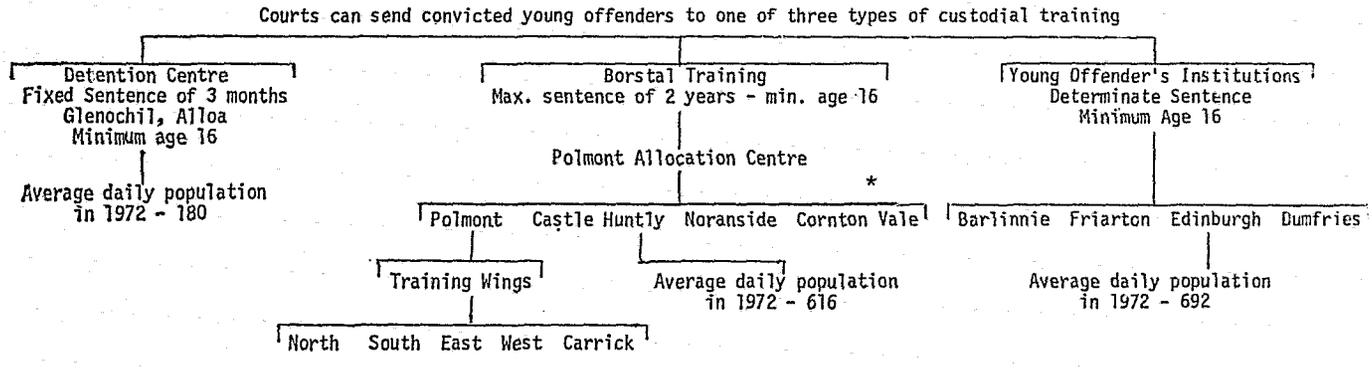


Diagram II

CLASSIFICATION FOR OFFENDERS UNDER 21 YEARS OF AGE



BORSTAL CLASSIFICATION:

POLMONT	- North Wing	- Junior Training Wing
	South Wing	- Junior Training Wing
	East Wing	- Senior Training Wing
	West Wing	- Senior Training Wing
	Carrick	- maximum security conditions
CASTLE HUNTLY	- able to withstand open conditions	
NORANSIDE	- no record of serious violence or sex assaults, and not a habitual car thief - open establishment	
CORNTON VALE	- "works" project - open establishment	

These provisions are for young men. In 1972 the average daily population of 60 girls sentenced to Borstal training and 10 girls sent to a Young Offenders' Institution were accommodated in special wings of Scotland's only prison for women at Greenock. A new prison, built largely by the labour of Borstal youths, is about to open at Cornton Vale (see *) and it will contain two separate houses for Borstal girls and for Young Offenders. The male Borstal population there will be re-allocated to other Borstal institutions in 1975/76.

YOUNG OFFENDER'S INSTITUTIONS:

BARLINNIE	- Up to and including 6 months (locals)
FRIARTON, PERTH	- Up to and including 6 months (locals)
EDINBURGH	- Up to and including 6 months (locals) and over 6 months and up to and including 2 years
DUMFRIES	- Over 2 years

Diagram III

APPENDIX A

Quoted from "Social Work in Scotland in 1972" [13]

Children's Hearings

1972 was the first full year of operation of the system of children's hearings introduced on 15 April 1971. The number of reports in respect of children considered to be in need of compulsory measures of care was 21,501. There were 33,422 grounds for referral in these reports. 19,024 reports came from the police, and related to 30,767 alleged offences.

Out of all reports received by reporters 10,840 were referred to a children's hearing. Decisions reached by hearings were along the following lines:

a. In 3,699 cases the hearing decided not to impose a supervision requirement on the child.

b. In 5,524 cases, the child was placed under supervision of the social work department (usually at home).

c. In 1,617 cases, a supervision requirement was made requiring a child to reside in a residential establishment (nearly always, as in 1971, a List D school).

The figures for 1972 cannot be directly compared with those provided in last year's Report which covered only the last 9 months of 1971. The following table gives a broad comparison of the ways in which referrals to reporters were disposed of and of the decisions taken by children's hearings:

Disposal by Reporter	1971 %	1972 %
a. Referral to a children's hearing	50	50
b. Referral to social work departments	7	5
c. Referral to police (for action by them) or dealt with otherwise	15	10
d. No action taken because children were under supervision or had been referred on other grounds	3	10
e. No action taken otherwise	25	25

Decision of children's hearings	1971 %	1972 %
a. No supervision requirements made	28	34
b. Supervision requirement without residential provision	56	51
c. Supervision requirement involving residence in a residential establishment	16	15

Research was completed on the initial selection for children's panels in Scotland *. This showed that in many areas three or four times as many persons applied for panel membership as were required. Although the panels as originally constituted contained representatives from a wide spectrum within the community, most applicants were in non-manual occupations and roughly a quarter of those appointed were teachers. A wide spread in the age distribution of panel members was achieved, though the 20-29 group was somewhat under-represented proportionately. The Children's Panel Advisory Committees were sent copies of the report and were asked to encourage a wider range of candidates to come forward so that the panels might become more fully representative of the local community.

At the end of 1971 there were over 1,200 panel members. About one-third of the panel members were appointed until 1 April, 1973, and most of the retiring members were recommended for reappointment for three more years. About 150 new panel members were appointed in 1972, and

[13] See footnote 8.

* Initial Selection for Children's Panels in Scotland. A.J.B. Rowe.

the total number at the end of the year was about 1,300. The arrangements for training panel members were strengthened by the appointment of a second full-time organiser, and by the constitution of an advisory group on panel training under the chairmanship of the Department's Chief Social Work Adviser.

List D Schools

List D schools (formerly known as approved schools) provide care, education and semi-vocational training for boys and girls, usually between the ages of 10 and 17, who have been sent there by the children's hearings as being in need of compulsory measures of care or who are placed there by the Secretary of State as a result of court orders. There are 27 such schools in Scotland; two are run by the Glasgow Corporation social work department, and the rest are under voluntary management.

The number of pupils in the schools on 31 March 1972 was 1,465, 183 less than at 31 March 1971. The total number of children admitted in 1971-72 was 1,238, of whom 1,074 were boys, the latter figure being a decrease of 309 from the previous year. 1,130 of these children were placed under supervision in the schools by the children's hearings while 108 were dealt with by the courts.

For the most part, schools worked under considerable pressure in 1972, and there was often a considerable time-lag between a child's appearance before a hearing and his admission to a List D school. A contributory factor was that numbers at some schools were temporarily reduced, and in some instances intakes ceased altogether to enable internal alterations or other building works to be carried out. Staffing difficulties were also reflected in the number of pupils the schools could accommodate.

Further proposals to relieve the pressure on schools accommodating pupils with serious behavioural and emotional problems were under consideration at the end of the year; plans were well advanced to provide a special unit at a school in the west of Scotland, where it is proposed to provide accommodation for 18 children initially. An extension to the Macdonald Wing at Rossie School was planned to provide 10 additional places for boys with special difficulties. Plans were also made to bring into operation at one of the schools a small unit specially designed and staffed to help girls with special needs.

In order to meet needs resulting from the raising of the school leaving age, additional classroom accommodation was provided at a number of schools. The first phase of the redevelopment of Wellington School, Penicuik was completed; and progress was made in improving standards of accommodation and staffing generally.

A short course for teachers and instructors in List D schools on the implications of the raising of the school leaving age was held in March. A course on education in junior schools was held in June, in order to introduce teachers of pupils between 10 and 13 years of age to modern teaching methods in primary schools. In addition, individual members of staff attended during the year courses connected with their particular responsibilities including 40 members of staff seconded to attend specialist courses and courses of professional training covering periods ranging from six months to two academic sessions.

A team of psychologists, covering among them all the List D schools, continued to be available to the schools and to advise on the treatment of pupils. An additional senior assistant psychologist was appointed by the schools to start work from the beginning of 1973. During the year two training and development officers, one based in Edinburgh and the other in Glasgow, began work in the schools. The work of these officers included helping heads of schools with internal staff development schemes, giving advice about social work courses, and the setting up of courses and conferences.

(APPENDIX B.)

TABLES TAKEN FROM "SCOTTISH SOCIAL WORK STATISTICS 1972"

THE CHILDREN'S HEARINGS SYSTEM

Reports to Reporter, by Source of Report, by Sex and Age of Child, 1972

Sex and age of child	Source of report				All Sources	% of all Reports	
	Police	SW Dept	Relatives	Other		1971	1972
Boys:							
Aged under 6	42	62	3	57	164	0.7	0.8
Aged 6	20	10	—	26	56	0.2	0.3
7	41	9	5	32	87	0.6	0.4
8	376	14	3	40	433	2.4	2.1
9	673	14	1	63	751	4.5	3.7
10	1,048	13	1	96	1,158	6.2	5.7
11	1,301	20	—	100	1,421	8.1	7.0
12	2,097	17	4	147	2,265	11.4	11.2
13	2,993	19	4	241	3,257	17.3	16.1
14	4,449	38	2	390	4,879	23.3	24.1
15	4,831	23	6	279	5,139	23.8	25.4
16+	571	7	1	42	621	1.5	3.1
Boys total	18,442	246	30	1,513	20,231	100.0	100.0

Sex and age of child	Source of report				All Sources	% of all Reports	
	Police	SW Dept	Relatives	Other		1971	1972
Girls:							
Aged under 6	18	59	3	43	123	3.3	4.2
Aged 6	8	12	2	16	38	1.0	1.3
7	7	7	—	20	34	1.1	1.2
8	20	4	—	24	48	1.5	1.6
9	45	11	—	21	77	3.5	2.6
10	61	6	1	32	100	3.9	3.4
11	98	10	1	32	141	5.3	4.8
12	148	14	2	54	218	9.1	7.5
13	378	25	3	112	518	14.6	17.8
14	559	55	5	179	798	28.4	27.4
15	597	49	12	88	746	27.0	25.6
16+	61	4	—	7	72	1.2	2.5
Girls total	2,000	256	29	628	2,913	100.0	100.0
Grand total	20,442	502	59	2,141	23,144	—	—
% of all reports:							
1971	88.7	2.8	0.3	8.3	100.0	—	—
1972	88.3	2.2	0.3	9.3	100.0	—	—

Children under 8, whith is the age of criminal responsability in Scotland, are care cases.
The main point to note is the very large proportion of children who are referred by the police over the country as a whole.

THE CHILDREN'S HEARINGS SYSTEM

Grounds for Referral to Reporter, by Sex and Age of Child, 1972

Sex and age of child	Grounds for Referral *								Total	Total offences alleged under G
	A	B	C	D	E	F	G	H		
Boys:										
Aged under 6	6	3	129	26	—	9	3	2	178	3
Aged 6	12	2	18	4	—	21	—	1	58	—
7	30	1	22	—	—	33	1	2	89	1
8	15	1	21	2	—	32	371	2	444	573
9	14	1	17	6	—	41	681	—	760	1,069
10	16	2	9	2	—	55	1,084	1	1,169	1,782
11	29	5	8	1	—	66	1,328	4	1,441	2,123
12	27	4	9	—	—	113	2,141	2	2,296	3,448
13	41	1	11	1	—	191	3,058	6	3,309	5,026
14	60	8	10	2	—	261	4,621	4	4,966	7,622
15	40	4	6	3	—	83	5,024	7	5,167	7,916
16+	7	—	2	—	—	2	605	8	624	949
Boys total	297	32	262	47	—	907	18,917	39	20,501	30,512

* The grounds for referral are listed on page 117. A child may have more than one ground per report.

Sex and age of child	Grounds for Referral *								Total	Total offences alleged under G
	A	B	C	D	E	F	G	H		
Girls:										
Aged under 6	1	2	104	12	2	7	—	1	129	—
Aged 6	3	2	24	3	1	8	—	1	42	—
7	5	1	13	1	—	14	—	—	34	—
8	2	1	10	2	—	19	16	1	51	27
9	7	1	10	3	1	15	40	1	78	72
10	5	2	7	2	2	24	59	—	101	99
11	10	6	5	—	—	29	95	1	146	134
12	17	5	8	2	1	42	147	1	223	197
13	58	14	8	5	—	93	357	3	538	544
14	140	49	10	4	1	165	481	2	852	730
15	153	53	13	8	1	56	497	3	784	708
16+	11	2	—	—	—	2	60	1	76	84
Girls total	412	138	212	42	9	474	1,752	15	3,054	2,595
Grand total	709	170	474	89	9	1,381	20,669	54	23,555	33,107
% of all grounds:										
1971	3.2	1.2	2.0	0.4	0.0	5.2	87.9	0.1	100.0	—
1972	3.0	0.7	2.0	0.4	0.0	5.9	87.7	0.2	100.0	—

* The grounds for referral are listed on page 117. A child my have more than one ground per report.

Grounds for Referral as detailed in Social Work (Scotland) Act 1968, Part III, 32(2):

A. he is beyond the control of his parents; or

B. through lack of parental care he is falling into bad associations or is exposed to moral danger; or

C. the lack of care as aforesaid is likely to cause him unnecessary suffering or seriously to impair his health or development; or

D. any of the offences mentioned in Schedule to the Children and Young Persons (Scotland) Act 1937 has been committed in respect of him or in respect of a child who is a member of the same household; or

E. the child, being a female, is a member of the same houseold as a female in respect of whom an offence which constitues the crime of incest has been committed by a member of that household; or

F. he has failed to attend school regularly without reasonable excuse; or

G. he has committed an offence; or

H. he is a child whose case has been referred to a children's hearing in pursuance of Part V of this Act.

Major Offence Alleged in Offence Reports (Children aged 8 and over), 1972

Major crime or offence	1971 Total	1972		
		Boys	Girls	Total
Crimes against the person:				
Murder, attempt to murder, culpable homicide	4	11	—	11
Assault	188	200	13	213
Indecent assault	52	64	3	67
Lewd and libidinous practices	60	80	1	81
Procuration etc.	25	41	—	41
Other crimes against the person *	143	215	9	244
Total crimes against the person	472	611	26	637
Crimes against property:				
Housebreaking	3,822	5,848	171	6,019
Robbery and assault with intent to rob	115	123	5	128
Theft	3,667	4,983	751	5,734
Reset	54	74	8	82
Embezzlement, fraud etc.	64	128	25	153
Post Office offences	59	67	27	94
Fire raising	111	238	8	246
Other crimes against property	274	406	22	428
Total crimes against property	8,166	11,867	1,017	12,884
Other crimes:				
Forgery etc.	7	12	7	19
Mobbing and rioting	19	7	1	8
Perjury etc.	34	40	7	47
Indecent exposure	18	41	—	41
Other crimes	11	21	6	27
Total other crimes	89	121	21	142
Offences:				
Breach of the peace etc.	1,333	2,934	357	3,291
Offences against Education Acts	38	9	8	17
Explosives etc. offences	56	87	—	87
Drunkenness etc.	196	241	90	331
Police Acts, byelaws and regulations	372	949	109	1,058
Railways offences	108	133	19	152
Bicycle offences	60	89	1	90
Taking a motor vehicle	93	160	1	161
Vagrancy and trespass	48	58	8	66
Malicious mischief	830	1,408	80	1,488
Motor vehicles offences	64	102	7	109
Other offences	105	144	8	152
Total offences	3,303	6,314	688	7,002
Total crimes and offences	12,030	13,913	1,752	20,665

* Includes carrying an offensive weapon.

Note that the majority of crimes are offences against property, with a substantial number of them being housebreaking and theft.

THE CHILDREN'S HEARINGS SYSTEM

Action by Reporter by Grounds for Referral 1972

Action by reporter after initial investigation	Grounds for Referral *								Total	Total offences alleged under G
	A	B	C	D	E	F	G	H		
Boys:										
Referred to hearing . .	225	22	205	37	—	701	9,311	33	10,534	17,988
Referred to SW Dept. .	21	6	21	1	—	81	732	1	863	1,008
Police warning	3	—	1	—	—	3	1,503	—	1,510	1,978
JLO scheme	1	—	—	—	—	3	189	—	193	297
Other action	1	—	2	—	—	4	204	2	213	330
No action:										
Current SR	6	1	—	1	—	19	1,986	—	2,013	2,747
Ref. on other grounds	4	1	—	—	—	1	73	—	79	101
Other reasons . . .	36	2	33	8	—	95	4,919	3	5,096	6,063
Boys total . . .	297	32	262	47	—	907	18,917	39	20,501	30,512

* The grounds for referral are listed on page 117. A child may have more than one ground per report.

Action by reporter after initial investigation	Grounds for Referral *								Total	Total offences alleged under G
	A	B	C	D	E	F	G	H		
Girls:										
Referred to hearing . .	282	97	161	34	6	340	749	15	1,684	1,272
Referred to SW Dept. .	43	17	19	2	—	54	99	—	234	135
Police warning	—	—	—	—	—	4	265	—	269	361
JLO scheme	—	—	—	—	—	—	26	—	26	43
Other action	2	—	5	1	—	1	17	—	26	22
No action:										
Current SR	8	4	1	—	—	6	102	—	121	128
Ref. on other grounds	1	1	—	—	—	—	5	—	7	5
Other reasons . . .	76	19	26	5	3	69	489	—	687	629
Girls total . . .	412	138	212	42	9	474	1,752	15	3,054	2,595
Grand total . . .	709	170	474	89	9	1,381	20,669	54	23,555	33,107

* The grounds for referral are listed on page 117. A child may have more than one ground per report.
Note that many referrals refer to multiple offences — Total and Total Offences columns.
Approximately half of all children referred to the reporter are sent by him to children's hearings.

THE CHILDREN'S HEARINGS SYSTEM

Initial Disposal of Reports Referred to Hearing, by Grounds Accepted or Established 1972

Grounds for referral accepted or established	Initial disposal by hearing			Total disposals	Residential SRs as % of all disposals	
	Supervision requirement		No supervision requirement		1971	1972
	Non-residential	Residential				
Boys:						
Ground A	111	87	15	213	41.4	40.8
B	12	6	2	20	54.2	30.0
C	110	59	17	186	30.0	31.7
D	18	13	3	34	38.9	38.2
E	—	—	—	—	—	—
F	453	130	99	682	23.0	19.1
G	4,383	1,296	2,699	8,378	16.0	15.5
H	17	3	7	27	14.3	11.1
none	9	4	949	962	0.5	0.4
Boys total	5,113	1,598	3,791	10,502	16.6	15.2
Girls:						
Ground A	170	82	19	271	30.8	30.3
B	69	22	2	93	28.6	23.7
C	90	57	5	152	25.6	37.5
D	14	14	4	32	37.0	43.8
E	5	1	—	6	50.0	16.7
F	234	41	57	332	16.5	12.3
G	411	81	203	695	15.3	11.7
H	7	4	3	14	42.9	28.6
none	4	—	75	79	—	—
Girls total	1,004	302	368	1,674	20.5	18.0
Grand total	6,117	1,900	4,159	12,176	17.2	15.6
% of grand total:						
1971	55.6	17.2	27.2	100.0	—	—
1972	50.2	15.6	34.2	100.0	—	—

Note that approximately half of all the children are placed under compulsory supervision.

THE CHILDREN'S HEARINGS SYSTEM

Reviews of Supervision Requirements by Agency Requesting Review, 1972

Sex of child/agency requesting review	Result of review				Total
	SR varied, requiring		SR continued without variation	SR ended	
	Non-residential supervision	Residential supervision			
Boys:					
Local authority	442	359	477	439	1,717
Child or parent	48	11	33	20	112
Reporter	312	207	989	992	2,500
Other	26	14	37	13	90
Boys total	828	591	1,536	1,464	4,419
Girls:					
Local authority	144	129	119	84	476
Child or parent	23	3	12	3	41
Reporter	56	28	173	165	422
Other	7	3	8	3	21
Girls total	230	163	312	255	960
Grand total	1,058	754	1,848	1,719	5,379
% of all Reports:					
1971	18.3	34.6	33.9	13.3	100
1972	19.7	14.0	34.3	32.0	100

SR = Supervision Requirement.

APPENDIX C

CASE 1: John, aged 14

Source of referral: Police via Procurator Fiscal

Reason for referral: Offences on separate occasions:

(*a*) taking and driving away a motor scooter

(*b*) theft of biscuits from van

(*c*) offensive weapon

Previous referral: six months earlier — minor assault charge: No Action decision by reporter.

The reporter decided John should appear at a children's hearing.

John's parents had been divorced six years previously and John, the eldest of five children, had been "man of the house", until his mother had re-married two years before. His stepfather was a bus driver. The social work report indicated that he did not enjoy school, and was dunce of his class. Parents were strict, and John felt inadequate. There were adolescent problems, but there seemed little reason for his offences. His mother would welcome supervision to help the family.

The school reported that John was of below average ability but that his achievement was commensurate with his potential. His parents were concerned and had visited the school. There was also a suggestion of hostility from the boy towards his stepfather. John was gaining a school reputation as a troublemaker — he was arriving late and truanting, and had at one point been suspended for smoking.

The three panel members in deciding to impose a compulsory supervision requirement gave as their reasons that John " would benefit from skilled help " and " that with direction he can be happier and more contented, and not prone to delinquent involvement ".

CASE II: Maria, aged 13

Source of referral: Social Work Department and Police

Reason for referral: Beyond control — care and protection: reported to police as missing from Hostel.

Previous referral: similar behaviour.

Maria was already in the voluntary care of the Social Work Department and had been placed by them in hostel accommodation. She was the youngest of six children from a family situation where there had always been financial and other difficulties. Her mother died after a long illness, and her father died shortly afterwards when she was aged 11. She spent varying amounts of time with a number of relations, ending in the household of a married sibling where there were several young children and where the wife was possibly a prostitute. Despite financial and other help to this household, home conditions were such that Maria suffered dirt and infection and she had to have her head shaved because of lice. Her adolescent behaviour included smoking, lie telling and petty theft from the home. She left home, and was missing overnight although not reported to the police as missing. She left home again and went to other relatives who contacted Social Work authorities, and she was received voluntarily into care and hostel accommodation arranged. She had stayed out overnight from the hostel,

and had been truanting from school, although recently her attendance had improved. On the current occasion she had stayed out overnight along with an older girl whose friends had supposedly given them accommodation. The reporter referred Maria to a children's hearing, and indicated that a place in a Children's Home was available for her as it was felt that she was too young for hostel conditions and delinquent behaviour was likely if present circumstances continued. Maria had already visited the Home, met some of the girls and staff, and had got on well with them. The hostel matron spoke well of Maria and hoped she would keep in touch with the hostel; the panel members were impressed with Maria's progress and commented on how well she was coping with her difficulties. The decision was compulsory supervision with a condition of residence in the Children's Home.

CASE III: Peter, aged 10

Sources of referral: Police

Reason for referral: Offence — malicious mischief.

Peter and two friends had defaced school walls with chalks and paints. He was a first offender.

The police report indicated that Peter came from a good home, was normally well-behaved, and was a member of the local Scout group. His school report indicated that he was under-achieving scholastically and that he was friendly and popular. He had been a quiet boy until one of the others concerned joined his class, but he appeared to have settled down again since the reported incident. The family were not known to the social work authorities. The reporter decided there was nothing to indicate that any compulsory measures were necessary in this case and took no action.

CASE IV: William, aged 13

Source of referral: from Sheriff for advice

Reason for referral: Offence — theft.

William had been involved with a group of boys who did considerable damage to a school as well as stealing property from it. All were older and had appeared before the sheriff in connection with the incident. There was a further direct referral to the reporter, concerning the theft of money along with another boy.

William and his mother both understood that the children's hearing on this occasion was to give advice to the sheriff who would in turn give his own verdict in court.

Social work reports indicated that William was the second of four children and referred to possible deafness; the family lived in a high delinquency area; father was usually in employment; both parents believed in punishment, which was at times severe, for wrong-doing. William was the only member of the family in trouble and appeared to have taken to following and joining a group of older boys in a thoughtless manner. School reports, as well as stating that he was underachieving scholastically, referred to his " continuation of antisocial behaviour " and his " restlessness and truculence increasing daily ". The children's hearing advised that there was " a need for supervision and social work support " and commented that " in particular the contribution of William's deafness which was marked was thought to require further investigation ". The panel members considered the resources of the children's hearing appropriate to this case and invited the Court to remit the case to them for disposal. This was, in fact, done and William was placed under a compulsory supervision order at home, although at one point during the discussion it had been suggested that residential supervision might be appropriate.

CHAPTER 4

AFGHANISTAN: NOTES ON THE JUVENILE JUSTICE SYSTEM

by M.A. KAKAR and M.A. PAYAM

Introduction

Afghanistan follows the " Hanafi " school of jurisprudence in the sphere of juvenile delinquency and treatment of delinquent children. Hanafi jurisprudence differentiates the manner of investigation of juvenile cases from the general manner of criminal investigation, but its provisions in this respect are not very specific and there has not been a sufficient volume of precedents for the courts to follow in juvenile cases. Therefore the state has been compelled by the pressure of increasing juvenile delinquency to establish particular rules for the juvenile justice system based upon the general principles of Hanafi jurisprudence. The measures that have been adopted provide as follows:

Organization of the Juvenile Courts

Prior to 1967-68 * criminal cases involving children were handled at all levels by courts of general jurisdiction under the general rules of criminal procedure. The Law on the Organization and Function of the Judiciary (enacted 15th Mizan

* The Afghan year begins on July 16; all years have been converted from Afghan notation to corresponding periods on the Gregorian calendar.

1967-68) for the first time established separate juvenile courts and provided that juvenile cases ** should be handled by them. Since the establishment of juvenile courts in all the provinces of Afghanistan raised practical difficulties, Articles 48 of the Law authorizes the chief judge of the provincial court to act as juvenile court judge. The only special juvenile court so far in operation is that of Kabul Province, but the long-term plans for judicial administration include the gradual extension of special juvenile courts to other provinces.

Organization of the Special Juvenile Courts

Generally speaking, the juvenile courts are special courts and consist of a chief judge and a number of members in place of the previous single-judge system. The Kabul Juvenile Court, which receives delinquency cases from the capital city and Kabul Province, is in fact a model and experimental court. This court was established at the end of 1968-69 and commenced functioning on the 2nd of Hamal 1969-70. Its chief judge is a judge of second rank and its three members are graduates of the law and Shariat colleges and are specially concerned with improving knowledge and expertise in this specialized sphere of law. From the beginning it has been considered necessary to assign women as member judges of this court in the expectation that they would contribute a high level of understanding and kindness. There is also administrative and clerical staff which carries out supportive functions.

Investigation of Juvenile Cases

If a child commits a crime and the police or one of the judicial officers for criminal investigation is informed, he proceeds to the place where the crime is committed and

** A juvenile is defined as a person under the age of 15.

starts the primary investigation. Information is gathered concerning the nature of the crime, the evidence and the identity of witnesses, as well as the social, economic and environmental circumstances in which the child has been raised. The latter can be done by distributing information forms to the people in the surrounding area who may be aware of these factors. All this information is included in the file of the delinquent child, which when completed is delivered to the special prosecutor to prosecute the child for correctional purposes.

Investigation of the Special Prosecutor

The special prosecutor is currently selected by the Ministry of Justice from female graduates of the law college of Kabul University. After receiving the file of the case, she determines whether the charge against the child is correct or not. If the accusation is not correct, she has the legal right to close the file. If there is need for more evidence, she can either send the file to the police office for completion or complete it herself. At this point she prepares an indictment and puts the case for trial in juvenile court.

Consideration of the Juvenile Court

The competent court to consider juvenile criminal cases is that of the place where the family of the child is living. But for reasons related to a child's special condition the case may be transferred by order of the Supreme Court.

To submit a case to the juvenile court the accusation must relate to a misdemeanour or felony, and the age of the child must be over seven years and less than fifteen on the day of the crime. The determination of the child's age is the function of the judge, based on the opinion of experts and the appearance of the child.

If the child is found to have committed a crime, the court will order his correction and rehabilitation. In very minor offences the judge will consider it sufficient to advise the delinquent child at the trial session and order his delivery to his legal guardian or trustee and tell them to help the child and lead him toward good behaviour. If the court orders the delivery of the child to a house of correction or some other place for correction and rehabilitation purposes the period of his stay cannot be longer than five years.

Finality of the Judgement of the Juvenile Court

The judgement of the juvenile court is final and there is no other level of jurisdiction for juvenile cases. It must be added that there is no danger of loss of the child's rights in the finality of juvenile court decisions, since Articles 283 and 284 of the Rules of Criminal Procedure authorize the court to amend its decision at any time if necessary for the subjective and objective needs of the convicted child.

Special Provisions for the Trial of Children

Publication of the proceedings of juvenile trials is prohibited by Article 8 of the Rules of Procedure for the Correctional Trial of Children. Therefore no one can publish anything concerning the trial of children in the press or by radio, and no one may indicate the child's identity or personal circumstances. The persons permitted to attend the trial are restricted.

Damages

Articles 20 of the Rules of Procedure for the Correctional Trial of Children provides that damages and blood money related to the delinquency of a child shall be paid by the custodian or guardian. The injured party cannot interfere in the criminal trial of the child.

Correctional Centres for Delinquent Children

The child's detention is restricted to confinement in a Correctional House, which is an educational and rehabilitational centre for delinquent children. These centres are going to be established in all provinces in order to apply the provisions of Articles 428 and 429 of the Rules of Criminal Procedure. Kabul Correctional Centre was established on the 27th of Asad 1967-68.

Organization of the Correctional Centre

Kabul Correctional Centre is organized under the Ministry of Justice. It is administered by a director and a staff to provide educational and correctional programmes for delinquent children sent by order of the juvenile court for rehabilitative purposes. According to the provisions of Article 25 of the Statute of the Correctional Centre, if the inmate repeatedly disregards the orders and advice of the educational and other staff, disciplinary action may be taken against him on order of the director for the purpose of changing the disobedient attitude of the child.

Application of Rehabilitational Programmes

According to Article 3 of the Statute, the Correctional Commission shall consist of trained and expert personnel of educational and health institutions and shall meet as often as the director of the Correctional Centre considers necessary. They shall take care of the delinquents from educational, psychological and physical points of view and propose proper correctional methods for rehabilitation of the children.

The Role of the Community in Juvenile Justice

Before the establishment of special juvenile courts in Afghanistan, juvenile cases were handled by general criminal courts. The people in that time did not want to report many

cases to the police, prosecutor or court. They tried to resolve cases according to their traditional rules and procedures, in particular those attaining to traditional and informal adjudication bodies called " jirga ". Even now not all cases are referred to court, and some of them are dealt with by jirga. Of those cases which are referred to the police, prosecutor and court, about 30 per cent are handled unofficially. If the child manifests symptoms of mental illness the courts refer him to general hospital or other institutions for treatment.

For normal cases, there is only one Correctional Centre in Afghanistan, in Kabul. In other provinces traditional social mechanisms are usually relied upon for correctional purposes. The court tries to rehabilitate the delinquent in the family. Only those delinquents whose offences are a felony or whose family and social environment is not suitable for correctional purposes come under the direct control and care of governmental organizations.

Recently the government has ordered that all minor criminal and civil cases be handled by jirga, which is the traditional justice pattern. This practice has first been instituted on an experimental basis for three months in two local government areas of Kabul province with successful results; it will soon be extended to other provinces. There are up to seven members of the jirga, who are selected by the people, in each local area. The jirga tries to solve problems of the people and achieve conciliation or compromise between opposite parties. Its judgment is a pre-court decision. If the parties do not agree on that settlement of the case, they have the right to refer it to the proper court.

In juvenile justice the role of the jirga is highly effective. It decreases the number of juvenile cases which have to be handled by the courts and is also effective for correctional purposes. But it is not appropriate for delinquents who need special education and training that cannot be provided in the family. For this purpose it is planned to establish at least five or six Correctional Centres throughout the

country, since the single Kabul Correctional Centre is only sufficient for Kabul Province.

Planning for New Institutions

Before new institutions are established, the following surveys should be undertaken:

1. Population characteristics of the areas where new institutions are proposed:

a) Total population and population of large cities by sex;

b) Population of those under the age of 15 (and those between the ages of 7 and 15) by age and sex;

c) Average family size;

d) Educational level;

e) Proportion of children under 15 currently enrolled in schools;

f) Number of schools and colleges in the area.

2. Economic structure of the area:

a) Types and scale of mechanized industries in the area;

b) Predominant types and scale of handicrafts and cottage-scale industries;

c) Types and proportion of population engaged in (*a*) and (*b*);

d) Types of training required for working in such industries and facilities available for such training in the area;

e) Common handicrafts and cottage-scale industries and employment structures;

f) Rate of unemployment in the area.

3. Criminal justice system, formal and informal (including juvenile justice):

a) Criminal courts;

b) Juvenile courts;

c) Other mechanisms — Jirgas;

d) Types and frequency of cases appearing before these bodies;

e) Procedures used to deal with cases;

f) Types of sanctions used by these mechanisms, with special reference to those for children;

g) Types of treatment, correction and/or penal institutions in the area;

4. Community services in the area:

a) Availability of educational, professional, and health personnel;

b) Training facilities for this personnel;

c) Availability of facilities for introducing new programmes.

Data on many of the items listed above may not be available. In such a situation they have to be impressionistic, primarily by knowledgeable local people. Information of the type suggested above could be helpful in deciding the type of facility to be set up and the types of programmes to be introduced. The data presented in the following tables are helpful but not adequate. For a proper determination of the need, more detailed information is essential.

Population and Criminal Statistics

According to the 1973-74 statistics of the Ministry of Planning the population of Afghanistan is approximately 17,600.000 persons, almost 80 per cent of which are engaged in agriculture. Its area is 250,000 square miles, which is divided into 27 provinces. The five most populous provinces are as follows:

TABLE 1

Province	Population	Central City	Population
Kabul	1,360,664	Kabul	498,821
Kandahar	780,617	Kandahar	133,799
Heirat	722,348	Heirat	103,915
Balk	372,548	Mazar	45,498
Ningrahar	861,439	Jalalabad	51,523

TABLE 2: GENERAL CRIMES 1971-74

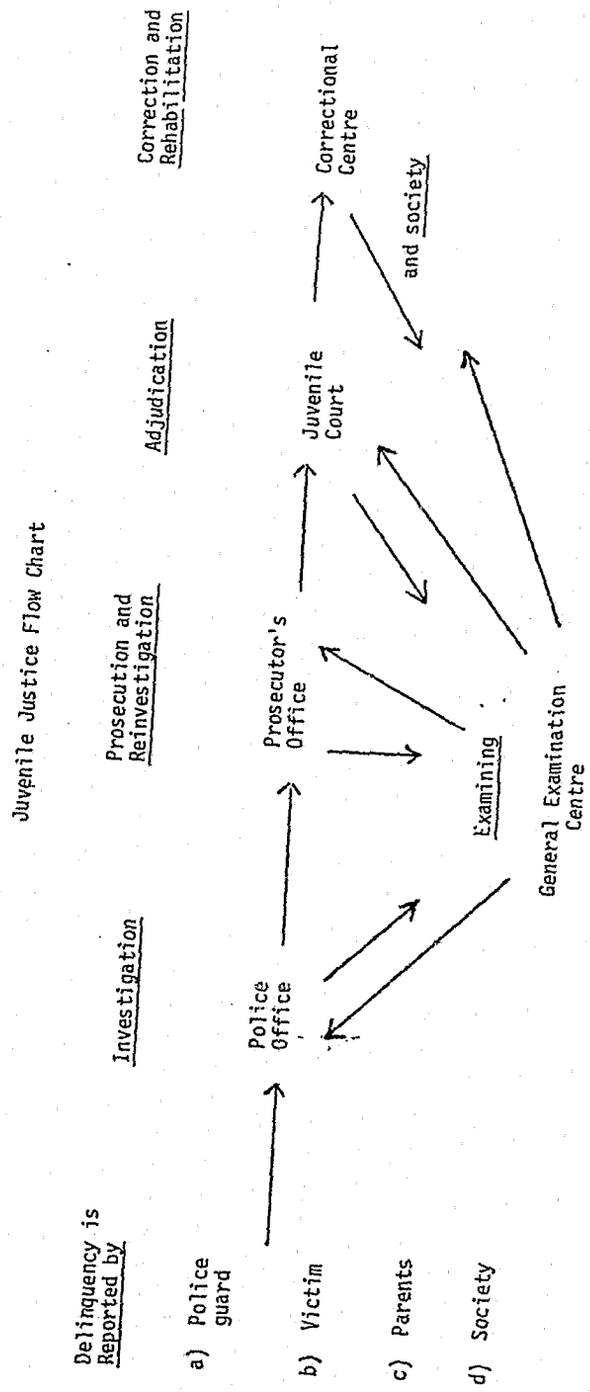
Crime	1971-72	1972-73	1973-74
Murder	814	843	691
Robbery	95	48	14
Stealing	1,067	955	629
Kidnapping	145	162	144
Band stealing	7	15	5
Fighting	4	7	6
Prison escape	30	26	17
Arson	59	56	55
Traffic	286	299	283
Miscellaneous	54	38	47
Total	2,561	2,449	1,891

TABLE 3: JUVENILE DELINQUENCY IN FIVE PROVINCES, 1973-74

Province	Total	Males	Females
Kabul	120	80	40
Kandahar	50	40	10
Heirat	50	40	10
Balk	45	38	7
Ningrahar	42	34	8

TABLE 4: CASES IN KABUL JUVENILE COURT, BY OFFENCE, 1973-74

OFFENCE	Number
Murder	4
Theft	38
Sex offences	13
Pickpocket	26
Smuggling	12
Fighting	4
Injury	11
Gambling	5
Drug use	3
Traffic	4



CHAPTER 5

FRANCE: NOTES ON THE JUVENILE JUSTICE SYSTEM *

by BERNARD POULLAIN, *Ministry of Justice*,
and LAURENCE CIRBA

[Note on Terminology

This chapter has been translated by the UNSDRI staff; the French version can be provided on request. At times we had to depart from the literal meaning of the original text. It thus proved necessary, in order to facilitate the reader's task and to ensure cross-cultural consistency, to use English language analogues rather than a literal translation of some of the French terms used by the authors. In particular:

— " Education Surveillée " *(literally: supervised education) was translated as " Juvenile Justice Service " or " ... System ";*

— " education "; " action éducative " *(literally: education, educational action) was generally translated as " treatment "; in appropriate cases, however, the terms " training ", " education " or " rehabilitation " were used;*

— " enfant "; " mineur "; " jeune " *(literally: child; minor; young person) were consistently translated as " juve-*

* Original title in French: " Le Traitement des Jeunes Delinquants et des Mineurs en Danger en France ".

nile"; thus the term " tribunal pour enfants " *(literally: children's court) was translated as " juvenile court ";*

— " internat " *has been translated as " closed institution ";*

— " foyer " *has been translated as " residential centre " or " residential facility ";*

— " orientation " *has been translated as " guidance ";*

— " éducational en milieu ouvert " *has been translated as " open [treatment] programme ";*

— " libertée surveillée " *has been translated as " parole/probation ".*

While these original French terms were thus replaced by rough functional equivalents familiar to English-speaking legal systems, it should be recognized that the consistent reference to the concept of " education " in juvenile justice terminology reflects a deliberate policy orientation or postulate on the part of the French legislator.]

1. *Background*

The originality of the present French system for the protection of juveniles resides in the fact that it is a judicial system flexible enough to take into account individual characteristics in the treatment of maladjusted or delinquent youth, and open enough to allow for the necessary development.

In 1945, when the new Juvenile Justice System (" Education Surveillée ") was established, French society was still essentially rural and thoroughly permeated with firm and essentially static Catholic ethics, in which reference values appeared as universal, fixed principles.

These values and behavioural models are questioned and appear obsolete today, in the wake of the major technical, economic and social changes which occurred since that

time. New models and new values were injected by the intensification and acceleration of communications, and by the immigration of foreign workers. A life-style based on thrift was substituted by the mass buying of more or less perishable or even adulterated goods. Moreover, the dissatisfaction resulting from this rush towards well-being generated a new exigency: that of the " quality of life ". Our society is thus characterized by multiple and contradictory value systems; these value systems co-exist in an unstable balance and generate a high level of insecurity.

Various consequences of direct relevance to the area under study flow from these phenomena.

To begin with, the concept of " professional trade " as understood up to 1945 — and defined once and for all when a person reached adult age — is generally no longer operative. Technical changes and accelerated processes of industrialization often imply a need for individual " re-cycling ", ensuring the successive adaptation to various tasks — including improvements within the same job; this calls increasingly for the development of adaptive capacities rather than for the acquisition of static skills.

On the other hand there have emerged new forms of deviance and delinquency, to which juvenile justice institutions as well as the law must progressively adjust.

A constant analysis of delinquency phenomena, conducted by officials in collaboration with human science researchers, facilitates the necessary reassessment of these problems.

2. *Juridical Framework*

2.1 *Judicial Competence*

The responsibility for all decisions relating to the protection and treatment of delinquent and maladjusted juveniles resides with the judicial authorities, which appear in

effect in a better position to guarantee individual rights against arbitrary power than administrative bodies.

The principal agent of judicial intervention is the Juvenile Judge. He is a professional judge who has received specific initial training in his particular field; subsequently, he is given practical training and attends special evaluation and briefing programmes. The Juvenile Judge is directly accessible to parents and minors who, in practice, can always obtain a hearing with him. Given the judicial nature of his decisions, they can be appealed in line with general procedural principles.

The essential advantage of this system is that the institutions to which juveniles are referred — i.e. the juvenile justice services, authorized private institutions or services of the Direction of Health and Social Action — are different from those which hold the decisional powers. The Juvenile Judge, entrusted with a continuing jurisdiction over the case, exercises a supervisory rôle both over the institutions and the treatment process. The juvenile or his family can call upon him to lift or reduce the original measure whenever appropriate — even in cases where, for reasons not directly relating to the interests of the juvenile, the institution responsible for the treatment does not propose such steps.

The risk of excessive institutional possessiveness on the part of the juvenile justice services concerned with treatment is thus limited both by the essential duality of the functions of decisional and executive organs, and by the fact that the decisional rôle is entrusted to a judge who, by virtue of his training, is likely to attribute priority to a strict safeguard of individual rights over any excesses of power on the part of administrative services. This is an important guarantee against the danger of institutional imperialism, i.e. the tendency of any institutions to resort to global measures which might be dictated by postulates of efficiency but which often run counter to the interests of the individuals concerned.

2.2 *Juvenile Authorities*

2.2.1 *The Juvenile Judge*

Civil matters are decided by a single judge. Penal matters are also decided by the single judge in "in-chamber" hearings, but in such cases the single judge can neither order measures of detention, nor may he impose any sanctions (except as temporary measures pending information), since such sanctions fall within the jurisdiction of the Juvenile Court. The Juvenile Judge serves also as investigating magistrate, except for juvenile cases remanded to a Specialized Investigating Magistrate (" mixed " cases where adults and juveniles are involved; serious and complex cases necessitating long and careful examination of the facts). The jurisdiction of the Juvenile Judge is limited to a specific geographical area the social problems of which are directly familiar to him.

2.2.2 *The Public Prosecutor* responsible for juvenile cases (in penal matters he initiates the public prosecution; in civil matters he has emergency powers, and keeps informed of the work of the Juvenile Judge).

2.2.3 *The Juvenile Court,* composed of a Juvenile Judge (as president) and two assessors; the latter are citizens selected for their interest in juvenile problems; the Juvenile Court has the same decisional powers as the Juvenile Judge, but it may also commit the minor to a treatment institution or impose a sanction (fine or loss of liberty).

2.2.4 *The Assize Court for Juveniles,* which adjudicates individuals between the ages of 16 and 18 prosecuted for a crime; it is composed of a jury and specialized juvenile magistrates.

2.2.5 Appeals from decisions of the above jurisdictions are brought before a *specialized section of the Court of Appeals.*

2.3 *Principal Legislative Provisions*

Two legislative enactments [1] define and organize the intervention of the Juvenile Judge and of specialized juvenile justice workers [2]. These are:

The ordinance of 2 February 1945, representing the first of a series of new measures of judicial protection applicable to juvenile delinquents after their removal from the jurisdiction of the penitentiary administration.

— The law of 4 June 1970 (Article 375 of the Civil Code), replacing the Ordinance of 23 December 1958 on Educational Assistance.

Two fundamental principles are reflected in these texts:

The individualization of treatment, which must be adapted to the needs of each case. It follows that:

— an assessment of the subject's personality as well as a social inquiry must be carried out prior to any choice of treatment methods,

— it must be possible to modify the treatment methods at any time, so as to ensure a more adequate response to the needs of the subject in line with his progress.

The continuing involvement of the Juvenile Judge in the treatment action; the judge's rôle can in fact not end with his original decision; he must remain involved throughout the duration of the treatment, and he must be in a

[1] The Juvenile Judge is responsible also for matters of guardianship (" tutelle ") and family allowances. The execution of these measures is not, however, entrusted to the Juvenile Justice Services.

[2] For purposes of penal justice the age of majority is set at 18. The law of 5 July 1974 unifies both the civil and penal majority (previously established at 21) at that age. However, a decree of 19 February 1975, allows the Juvenile Judge, upon request of the interested party and with his consent, to initiate prosecution or to order educational measures for persons under the age of 21 who are " experiencing grave difficulties with regard to their social integration ".

position (by provisional orders or by amendments) to reconsider the particular measures or, if appropriate, to terminate them — even if they were intended to be definitive.

2.3.1 *The Ordinance of 2 February 1945*

This ordinance is applicable to juvenile delinquents. It was first issued in 1945 and underwent revisions on particular points in 1951, 1959, 1970; its objective is to define the statute of penal minority in France. The text specifies:

Article 1 — Juveniles below the age of 18 who are charged with offences defined as crimes or misdemeanours shall not be referred to common law penal jurisdiction, and shall only be judged by Juvenile Courts or assize courts for juveniles.

Article 2 — The Juvenile Courts and the Assize Courts for juveniles determine the measures of protection, assistance, supervision and education appropriate to the circumstances of each case. They many nevertheless, whenever required in view of the circumstances of the case and the personality of the juvenile, pronounce for individuals over 13 years of age a penal sentence in accordance with Articles 67 and 69 of the Penal Code.

The legislation applicable to juvenile delinquents thus establishes a jurisdictional privilege, which permits the implementation of individualized treatment measures. Exceptionally, mitigated sentences can be pronounced.

Under the 1945 ordinance juveniles prosecuted on penal matters are judged either by the Juvenile Judge, by the Juvenile Court when a sanction of compulsory placement or punishment is envisaged, or by the Assize Courts (for juveniles between 16 and 18 years of age who are accused of a crime). These jurisdictions follow a procedure which is intended to ensure a better individualization of the sanctions or other measures.

Procedures applicable " in flagrante " or direct indictments (" citation directe ") are not applicable with regard to juveniles; a preliminary inquiry and personality assessment constitute in effect the corner-stones of the Ordinance of 1945. Such an inquiry, carried out by the specialized services of the Juvenile Court, includes all or some of the following elements, depending upon the difficulties of the particular case: a thorough social inquiry, a medical examination, a psychological and psychiatric evaluation, as well as an educational and vocational orientation. These inquiries can be carried out in an observation centre; more often, they are effected in a non-institutional setting without removing the juvenile from his natural environment.

Provisional or final decisions regarding treatment measures may be amended at any time in line with the needs of the particular individual.

In general terms, emphasis is therefore placed less on the nature of the offence than on its genesis, and above all on the particular conditions of the juvenile. The choice of treatment rests on the conclusions of a comprehensive inquiry. It is on that basis that a treatment programme is established; throughout its execution the programme continues to be subject to the authority of the Juvenile Judge.

In exceptional circumstances, the 1945 ordinance (Art. 2) nevertheless allows the imposition of penal sanctions (" peines ") but only if the juvenile has reached the age of 13: from age 13 to 16, however, the penal sanctions are automatically mitigated; between the ages of 16 and 18, a full penal sanction may be imposed by a motivated decision of the judge. With regard to misdemeanours a juvenile in the age group 13 to 16 may, when circumstances require it, be provisionally detained for a maximum of 10 days. In current practice, however, the judge tends to avoid such potentially harmful measures of detention, and resorts instead to other means to ensure the presence of the juvenile. In criminal matters the 10-day limit is inoperative.

2.3.2. *Articles 375 — 1 to 8 of the Civil Code (Law of 4 June 1970).*

Article 375 of the Civil Code specifies as follows:

" If the health, security, or morality of a non-emancipated juvenile are in danger, or if his educational conditions are seriously jeopardized, treatment measures (" mesures d'assistance éducative ") can be ordered by the judge at the request of the father and mother jointly, of one of the two, of the guardian or tutor, of the juvenile himself, or of the public prosecutor. The judge may act *ex officio* only in exceptional circumstances ".

This new law amends the ordinance of 23 December 1950, which attempted to modify and systematize the previous system without unifying the many complex and incomplete provisions contained in a variety of texts.

The competence of the Juvenile Judge for purposes of this law is exclusive (the Juvenile Court intervenes only in penal matters). Decisions may, however, be referred to the specialized section of the Court of Appeals.

The procedure referred to in the new law has a civil character; its main purpose is to protect endangered juveniles and to give assistance and advice to their families with regard to any material and moral difficulties they may encounter. Legally, these assistance measures do not affect parental rights; in fact, however, they limit the exercise of parental authority.

This judicial procedure replaces administrative interventions whenever the " Regional Direction of the Sanitary and Social Action " (" Direction Départementale de l'Action Sanitaire et Sociale "), which by virtue of a decree of 7 January 1959 normally deals with social cases, is not in a position to ensure effective measures of prevention. Judicial intervention is therefore limited to cases of clear danger and urgency, when other methods have failed or are not sufficient to resolve a conflictual situation.

In fact, the intervention of the Juvenile Judge or of the administration also depends on the way in which the various regional services operate: it remains the responsibility either of the social services of the Health Ministry, or of those of the Ministry of Justice to report cases where juveniles must be considered in danger; in doubt, both refer to the guardianship authority (" autorité de tutelle ").

As in the context of the 1945 ordinance, the judge calls for a social inquiry and a personality assessment to determine what measures would be adequate in each case.

The principal feature of this procedure is that the judge *must seek to obtain the concurrence of both the parents and the minor* with regard to the educational measures he proposes; in the absence of such consensus any measure would in effect be likely to be inefficient.

In practice, increasing importance has been given to this civil procedure: the number of final judgements has grown from 26,000 in 1960 to 40,500 in 1965, and 63,000 for the last reported year (1973).

In fact, interventions under the civil law do not have the stigmatizing effect still attached to penal procedures — even if the latter are mitigated by the dual competence of the Juvenile Judge who is now generally given jurisdiction also for educational measures. It happens at times that the Juvenile Judge initiates a civil procedure after a misdemeanour has been reported (when a petty offence is involved, civil interests need not be safeguarded by penal measures).

It shoud be noted that the 1958 ordinance (subsequently replaced by the 1970 law) channelled all educational assistance cases to the Juvenile Judge — primarily in view of the experience acquired by him in dealing with juveniles in a penal context.

The fact that juvenile delinquents and endangered juveniles are handled by the same persons — the Juvenile Judge and the treatment staff — has cast the 1945 provisions in a different light, resulting in a unification of

educational methods. This in turn has led to a close interaction between juvenile justice principles and treatment methods; the result was that relatively liberal methods — initially applicable only to social cases — have been applied also to juveniles referred for penal matters, proving often more efficient in the long run than coercive methods. This does not mean, however, that provisional detention measures or penal sanctions may not be (or are in fact not) applied to minors in exceptional cases, as provided by the law.

3. *Current Treatment Methods and Trends*

3.1 *Historical Retrospective*

As has already been noted, French society has undergone major changes since the establishment of the Juvenile Justice system.

In 1945, France was still largely conditioned by its rural past. The country was governed by very firm moral principles which, although still seen as points of reference by the great majority of the population, were nevertheless marked by a certain hypocrisy. Stability in the various sectors of individual life (home, profession, personal life) was considered evidence of good social adaptation. In such a context it was quite easy to define " deviance " or " delinquency "; the deviant or delinquent was an individual who, by his instability associated with a criminal offence, went against the general social model and cast doubts upon it.

In this setting, treatment methods focussed essentially on professional training [3]. Gradually, behavioural problems

[3] A pamphlet of the Juvenile Justice Vocational Training Institute in Saint Hilaire states in its preface addressed to parents:

" The Saint Hilaire Institute is a place where your child will benefit from appropriate teaching to help him to attain his moral rehabilit-

were supposed to disappear under the effect of " good influences " once the minor had been removed from his original environment. Upon leaving the training institute the adolescent, now equipped with solid vocational skills, could be expected to find a paid job and therefore to lead a regular working life in a suitable environment.

These treatment methods — derived as they were from a mechanistic conception of the individual, who could be either positively or negatively conditioned[4] — corresponded to a more monolythic type of society than the one which prevails today. In fact, the prison context from which the Juvenile Justice systems had emerged was still attached to these treatment methods. The commitment of an offending juvenile to a training school, or his placement as an apprentice may not have been presented as a penal sanction; clearly, however, they were still seen as such.

When the Juvenile Justice system was established, its objective was twofold: it was necessary on the one hand to break away from penitentiary influences, and on the other

---

ation. He will also receive a general education and professional training which will allow him to take his place in life ".

This citation, as well as those reproduced in footnote 4 below, are excerpts from the rules elaborated in 1961 by the staff of the Saint Hilaire Institute with a view to liberalizing its system. They reflect the pedagogical concepts of their time.

[4] The treatment methods were based on a primary system of rewards and punishment. In the Saint Hilaire Institute

" the disciplinary council meets three times a week; its rôle is to impose sanctions upon any students who have been the subject of a special report. The council always prefers to reward (prizes for good conduct, extra outings, etc.) than to punish (suppression or suspension of outings, removal from the roll of honour, or in especially serious cases, transfer to another institution) ". (Cf. footnote 3 above).

Thus, registration in the " Volunteers' Section " (after having twice obtained the school's roll of honour) " ... commits the minor to subscribe without reservation and of his own free will to ... code of the Institution ". On the other hand, membership in this Section — subject to approval of the teachers' council — offered various advantages to the minor, the principal of which were:

— the right to wear his watch, if he owns one,

— the right to buy personal clothes, etc.

(*ibid.*)

to formulate new and efficient intervention methods. The responsible authorities were facing a difficult task in an uncharted area; thus, their efforts had to be marked both by prudence and by a systematic approach.

Little was known about the personality of the delinquents who, in the past, were simply punished[5]. It was therefore necessary to observe the delinquent, and for that purpose to remove him from his disruptive natural environment. To be valid, such observation required that the juvenile be exposed to the various situations in which his reactions were likely to reveal his personality. On the basis of such understanding, it could then be possible to take action by directing the minor towards a suitable treatment institution.

Each phase of the treatment programme involved a specific structure: observation centres, resident juvenile justice training centres, aftercare centres. In less serious cases, and where it appeared possible to treat the juvenile in his normal environment, he was placed on probation.

Observation centres handled juveniles referred to them by the courts for periods of 3 to 6 months. At the end of this observation period, a report indicating the most appropriate treatment for the individual was sent to the judge. However, it was sometimes impossible to find an institution corresponding to the suggestions formulated in the report; in other instances there was no place available in the appropriate institutions. The resulting delay was quite detrimental to the mental stability of the individual concerned, and the observation centres were very soon congested.

The residential juvenile justice training institutions received from the observation centres groups of juveniles with similar problems, and who could thus logically be treated as a group. These institutions grew to the point where they

---

[5] It should be noted, however, that since 1912 there has been a system of probation relying to a large extent upon voluntary community support.

represented large communities cut off from urban centres; they could therefore only operate by breaking down their total population into self-contained groups, and by maintaining a strict discipline; evidently, this left no place for the expression of particular problems at the level of the individual [6].

Little by little it became evident that this system produced either a conformist attitude on the part of the juveniles referred to it, or an attitude of total rejection; of course either response negated the objectives of treatment in the real sense of that term. Simultaneously, questions were raised as to whether the high incidence of recidivism upon leaving these institutes was not linked with the overprotected life within the system. Aftercare centres were accordingly established for the readaptation of juveniles who had spent a long period in these closed and inward-turned institutions.

It was in fact found that, at the various stages of the re-educational process, there arose a series of difficulties and problems inherent in the system itself. New methods of treatment were accordingly devised, starting from internal developments within the system. Observation — carried out first in the observation centres, and then by probation officers in the juveniles' environment — introduced some element of psychological analysis. A specific case approach at the diagnostic level led to a reconsideration of group treatment methods prevailing in large institutions. Aftercare centres, created originally as a palliative for juveniles who could not be placed in institutions, offered a more supple educational context, and often proved effective in depth.

Methods and infrastructure were diversified in line with

[6] The following maxim was proposed to the minor as a matter for thought upon his arrival at the residential institution:
" Whoever is incapable of fitting into a group, of sharing its team spirit or of attaining the vital sense of cooperation, cannot expect to be of use — that is, he cannot expect to fulfill his destiny as a man ".

operational experience. Thus observation was no longer carried out only in closed institutions, but also in the natural environment; in the years 1955 to 1965 a system of treatment counselling was established. This kind of observation no longer caused a break or gap in the life of the juvenile, and proved just as effective as the more costly methods of observation in closed institutions.

Gradually, doubts arose with regard to the superiority of treatment in closed institutions; it was found that depending upon the circumstances and timing of each individual case, treatment programmes could be carried out either in closed institutions, in residential centres or in an open milieu. Treatment programmes nevertheless remained fragmented, reflecting the successive stages of the intervention, of which each drew upon different types of facilities and personnel.

At present, the Juvenile Justice system aims at the unification of the entire treatment process, starting from the first steps of the intervention. The juvenile is thus channelled to a " treatment complex " in which a variety of facilities and personnel are available to provide in each case the successive types of treatment corresponding to the individual's development. As regards action within — or directed at — the original environment of the juvenile, its principal aim is to avoid unnecessary breaks in his relationships. Treatment also seeks to meet the technical exigencies of an industrial and urbanized society in which the ability to adapt to multiple changes has become an essential prerequisite.

As pointed out above, technological developments in the working world have made most of the static trades obsolete, and have generated a process of continuing change in every field of professional activity. It is no longer possible to give the juveniles a narrowly specialized vocational training, which might prepare them for a way of life destined to disappear. Instead, the individual must be given the

means to adjust to these changing exigencies of the outside world. He may in fact be called upon to hold several successive jobs, or to move from place to place; he will certainly be in contact with a variety of different environments. It is essential, therefore, that the treatment programme should make the juvenile aware of his personal resources; it should develop these resources and teach him to make the most of his adaptive potential. This is achieved only by encouraging wherever possible individual initiative and a sense of responsibility.

Lastly, experience with this global approach has clearly shown that whenever the juvenile delinquent or social case was in danger, his environment was also in need of help. Treatment programmes had therefore to focus both on the minor and on his environment. Today, this two-fold objective is implicit in most of the open treatment programmes and for the services provided in residential centres. Institutions open towards the outside world can in effect both have an impact on, and utilize the family and peer groups for purposes of the treatment programme.

It can be concluded that the French Juvenile Justice system has come a long way from its early stages, when treatment was intended to force the juvenile into a preconceived mould, without taking any account of his personality.

3.2 *Fundamental Principles*

A series of fundamental principles may be derived from this past experience with the operation of the juvenile justice system:

Treatment must be individualized

Juvenile justice programmes must be individualized in order to give the juvenile a sufficient level of autonomy,

and to stimulate his potential resources. In dealing with juveniles affected by unfavourable environmental conditions, and often by serious perturbations in early family relations, treatment should in fact help the individual to reconstruct his personality. This cannot be achieved by wiping out the past; treatment programmes should, on the contrary, build upon it.

Treatment must take a global approach

It is also important that the young delinquent or social case be left as much as possible in his own milieu. Treatment should thus either be effected in an open environment, or (in serious cases where a temporary removal from his environment is required) it should maintain the links with the family by involving it in the particular programme, or even by giving it direct help. This approach avoids the removal of the juvenile from his environment; instead it helps him to cope with it, facilitating his return to the outside world as soon as conditions permit it. By intervening within — and on — the individual's environment instead of severing relations with family and friends (in most instances this would only confirm existing conflictual tendencies), treatment seeks as much as possible to help him resolve old problems which may still trouble him, to maintain or re-establish affective bonds with his family, and to face future difficulties with greater stability thanks to a wider network of relationships.

Treatment must be continuing

It is particularly desirable that treatment be provided on a continuing basis. If the objective is to re-structure the juvenile's personality, in-depth treatment must extend over an adequate period of time. When the juvenile is referred for — say — a period of two or three years, this

implies that the treatment should be operated for the entire duration by the same staff team. Relapses and regressions must be expected to occur until the juvenile finds an adequate level of stability; such reversions can be understood, analysed and even utilized if the treatment staff has been in charge of the juvenile from the moment of his referral. Contacts between the juvenile, the staff and the family or environment provide a foundation for progressive — and increasingly understood and effective — treatment measures.

Treatment must be flexible

Treatment and observation must progress jointly throughout the period of intervention. In fact, it is essential that institutions should correspond to the characteristics of the juveniles and meet their exigencies rather than *vice versa*. Such in-depth action is possible only with the participation of specialized technicians — psychologists, psychiatrists, socio-cultural workers —, each contributing a particular approach to the problem of delinquency and maladjustment. Team-work permits not only the exchange of views, but also to control subjective appreciations and achieve a more accurate and dynamic assessment of each juvenile's problems.

Today specialists intervene not only at the diagnostic stage, but regularly throughout the progress of the individual's development in order to evaluate the programme, to re-orient it wherever necessary, or to provide therapeutic support. Thus certain institutions resort to group therapy inspired by psychodrama techniques, to analytic body expression and to group dicussions. Beyond this, the specialists form part of the institution and assist the treatment staff to overcome moments of tension which may inhibit its programmes.

This type of treatment — based on programmes providing a maximum degree of individualization and consistency

in development — also requires close links between the treatment staff and the Juvenile Judge. It is particularly important that the treatment staff should be free to express its views in front of the judge or the experts consulted by it; generally, its views are the more imaginative as they stem from a privileged and continuing contact with the juvenile. It is evident that a more open frequent collaboration between the staff and the judge can only result in improved treatment of the delinquent or maladjusted juvenile.

4. *Innovative experience and tools of action*

The progressive change of the operational tools employed by juvenile justice services reflects modern developments in pedagogical concepts.

The need for continuity of treatment and for programme action undertaken in (and having an impact on) the environment, requires the establishment of a relatively light juvenile justice service infrastructure in each jurisdiction and in each major city. The institutions and schools making up this infrastructure must work jointly, or preferably be operated by a single combined staff team.

4.1. *Institutional Infrastructure*

In each jurisdiction the juvenile justice service infrastructure includes the following basic elements:

— a parole/probation service (" liberté surveillée ")

— an educational/vocational service

— one or two residential centres for juveniles who are temporarily removed from their families.

Except in special cases, the parole/probation service remains attached to the Juvenile Court. The other services have gradually been regrouped: pedagogic activities are entrusted to Educational Guidance and Action Centres, and

their administration is handled by Juvenile Justice Services in each Department. Parole/probation services, on the other hand, are generally located on the premises of the Juvenile Court. Their functions are limited to parole/probation supervision; for other matters (residential services, vocational training) they call upon the other Juvenile Justice Services, with whom they collaborate on a continuing basis. At times, a permanent representative of the competent Educational Guidance and Action Centre is entrusted with preliminary functions within each particular court.

4.1.1 *Educational Guidance and Open Treatment Services* require only a few easily accessible reception centres in urban settings. It is essential, however, that these services be backed up by independent residential facilities, and that they rely on training or discussion workshops open also to individuals not referred to them by the Juvenile Justice system. Open programmes constitute at times the only form of treatment accepted by difficult juveniles who cannot cope with overly organized living conditions. When dealing with seriously emarginated individuals who need major support, the open-programme staff must have at their disposal adequate facilities to lodge the juveniles entrusted to them, or to " keep them occupied ".

4.1.2. *Educational Action Centres* require a somewhat higher level of institutional infrastructure. The majority of these centres is operated for boys. Until recently, institutional treatment for girls was generally entrusted to private bodies. The gradual shift of these private institutions to other tasks, and the closing down of some lay residential centres, has called for a development of this sector of activity by the Juvenile Justice services. This is generally done by operating co-educational centres rather than by specialized institutions for girls.

The centres generally have a capacity of 15 to 35 beds. During the day most of the juveniles referred to them are

employed, or receive schooling or vocational training outside the institution; they return there at night or even for their noon-time meals. Treatment of these juveniles, action directed also at their families, as well as group and leisure time activities, are organized by the centre staff, who is also charged with the responsibility for follow-up open treatment.

All possible efforts are made to maintain close functional links between consultation services, residential centres and open treatment programmes. To that end all the various services pertaining to each Educational Guidance and Action Centre must whenever possible be housed in the same building.

4.1.3 In the past two or three years *residential facilities* of a new type have been established: these are generally apartments rented by the Juvenile Justice service in a residential section. One of the advantages of these centres is that they require a minimum of investment. Since they are rented, they can be closed down whenever their location is no longer appropriate to the exigencies of the service. In them, juveniles are in direct contact with the community. This is an important factor for any treatment programme designed to teach a sense of responsibility, as well as for the process of re-socialization.

At times these rented residential facilities are autonomous; others are linked with Educational Guidance and Action Centres, or with special juvenile justice institutions where the juveniles can take part in collective activities.

4.1.4 *Special Juvenile Justice Institutions*

The basic institutional infrastructure described above is not sufficient to handle all juvenile referrals in the various jurisdictions. Some of the juveniles present characteristics or troubles which require more important resources, especially with regard to the professional training of the staff.

This is provided in closed centres, defined as Special Juvenile Justice Institutions.

These Special Juvenile Justice Institutions handle juveniles referred to them by the Juvenile Court of their particular region, and at times from other regions. Most of the special institutions operating today are former closed institutions. (In these former closed institutions juveniles were subject to a standard regime — strict internment — for the whole duration of their stay, which was uniformly of two years for the closed juvenile justice training institutions, and — in principle — of three months for observation centres.)

The method of treatment in special juvenile justice institutions ranges from the traditional closed regime to open programmes, including various intermediate approaches. This wide and flexible range of alternatives enables the institution to determine at the time of arrival what type of treatment would be most appropriate for each particular case; it also allows it to change the treatment in line with the individual's development, without requiring any breaks or transfers to other institutions. These special juvenile institutions provide in-house vocational training and educational programmes. They also offer the following services:

— observation and guidance
— room and board
— open educational programmes.

4.1.5 *Traditional Juvenile Justice Institutions*

The Special Juvenile Justice Institutions represent an ideal model also for the traditional juvenile institutions still in existence at the present time (closed juvenile training schools and observation centres). These traditional institutions are progressively being reformed, though the pace of this process varies in fuction of local conditions and their particular orientation.

Naturally, the continued utilization of traditional institutions implies the need for reforming their overly rigid treatment methods. They must also be endowed with appropriate vocational training facilities, and with facilities for collective (group) programmes including sports and leisure activites. The principal problem is that traditional institutes are often located in rural areas; if they are to remain viable, communications with the nearest cities (which at best have come closer by their suburbs and industrial zones) must be improved. Car shuttles, or even the train can enable these traditional closed institutions to introduce semi-open treatment programmes. Similarly, the availability of individual means of transport can allow the staff to extend its programme action to the families, and particular juveniles to be placed as apprentices with artisans. Meeting rooms at the institution can be put at the disposal of clubs from neighbouring cities, while the juveniles referred to the institution can take part in extramural activities.

The softening and diversification of treatment programmes often leads to arrangements whereby rooms are provided for individuals for whom a higher degree of autonomy is justified in the neighbourhood of the closed training school or special Juvenile Justice institution.

5. *Conclusions*

The assessment and development of treatment methods must of course be seen as a continuing process. Thus the postulates presented in this paper, and the measures taken to implement them, constitute only one phase of a development initiated when the present Juvenile Justice services were established. These postulates and measures represent theoretical points of reference, and as such they guide programme activities and institutional arrangements. Naturally, each institution and each staff team applies them in accordance with the realities and internal constraints it has to

face. The progression towards a better system for the protection and rehabilitation of juveniles is not a linear process; while each institution develops at its own pace, each of them may also devise imaginative solutions which, in turn, will generate further reflection. Indeed, needs for change are most acutely felt in the field; and it is quite often also in the field that the real solutions emerge.

APPENDICES

I. Private institutions: recent developments.

II. New budget classifications of juveniles in juvenile justice institutions and services.

III. Architectural implications of new juvenile justice methods.

IV. Number of juveniles referred in 1974 to Educational Guidance and Action Centres and Special Juvenile Justice Institutions, (whether or not subject to variations in the type of treatment).

PRIVATE INSTITUTIONS: RECENT DEVELOPMENTS

The Juvenile Justice Service does not yet have in every region the number of institutions corresponding to its needs. It thus has to rely on private resources through a system of approved institutions (" habilitation ") to which juveniles can be referred by the Juvenile Judge; such referrals involve the payment of appropriate fees (on the basis of an inclusive daily charge for each juvenile thus referred), as well as treatment controls.

At present, this system of approved institutions is no longer adequate to meet the needs of the Juvenile Justice Service. Institutions approved by the justice system are often also authorised to receive juveniles referred by other agencies (Social Security; Child Welfare; etc.) who on the whole constitute a less difficult group than those referred by the Juvenile Justice Service. It often happens in such instances that the approved institution accepts non-Juvenile Justice referrals to cover its operational expenses, but that the more difficult and unstable individuals are gradually emarginated. Admittedly, the individuals referred by the justice system pose particular difficulties from the viewpoint of management. Juvenile delinquents and the social problem cases channelled to juvenile justice services are often very unstable, and they frequently remain only a few months — or even weeks — in the institutions to which they have been referred. The corresponding vacancies cannot be filled at once; this reduces the profit margin of the institution, which cannot function at maximum capacity and is thus faced with higher per-unit financial costs.

This partly explains the fact that while retaining their approved status with the Ministry of Justice, a substantial number of private institutions have turned to other types of juveniles. A new standard agreement is currently being considered to correct these dysfunctions. The private institutions subscribing to this agreement will be committed to keep at the disposal of the Juvenile Judges a stated number of places. On its part, the Juvenile Justice Service will guarantee to the particular institution an appropriate level of financial compensation also for any vacancies which may occur. The standard agreement will further establish specific requirements, consistent with those which apply in Juvenile Justice institutions, with regard to specialized staffing and treatment programmes.

NEW BUDGET CLASSIFICATION OF JUVENILES IN JUVENILE JUSTICE INSTITUTIONS AND SERVICES

In traditional services and institutions the budget covered the occasional expenses relating to referral and treatment in addition to general fixed costs. The credits allocated to the former were computed simply by multiplying a standard charge by the number of individuals referred — all of them being treated under the same regime. With the diversification of the system it became necessary to reconsider this method of financing, to identify the costs relating to each new programme component, adding up aggregate of credits allocated with regard to each category of referrals projected for the institution, and corresponding to the cost of food, clothing, transport, etc. To that end, the treatment staff informs the administration/financial officer of any movements among the following budget categories of juveniles:

— *Interns*: individuals residing and receiving general and vocational training living exclusively within the institution.

— *Interns entitled to open treatment*: (Interne/externe): individuals residing in the institutions, but attending school or placed as apprentices in the outside.

— *Young workers*: individuals residing in the institution, but working in the outside.

— *Boarders entitled to open treatment* (pensionnaire/externe): individuals placed as boarders with outside public institutions or families.

— *Semi-boarders*: externs who come to the institution for general education or vocational training.

— *Externs*: individuals subject to open treatment, boarding and studying or placed as apprentices outside the institution, but participating in collective activities (leisure time, educational activities, holiday camps).

ARCHITECTURAL IMPLICATIONS OF NEW JUVENILE JUSTICE METHODS

The choices enumerated in Section 4 of this report imply a series of architectural conclusions concerning new institution-building or the re-conversion of old institutions.

1. In general terms, it is always preferable that institutions or centres be part of the urban fabric, and that they be placed in easily accessible locations — i.e. usually in non-residential zones with easy access to places of work and administrative bodies.

2. The choice of unobtrusive architectural solutions, and the location of institutions or centres in an urban context, corresponds to a series of specific postulates:

— treatment should not cause a break in the juvenile's life by placing him in an unfamiliar environment;

— individuals referred to juvenile justice should not be segregated from the neighbouring community;

— institutions should be in a position to rely on existing training, therapeutic and employment infrastructures.

3. From the viewpoint of interior architecture, juvenile justice institutions should take into account the following considerations:

individualization — unlike dormitories, small individual rooms with movable partitions give the juvenile a place of personal privacy.

The interior arrangements of these rooms should, to the extent possible, be left to the juvenile's choice (placement of furniture, decorating, etc.)

initiative and autonomy — rigid arrangements should always be replaced with solutions allowing for a choice (e.g. self-service instead of the traditional refectories). In centres or apartments for older age groups the installation of kitchen units on each floor or in each apartment encourages the juveniles, with the help of the treatment staff, to assume the responsibility for material tasks and their own upkeep.

relationship and contacts — it is desirable to provide pleasant, easily accessible space for inter-personal contacts (generally located on the ground floor); secluded corners should be reserved for personal conversations; play rooms, meeting rooms, rooms for audio-visual equipment as well as sports grounds should be accessible also to persons from outside the institution. The interior architecture should allow whoever enters to see what is going on in the various rooms, and thus encourage their participation. Various architectural solutions can be devised to make staff-immate relations more natural, as well as to offer programme activities on request and without excessive supervision: thus living quarters can be provided within the institution for some of the staff, staff dining rooms should be suppressed, and offices should be open and inviting.

flexibility — new institutions must be adaptable for new exigencies, and even for entirely different purposes. The use of movable partitions allows in fact a much greater flexibility for current and future uses; pipes, heating and electric wiring must of course be installed in the fixed sections of the building.

Appendix IV

NUMBER OF JUVENILES REFERRED IN 1974 TO EDUCATIONAL GUIDANCE AND ACTION CENTRES AND SPECIAL JUVENILE JUSTICE INSTITUTIONS (WHETHER OR NOT SUBJECT TO VARIATIONS IN THE TYPE OF TREATMENT)

TABLE 1: Number of Juveniles referred in 1974 to Special Juvenile Justice institutions

Interns (exclusively closed treatment in the course of the year)	Other cases (where type of treatment did not vary in the course of the year)	Cases where the type of treatment varied in the course of the year		Total
		Including closed treatment	Not including closed treatment	
1,637 (69%)	279 (12%)	316 (14%)	130 (5%)	2,362 (100%)

TABLE 2: Number of Juveniles referred in 1974 to Education Guidance and Action Centres [1]

Only boarding throughout the year	Treatment other than boarding and unvaried throughout the year	Cases where the type of treatment varied in the course of the year		Total
		Including boarding	Not including boarding	
1,605 (66%)	157 (7%)	579 (24%)	78 (3%)	2,419 (100%)

[1] In order to give a clearer picture of the adjustment of the various types of treatment to the needs of the juveniles, we have not included in these statistical tables reception and guidance centres which only receive juveniles as boarders for very short periods of time.

CHAPTER 6

INDONESIA: NOTES ON THE JUVENILE JUSTICE SYSTEM *

I. *Introduction*

Until recently juvenile delinquency was not considered a national problem in Indonesia. But in the last few years juvenile delinquency has shown a tendency to increase both in form and intensity. The Indonesian legal system has not yet been adapted to present conditions. It could deal adequately with the problems of juvenile delinquency in the past, but it is apparent that it will not be able to cope with a situation of rapidly changing and growing juvenile delinquency. A bill has been introduced in parliament dealing with juvenile delinquency and maladjustment, but it has not yet been acted on.

II. *Juvenile Law*

In Indonesia there is no special law dealing with delinquent and maladjusted children, but various general laws incorporate certain exceptions whereby persons under the age of 16 receive special attention. These laws are The Penal Code, The Civil Code, Ordinance of December 21, 1918, L.N. 1917; Gestichts Reglemen L.N. 1917/1918; Reglemen Indonesia, art. 134 and Reglemen Tanah Sebrang, art. 269.

* Information supplied by Col. Soeharyono.

a) The Penal Code

Article 45 provides that on conviction of a child under the age of 16 the judge may decide to order the child be returned to his parents, guardian or caretaker without any punishment; or the judge may order him to be handed over to the state for measures other than punishment, with regard to crimes or offences mentioned in articles 489, 490, 492, 496, 497, 503, 506, 517, 519, 526, 531, 532, 536 and 540, within a period of less than 2 years after he has pleaded guilty or been convicted of a crime or offence mentioned in the above articles; or the judge may sentence the offender to punishment.

Article 46 provides that if the judge orders the child to be handed over to the state, the child will be put in an institution to receive education and training, or the child may be committed to a certain person or institution which will be in charge of his education at the state's expense until he reaches the age of 18.

Article 47 provides for a reduction of the maximum sentence by one third in the case where the judge decides to order punishment of a child under 16. If the maximum punishment is death, this will be reduced to a maximum of 15 years' imprisonment.

b) Civil Code

According to article 302, if the father or mother of the child have definite reasons to be unsatisfied with the child's behaviour, the district court can order the child to be committed to a government or private institution appointed by the Minister of Justice, provided that this is for the child's own benefit. The expenses will be charged to the parents, and if they are not able to meet them, expenses will be charged to the child or to the state. If the child at the time of judgement has not yet reached the age of 16, he may only be committed for a period of six months. If the child

has reached the age of 16 at the time of the judge's order, he may be committed for a maximum period of one year or until he reaches 21, whichever is sooner. The same procedure is provided by article 384 in the case where a guardian is unsatisfied with the child's behaviour.

In both cases the motion can be made by either the parent or guardian or by the Guardian Board. The court may not order the child's committal without having heard the parent, guardian or Guardian Board and the child himself. If the child does not appear he may be brought before the court by compulsory process.

c) Ordinance of December 21, 1918, L.N. 1917

This regulates the treatment of children committed to special state detention homes (without punishment).

d) Gestichte Reglemen, L.N. 1917/1918

These are regulations for juvenile penal institutions (regular detention homes).

e) Reglemen Indonesia, art. 134 and Reglemen Tanah Sebrang, art. 269

These define and regulate the treatment of a " problem child " *. A problem child is one whose behaviour is continuously malicious and disobedient, tending towards criminal acts. Forms of such behaviour include:

(1) Opposing or acting indecently to others, to the parents, teacher, government official, etc.

(2) Dressing and acting improperly in public (e.g., a group of youngsters disturbing and annoying other people, making much noise, etc.; taking, or destroying public and

* The literal translation is " civilian child " (Ed.).

other people's property; racing on highways, disturbing traffic and endangering others).

(3) Improper use of leisure (e.g. truancy, leaving home without permission, especially in the evenings; mixing with criminals and gamblers, drinking, having improper parties, etc.; loafing and lavish spending).

(4) Other actions which may disturb and harm others.

A problem child may be referred to the state for further compulsory education upon prosecutorial investigation and judicial order.

III. *The Juvenile Justice System in Practice*

A. *Organization*

The organs that have responsibility for juvenile delinquency matters are:

(1) The Police (Police Law No. 13, 1961).

(2) Civil Service (Reglemen Indonesia art. 1).

(3) Office of the Council of Public Prosecution (Public Prosecution Law No. 15, 1961).

(4) Department of Justice (Justice Law No. 14, 1970).

B. *Handling of the Case*

1. *Case which are not forwarded to the public prosecution*

Court cases concerning social and small criminal offences (art. 45 of the Penal Code), are not forwarded to

the Office of the Council of Public Prosecution, but are handled by the police (Binapta) in the following manner:

(*a*) The juvenile concerned is returned to the parents or guardian;

(*b*) The juvenile concerned is committed to an institution; or

(*c*) The juvenile undergoes treatment by the police before being returned to the parents.

2. *Cases settled on the spot*

Cases involving small offences are settled on the spot by reprimand, advice, written or oral warning given to the child concerned, to the parents or guardian, or to officials who are responsible for the child's education. Cases of petty delinquency include entering entertainment or gathering places which are prohibited for children of a certain age group, violation of traffic rules and disturbances of public order, such as teasing women.

3. *Cases which are brought to court*

(*a*) Preliminary investigation

The investigation is carried out by the police or civil service. The investigator compiles a report on the investigation and everything that is considered necessary for further investigation. This is sent to the district prosecutor with authority over the investigation.

The young offender can be detained as long as 17 days if the investigation so requires. If there is not sufficient reason to detain the offender, the investigator submits a proposal for discharging the suspect from detention. If the investigation is not completed and there are reasons to continue detention of the suspect, the investigator imme-

diately applies to the Office of the Council of Public Prosecution for a warrant of prolongation of detention.

(*b*) The charge

Based on the preliminary investigation the prosecutor immediately charges the offender if he considers a prosecution necessary. Otherwise he sets aside the charges against the suspect if he considers there are not enough reasons to charge him, or if he considers the case can be settled out of court. When the prosecutor considers the suspect should be taken to court, he issues a letter of accusation in which is stated clearly the offence charged, the place and time the offence took place, and circumstances which may subtract or add to the penalty. The letter of accusation with the preliminary reports and articles of evidence is forwarded to the competent judge with a request to set a date for trial. If the judge regards the accusation as unsubstantiated he states his opinion in a letter of decision and returns the file to the prosecutor.

(*c*) Trial

The trial is conducted by a single judge with a hearing of each side and the testimony of witnesses. The judge decides on the accused's guilt or innocence on the basis of the evidence introduced at trial. If the child is found guilty, sentence is pronounced according to general penal law with the modifications described in the preceding section.

(*d*) Treatment

A minor who is sentenced in accordance with article 45 of the Penal Code will be put into custody in a detention home for children until he reaches the age of 21 years. If the offender is not sentenced, the first effort is to return him to his parents. If this is not possible, the minor may be

referred to the state. The state will attempt to send him to a family or a social organization. If there is no other alternative, the child will be sent to a detention home.

Special children's detention homes are maintained for children who have not received a sentence but are referred to the state for education, for minor children dealt with under articles 302-308 of the Civil Code and for " problem children ".

CHAPTER 7

ITALY: METHODOLOGY OF A PILOT STUDY ON THE OPERATION OF THE JUVENILE JUSTICE SYSTEM IN NAPLES *

A Progress Report

Unlike the surveys carried out in other locations, the pilot survey in Naples represents a full-scale research study. Both in terms of substantive area covered and the methodology used it goes far beyond the scope of the other surveys. Besides, this endeavour constitutes a collaborative venture of UNSDRI, the Research Centre of the Italian Ministry of Justice, the Regional Authorities of Campania and the University of Naples. The work in Naples was initiated early in 1973 with the intention that the experience would provide necessary guidelines for surveys in other locations.

The objectives of the research were:

1. to describe the juvenile justice system at normative, organizational and practice levels;

2. to prepare an inventory of social welfare structures and resources which aid or substitute the formal judicial processes in the area; and

3. to conduct a study of impact of the system, particularly on its clientele.

* Information and data supplied by Professor A. Paolella and Judge V. Esposito.

The selection of Naples as a site for our survey was dictated by several factors. Within a highly industrialized country, Naples and the region of Campania represent a relatively less developed area. It was expected, on the basis of informed opinion, that the system in Naples had been receiving over the past few years a large number of juveniles classified as " maladjusted ", " out of control ", or " in need of care and protection ". And, most importantly, the authorities of the region demonstated their interest in supporting a study of this kind.

Methods of procedure

The work on this project began with a series of meetings between the collaborating agencies. The descriptive as well as the analytic parts were initiated simultaneously. The methods specific to the objectives were as follows:

Objectives 1 and 2:

This part was completed through the scanning of existing literature, legislative texts, official documents of the Ministry of Justice and of the Superior Council of Judges, various records and documents maintained by the Centro Distrettuale per Minorenni di Napoli, case materials, statistical data of the Naples juvenile court, and personal experiences of the research team. The team has also prepared a detailed statement on the socio-economic situation of Naples. The inventory of social welfare structures and resources was constructed with the help of official data from various sources, e.g., city council, province, region, and educational authorities.

Objective 3:

The research focussed on minors present in re-educational institutions on 30 November 1972 and on the subjects discharged from the system during 1967. Prior to the

selection of samples from these two groups, necessary information was obtained from the following sources:

— Centro Distrettuale per Minorenni della Campania,

— The Juvenile Court of Naples,

— Ufficio Distrettuale di Servizio Sociale,

and

— 14 re-educational institutions under the jurisdiction of the Naples Juvenile Court, spreading over an area as far as 100 kilometers from Naples.

From the records of these agencies a complete list of names and addresses of the subjects was prepared and subdivided according to age, sex and place of origin. The main difficulties were encountered for the sample of those discharged during 1967. The records of these subjects were not properly arranged. The researchers therefore had to put the records in order, prepare the preliminary list, check the information with various institutions and finally assemble the records. This activity was completed in about three months. The procedure for sampling from these two groups of subjects was as follows:

a) Subjects present on 30 November 1972

On this date the population of minors in all the 14 institutions (11 for male and three for female) was 914, of which 689 were males and 225 were females. A list of their names was arranged in alphabetical order according to year of birth. From this list two samples of 20 per cent were drawn, the first by selecting every fifth subject starting with the fifth, and the second every fifth subject starting with the third. Since there were no substantial differences between the two samples as far as sex, age, residence and institutions were concerned, the first sample was chosen for

the study. The distribution of subjects sampled according to age and sex is presented in the following table.

SAMPLE OF THOSE PRESENT ON 30 NOVEMBER 1972 BY YEAR OF BIRTH AND SEX

Year of Birth	Males	Females	Total
1952	1	4	5
1953	7	6	13
1954	10	6	16
1955	20	10	30
1956	28	8	36
1957	26	10	36
1958	21	6	27
1959	15	7	22
1960	9	6	15
1961	9	—	9
1962	6	1	7
	152	64	216

b) Subjects discharged during 1967

The same sample procedure as above was followed for this group of subjects. Two-hundred and fifty-three minors, 211 males and 42 females, were discharged from the system during 1967. A 50 per cent sample was selected for the study (110 males and 24 females). For the purposes of collection of data two sets of questionnaires were prepared: one for culling information from the records and the other to obtain information through interviews with families and with discharged subjects.

The information from records was gathered from the judicial files which included:

a) note of the authority or individual requesting the intervention of the court;

b) the initial report of the social worker;

c) report of educators and directors of institutions;

d) notes on escapes or transfers to other institutions;

e) action of the judicial authorities regarding

i) observation of the juvenile

ii) confinement to the institution

iii) probation

iv) experimental release

v) discharge

f) copies of files regarding possible subsequent penal charges.

Most of the information was however collected from the reports of the social workers, which were fairly exhaustive.

The second set of questionnaires was constructed in such a way as to provide information on expectations, perceptions and attitudes of families regarding the minors undergoing re-educational treatment, and to measure perceptive and objective effects of treatment with regard to subjects discharged during 1967.

This work was carried out by 24 social workers divided into two groups, one for the minors in institutions and one for those discharged in 1967. All the interviewers were briefed and trained for this work through lectures and meetings. The collection of data was completed in approximately four months. Both the parents of the subjects were interviewed except when this was absolutely impossible. Interviews generally lasted three hours and sometimes were

completed in two or more sessions. No one refused an interview although in some cases there was initial resistance reflecting distrust or fear of the consequences. Such resistance was overcome with the help of small meetings. Often the addresses in the judicial files were found to be incorrect. In such cases the interviewers were obliged to make further inquiries from other sources, e.g., the Registry Office of the city of residence, the carabinieri, the police, the prosecutor, the parish office, the school, the prison, etc. Considerable difficulty was encountered in locating subjects discharged in 1967 because of death, relocation, imprisonment and migration to other areas of the country. Roughly 20 per cent of the males and 50 per cent of the females in this group were untraceable. Also, difficulties were encountered in collecting information on penal records subsequent to discharge. This information was collected with the help of various sources, including the computer centre of the Ministry of Justice in Rome.

Data on psychological and medical examinations was gathered from the record. According to the practice in the juvenile court system in Naples most subjects are given certain psychological and medical tests at the time of their entry to the system. Similar instruments were used on the subjects discharged in 1967 to evaluate the changes that had taken place possibly as a result of the impact of the system. It should be noted that the person who originally gave the tests to the subjects at the time of their entry also administered the tests on them in 1973.

The data collected through all these sources and methods was analysed with the help of computers. The report of the study is currently being written, and should be published soon as a separate volume.

CHAPTER 8

MEXICO: NOTES ON THE JUVENILE JUSTICE SYSTEM *

DESCRIPTION OF THE JUVENILE JUSTICE SYSTEM

Normative Level

Mexico, as a federal republic, has juvenile legislation applicable to the Federal District, and as many bodies of local legislation as there are states in the Republic. There are two dominant systems of juvenile legislation in the country: (1) minors subject to adult jurisdiction, and (2) minors subject to a separate system through Juvenile Courts or Warding Councils.

For the Federal District the Organic Court Law for Minors established a system of collegiate and multidisciplinary courts (medical judge, legal judge, and educational judge) with rotating chairmanship. According to the law, only the court may deal with cases in which a minor (under 18 years of age) has committed an act prohibited by penal law. It also deals with infringements of police regulations and social order and, upon the parents' request, with cases where the behaviour of the minor poses a danger to himself, his family or society.

* Information and data supplied by Lic. Leticia Ruiz de Chavez P.

The juvenile court procedure comprises several stages:

(*a*) Registration of the minor in the corresponding Observation Centre (for males and females); and his identification.

(*b*) Interview with the judge in chambers, where it is decided whether the case is to be examined or whether the minor should be immediately returned to his home. If the case is to be examined, the minor can continue to live with his family, but at the court's disposal, or he can be interned at an Observation Centre. In both situations, the minor ordered for examination undergoes observation by specialists belonging to the medical, pedagogical, psychological and social work sections of the juvenile court. The psychological section only carries out psychometric studies. Upon request of the investigating magistrate a complete study including an electroencephalogram can be carried out as a basis for neurological evaluation.

Once the file is completed it is passed to the judge for decision upon consultation with two other judges. The decision can determine:

(*a*) That the minor be returned to his family either unconditionally or on recommendation that he be placed under observation. In this case an appointed social worker will counsel the parents with regard to the protection of the minor, and help them to solve family problems.

(*b*) Enrollment of the minor in a public or private school, as a day or boarding student.

(*c*) Hospitalization of the minor for physical or mental care.

(*d*) Commitment to one of the 13 juvenile establishments (six official and seven voluntary ones authorized by

the juvenile court), under open, semi-closed or closed regime, for appropriate treatment.

Organizational Level

The Federal District juvenile courts are headed by a Director and a Deputy Director, both specialized professionals. There are two courts, each with three judges (a physician, a lawyer and a teacher), and a secretary and four sections or departments (medical, psychological, pedagogical and social work). The medical section is made up of 10 physicians and seven nurses who, besides carrying out studies requested by the judge, provide treatment to the minors interned at the Observation Centre. This section also has dentists and a chemist working in the laboratory. The psychological section has three psychologists, two psychiatrists and one neurologist. The pedagogical section has two educators that make the scholastic evaluation. The social work section comprises 22 social workers that research into the biography of the minor, his family and extra-family environment, also evaluating his school life if requested.

The male and female Observation Centres are annexes of the juvenile court and located in the same building; this allows the speedy handling of each case (from 10 to 20 days) and personal contact of the judges with the minors. Each Observation Centre is composed of a Director, three guards (morning, afternoon and evening guards), teachers specialized in juvenile guidance and music, sports and craftmanship teachers, who must draw up a report concerning the personality and behaviour of each minor for inclusion in his personal file. Each centre also has cooking, laundry and sewing staff.

There are 13 juvenile rehabilitation institutions in the Federal District, two closed (one male, one female), two semi-closed (one male, one female), two open (male), and seven under the Ward Board, five semi-closed (four female and one male) and two open (male).

CONTINUED

2 OF 3

State of Chihuahua

In the State of Chihuahua, rules for the juvenile courts are contained in the State Administrative Code. These rules have the same general tone as those for the juvenile courts in the Federal District, adding only Municipal Juvenile Courts and Auxiliary Commissions for the Protection of Minors, which operate in each municipality and municipal district.

Municipal Juvenile Courts are organized as described above with the exception that if it is not possible to recruit the required professionals, courts can be formed by other persons of high education and good reputation. The chairman of the court decides whether the minor should remain free after being admonished, whether a study of his personality should be undertaken, or whether the case is to be passed on to the Central Juvenile Court, in which case the completed studies will be forwarded.

Status of Juvenile Delinquency in Mexico, Federal District

For the purposes of the pilot study, juvenile delinquency data for 1973 were obtained in two areas of Mexico, the Federal District and the State of Chihuahua. Because of lack of comparability, however, the following descriptions are limited to the Federal District of Mexico.

During 1973 the juvenile justice system in the Federal District dealt with 3,951 boys charged with various infractions. Of these, approximately 75 per cent entered the system for the first time and 25 per cent were repeaters. Table 1 presents the distribution of these juveniles by type of charge. Over 54 per cent were charged with offences against property; those charged with use of drugs formed the next largest group (15.4 per cent). Interestingly, drug use among the repeaters was substantially higher (21 per cent) than among the first offenders (13.7 per cent). As is evident from Table 2 drug use seemed to be more widespread than is observed in Table 1. Drug use was observed in an additional 684 boys that were initially charged with other offences.

Detailed statistics for girls charged with various types of offences are not available. The ratio of first offenders to repeaters among girls was nine to one, and only less than five per cent of the girls were charged with drug use (Table 3).

Table 4 shows the juvenile crime rate per 100,000 population 18 years of age and under. As can be seen the rates for boys are disproportionately higher than for girls. This is true in each of the age categories as well. The age distributions of male and female juvenile offenders are presented in Tables 5 and 6 respectively. While the data presented in the tables are clear, the preponderance of older juveniles is worth noting. Seventeen-year-old boys constitute almost 39 per cent of those charged with violations, followed by the sixteen-year-olds; among the girls the highest representations are of sixteen- and fifteen-year-olds. In each age category, however, the boys outnumber the girls.

TABLE 1: MALE JUVENILE OFFENDERS BY TYPE OF CHARGE, MEXICO FD, 1973

Type of Charge	No. of Juveniles					
	1st Offenders		Repeatrs		Total	
	N.	%	N.	%	N.	%
Against Person						
1. Homicide	56	1.9	12	1.2	68	1.7
2. Wounding	361	12.1	71	7.3	432	10.9
3. Other	13	0.4	4	0.4	17	0.4
Against Property						
1. Theft and attempt	1,182	39.7	431	44.2	1,613	40.8
2. Breaking and Entering	11	0.4	3	0.3	14	0.4
3. Fraud, Forgery, etc.	43	1.4	7	0.7	50	1.3
4. Damage of property	196	6.6	59	6.0	255	6.5
Sexual	195	6.5	12	1.2	207	5.2
Drug Use						
1. Cement	198	6.6	114	11.7	312	7.9
2. Marijuana	82	2.8	34	3.5	116	2.9
3. Thinner	14	0.5	5	0.5	19	0.5
4. Pharmaceuticals	9	0.3	3	0.3	12	0.3
5. Combination of two or more	104	3.5	48	4.9	152	3.8

TABLE 1 (*contd.*)

Type of Charge	No. of Juveniles					
	1st Offenders		Repeaters		Total	
	N.	%	N.	%	N.	%
Against Public Security						
1. Illegal Association	57	1.9	13	1.3	70	1.8
2. Carrying Prohibited Weapon	18	0.6	5	0.5	23	0.6
Against Health	78	2.6	23	2.4	101	2.6
Miscellaneous						
1. Vagrancy, drunkenness, disorderly, etc.	207	7.0	71	7.3	278	7.0
2. Misdemeanour	147	4.9	58	5.9	205	5.2
3. Felony	4	0.1	3	0.3	7	0.2
Total	2,975	100.00	976	100.00	3,951	100.00

TABLE 2: INTOXICANTS USED BY MINORS (MALE) COMMITTED FOR OTHER OFFENCES BUT CHARGED BY MEDICAL AUTHORITY WITH USE OF INTOXICANTS, MEXICO, F.D., 1973

Type of Drug	Number	Per cent
Cement	215	31.43
Marijuana	239	34.94
Pharmaceuticals	20	2.92
Thinner	2	0.29
Combination of two elements	155	22.66
Combination of three elements	53	7.75
Total	684	99.99

TABLE 3: FEMALE JUVENILE OFFENDERS BY TYPE OF CHARGE, MEXICO, F.D., 1975

Type of Charge	1st Offenders		Repeaters		Total	
	N.	%	N.	%	N.	%
Offences of different nature Total	463	95.27	55	94.83	518	95.22
Intoxication						
Cement	12	2.46	3	5.17	15	2.76
Marijuana	7	1.44	—	—	7	1.29
Pharmaceuticals (unspecified)	1	0.21	—	—	1	0.18
Combination of two elements (unspecified)	3	0.62	—	—	3	0.55
Total Intoxication	23	4.73	3	5.17	26	4.78
Grand total	486	100.00	58	100.00	544	100.00

TABLE 4: JUVENILE CRIME RATE PER 100,000 POPULATION BY AGE AND SEX, MEXICO, F.D., 1973

AGE	Crime rate per 100,000		
	Male	Female	Total
6-9	16.0	1.3	8.7
10-14	207.9	36.8	121.5
15-18	1000.9	113.5	531.0
6-18	357.9	48.0	200.4

TABLE 5: MALE JUVENILE OFFENDERS BY AGE, MEXICO F.D., 1973

AGE	1st Offenders		Repeaters		Total	
	N.	%	N.	%	N.	%
6 Years	1	0.03	—	—	1	0.03
7 "	9	0.30	1	0.10	10	0.25
8 "	17	0.57	—	—	17	0.43
9 "	29	0.97	4	0.41	33	0.84
10 "	38	1.28	8	0.82	46	1.16
11 "	78	2.62	16	1.64	94	2.38
12 "	133	4.47	42	4.30	175	4.43
13 "	156	5.24	66	6.76	222	5.62
14 "	246	8.27	77	7.89	323	8.18
15 "	292	9.82	93	9.53	385	9.74
16 "	579	19.46	166	17.01	745	18.86
17 "	1,151	38.70	388	39.76	1,539	38.95
18 "	226	7.60	104	10.65	330	8.35
Total	2,955	99.33	965	98.87	3,920	99.22
Over 18	20	0.67	11	1.13	31	0.78
Grand total	2,975	100.00	976	100.00	3,951	100.00

TABLE 6: FEMALE JUVENILE OFFENDERS BY AGE, MEXICO, F.D., 1973

AGE	1st Offenders		Repeaters		Total	
	N.	%	N.	%	N.	%
7 Years	3	0.62	—	—	3	0.55
8 "	1	0.21	—	—	1	0.18
9 "	1	0.21	—	—	1	0.18
10 "	4	0.82	2	3.45	6	1.11
11 "	6	1.23	2	3.45	8	1.47
12 "	21	4.32	—	—	21	3.87
13 "	36	7.42	5	8.62	41	7.55
14 "	71	14.64	8	13.79	79	14.55
15 "	131	27.01	7	12.07	138	25.42
16 "	128	26.39	14	24.14	142	26.15
17 "	72	14.85	20	34.48	92	16.94
18 "	11	2.27	—	—	11	2.03
Total	485	99.99	58	100.00	543	100.00
Aged over 18	1	0.21	—	—	1	0.18
Grand total	486	—	—	—	544	—

CHAPTER 9

SOUTH AUSTRALIA: NOTES ON THE JUVENILE JUSTICE SYSTEM *

I. *Introduction*

With the enactment of the Juvenile Courts Act, 1971 (effective date 1 July 1972), the state of South Australia created two parallel agencies for dealing with juvenile offenders: juvenile court and juvenile aid panel. The new law departs significantly from earlier legislation in that it emphasizes the welfare and rehabilitation of the young person without disregarding the right of the community to adequate protection of the law. To this end, the law provides for progressive measures for dealing with young offenders, and neglected and uncontrolled children. It also establishes a much closer working link with the Department for Community Welfare than had existed before. While the Juvenile Courts Act makes provisions for the judicial and pre-judicial disposition of children and young persons, the Community Welfare Act, 1972, prescribes the services for children committed to the care and control of the Minister (in charge of the Department for Community Welfare), or for supervision.

---

* Information and data supplied by Mr. Ian S. Cox.

II. *Description of the Juvenile Justice System*

A. *Normative Level*

1. Definition of a Juvenile

A juvenile for the purposes of the Juvenile Courts Act is one under the age of 18. Section 69 of the Act provides that " it should be conclusively presumed that no child under the age of 10 years can commit an offence ", although younger children can appear before the juvenile court or aid panel for other reasons. Young persons between 16 and 18 are charged in the usual way with an offence; based upon the findings the juvenile court has discretion to decide whether a formal conviction should be recorded. Ordinarily, the court does not record a conviction. Children under 16 years, with certain exceptions, appear before a non-judicial body called a juvenile aid panel. The exceptions are:

" (*a*) a neglected child;

(*b*) a child who is alleged to have committed homicide;

(*c*) a child who has been arrested by the police and against whom a complaint is laid alleging that he or she is in need of care and control;

(*d*) a child who is subject to an order of a juvenile court and the order, or the effect thereof, is not fully satisfied or completed, e.g. a bond to be of good behaviour; and

(*e*) a child whose case is referred by the juvenile aid panel to a juvenile court. " [1]

The circumstances in which a juvenile aid panel should refer a case to the juvenile court may be stated as follows:

" (1) When the child or a parent does not appear before a panel in accordance with the request of the panel;

[1] Second Annual Report on the Administration of the Juvenile Courts Act, 1971-72, Year ended 30 June 1973, South Australia, p. 3.

(2) When the child or a parent or guardian requests the panel to refer the matter to a juvenile court;

(3) When a panel is of the opinion that the matter should be referred to a juvenile court because of the gravity of the alleged offence or because it is expedient in the interests of the child or the community that the matter be so referred; and;

(4) When the child or a parent or guardian refuses to give an undertaking as requested by the panel or where, in the opinion of the panel, it is otherwise expedient to refer the case to court for the purpose of the rehabilitation of the child. " [2]

Evidently the juvenile aid panel receives cases of minor nature. More precisely, section 8 of the Act lays down that the panels will deal with all first offenders, truants or uncontrolled children under 16 years of age in the first instance, and with children under that age involved in further offences or other misconduct if they are not under an existing court order.

2. Proceedings for Dealing with Children

(*a*) Proceedings before the juvenile aid panel

The concept of the juvenile aid panel is a new one in the Australian context. The establishment of such a machinery is based on experience in various parts of the world which has shown that many children can be dealt with satisfactorily in a non-judicial setting. Thus, while providing for the panels, the Juvenile Courts Act lays emphasis on the welfare and rehabilitation of the young person. The Act also suggests that a juvenile court and a juvenile aid panel should consider the interests of each child as of paramount

[2] Ibid, p. 4.

importance, over and above any other responsibilities the court or the panel may have.

The aims of the juvenile aid panels are as follows:

" (*i*) To provide an alternative to court proceedings in the case of certain children involved in offences or subject to allegations of truancy or uncontrolled behaviour, making provisions for greater flexibility in dealing with young offenders and other children in trouble.

(*ii*) To offer support and assistance to the child within his family, to encourage, help and advise parents in the problems of child care, and to preserve the child's links with his local community.

(*iii*) By the use of formal undertakings and agreements, to provide a child with an opportunity for growth and development within his own family and community.

(*iv*) To avoid the stigma and procedural formality of a court appearance, and to deal with matters involving many children in a relatively informal setting and with a minimum delay.

(*v*) To achieve a degree of consistency and uniformity in handling the children in trouble without sacrificing the flexibility to deal appropriately with individual cases.

(*vi*) To reduce the number of offences committed by juveniles. "[3].

There are three main sources through which a juvenile aid panel receives cases for processing:

(1) Referral from court: sub-sections (6), (7) and (8) of section 8 provide that if a child is apprehended and brought before a court, the court may deal with the child or refer him to be dealt with by a panel.

[3] Manuscript, The Establishment and Operation of Juvenile Aid Panels in South Australia.

(2) Voluntary referral: parents or guardians having the custody of a child can directly approach the panel for action.

(3) Allegations: a police officer may refer the case of a child (with certain exceptions mentioned earlier) that is alleged to have committed an offence or of a truant or uncontrolled child. Children charged as neglected or with homicide cannot be referred to the panel.

The powers of the panel as set out in section 14 of the Juvenile Courts Act are to warn or counsel the child and his parents or guardians; to request the child, parent or guardian to undertake to comply with the panel's directions concerning any training or rehabilitation programme for the child; or to refer the matter to a juvenile court. Undertakings are for a period of six months and if they are not observed the panel may refer the matter to a juvenile court. [4]

A panel, as stated earlier, is not a court; it has no judicial power and it cannot make any enforceable orders. If there is any doubt whether the child has committed the alleged offence, the panel has no power to determine the issue and the case must be referred to a juvenile court.

The panel is not empowered to decide that a child be subjected to the " care and control " of the Minister. If the panel believes the child is in need of care, training or treatment, or if the child or parent requests it, the

[4] In the report of the Department for Community Welfare for the year 1972-73, besides the above dispositions at least two other methods are given as follows:

a) Referred for supervision by the Department for Community Welfare; and

b) Referral for psychiatric help.

It is not clear whether these forms of disposition are included in the forms mentioned above. (For detail see p. 16 of the Report " Results of Appearances ").

matter must go to the juvenile court. A child or a parent may request at any time during the panel proceedings that the case be referred to a court.

The Act also provides that the proceedings of a panel are inadmissible as evidence before a court, except in regard to a subsequent offence. Furthermore, section 16 of the Act precludes that a child be dealt with by a court for an offence that has been dealt with by a panel, unless the panel refers the matter to a court.

(*b*) Proceedings before a juvenile court

The following are the sources through which the juvenile courts receive cases:

(*i*) Arrest or summons: police can apprehend a child for any offence ranging from homicide to disorderly conduct, as well as uncontrolled and truant children, or the children may be brought to court by an order. Approximately 80 per cent of the cases referred to the juvenile court each year come from these sources.

(*ii*) Referral from another court.

(*iii*) Progress report: this relates primarily to neglected and uncontrolled children. As explained below, the court is empowered to adjourn the case to give the child and sometimes the parents the opportunity to correct bad habits, without the necessity of making a final order. But if the court is not satisfied with the results of this arrangement it may proceed to make an order.

(*iv*) Referral from juvenile aid panel (see previous section).

(*v*) Applications made by a child or on his behalf by a parent or guardian.

The powers of the juvenile court are related to the age of the child and the type of offence or problem. No child under 16 years of age will be convicted of an offence.

In place of a charge for an offence, a complaint may be laid that the child is in need of care and control.[5] If the court is satisfied that the child is in need of measures of care and control which the court is enabled to provide, it is its task to enter a corresponding order for the welfare of the child and in the public interest. The court may dispose of such cases as follows:

(*i*) it may dismiss the complaint and discharge the child;

(*ii*) it may discharge the child under a recognizance, with or without sureties, for a period of up to two years, upon condition that he be of good behaviour, that he appear if so required by a juvenile court, and upon any one or more of the following conditions:

— that he will be under the supervision of an officer of the Department of Welfare;

— that he will attend a youth project centre at such times as may be stipulated in the recognizance; and

— upon any other conditions that the court may think necessary or desirable;

(*iii*) it may place the child under the care and control of the Minister for a period of not less than one year or for any period up to his eighteenth birthday.

Young persons over 16 years of age are charged in the usual way with an offence.[6] Upon proof of a charge, the court has discretion to decide whether a formal conviction should be recorded. Usually a conviction is not recorded except in cases of repeated, relatively older offenders. When

[5] Furthermore, the law also states that such a child shall not be charged jointly with a child over 16 charged with an offence.

[6] The law provides that a child shall not be charged jointly with an adult.

the offence is proved against a child over the age of 16 years, the court may use any one of the following dispositions:

(*i*) it may dismiss the case and discharge the child;

(*ii*) it may order the child to pay a fine not exceeding one hundred dollars;

(*iii*) it may discharge the child under a recognizance as above;

(*iv*) a combination of (*ii*) and (*iii*);

(*v*) it may place him under the care and control of the Minister for a period of not less than one year nor more than two years.

The law provides that before an order is made placing a child under the care and control of the Minister or sending him to a youth project centre for the first time, the court must obtain a report from an assessment centre regarding background and development of the child, and a recommendation regarding treatment, training, supervision or other assistance. The court will not make direct committals to any institution.

Normally, a court can commit the child to the care and control of the Minister until he attains the age of eighteen years. In this respect the Community Welfare Act contains certain significant provisions. Section 47 directs the Director-General of the Department for Community Welfare to establish a Review Board to review the progress and personal circumstances of children. " Where a child has been under the care and control of the Minister for a period in excess of one year, a Review Board shall obtain and review reports upon the progress and personal circumstances of that child during the year, and further reports in respect of each subsequent year for which the child remains under the care and control of the Minister. " [7] Such reports

[7] Community Welfare Act, section 47 (2).

shall be available for examination by the Minister and the Director-General.

The period for which a child is placed under the care and control of the Minister can be extended if, in the opinion of the Director-General, it is desirable. He must apply to a juvenile court for the appropriate order, notifying the child and his parents in writing prior to the hearing. " The court, after considering the reports and any representation made by or on behalf of the child or the parents of the child, may, if it is of the opinion that it is in the interests of the child to do so, order that the period of care and control be extended in accordance with the application " [8] until he attains the age of 20 years or beyond.

A child committed to the care and control of the Minister may be released upon a report from the Director-General. A parent of a child may apply to the Minister for an order that the child be discharged from the care and control of the Minister. Where such a request is refused, the applicant may appeal to a juvenile court against that refusal. " An appeal to a juvenile court under this section may be made after the expiration of the first year for which the child has been under the care and control of the Minister and after the expiration of each subsequent year, but no such appeal shall be made more than once in any one year ". [9] In such cases the Director-General shall supply the court with a report on the child and his parents. Upon hearing an appeal the court may order that the child be discharged.

Furthermore, the Juvenile Court Act and the Community Welfare Act empower the court to recommend that a juvenile offender of 17 years of age be transferred to a prison in certain circumstances. Such a transfer is considered upon application from the Director-General. The period of such detention shall not be beyond the expiration of the

[8] Ibid, sec. 48 (5).
[9] Ibid, sec. 49 (4).

period for which the child was placed under the care and control of the Minister. Such a child will be eligible for parole and remissions and will remain under the care and control of the Minister until the expiration of the order.

Section 56 of the Juvenile Court Act sets out the powers of the juvenile court in relation to neglected and uncontrolled children. A child may be brought before a juvenile court on a complaint alleging that he is neglected or uncontrolled. The court has certain options to deal with him according to his needs. It can adjourn the case without making a final order, to give the child, and sometimes the parents, the opportunity to correct bad habits. However, if the court is not satisfied with this action, it may make an order placing the child under the care and control of the Minister until he attains the age of 18 years or for not less than one year nor more than two years. The Act also makes provision for dealing with habitual truants.

Finally, section 52 of the Juvenile Courts Act empowers the court to order compensation or restitution:

" 1) An application under the section must be made within 12 months of the date on which the court finds the offence proved.

2) The amount of compensation payable by any child or person under this section is increased from $ 800 maximum to $ 2,000 maximum. "

B. *Organizational Level*

1. Juvenile Aid Panel

The panel consist of two members — an officer of the Department for Community Welfare (the District Officer) who acts as member secretary and a representative of the Police Department, preferably a commissioned officer. In

rare situations a Justice of the Peace may replace the police officer as a panel member. In rural areas it may not always be possible for the District Officer to be present. In such cases, back-up panel members may be called upon to assist. Joint seminars are held to train panel members from both departments.

The panel secretary is responsible for convening a panel meeeting. On receipt of the police officer's report of an alleged offence, the secretary meets with the Divisional Officer of Police to determine the action to be taken and, where necessary and appropriate, to set a day and time for a panel meeting. If necessary, besides the police report the panel members are provided with reports prepared by a social worker of the Department for Community Welfare.

2. Juvenile Court

A juvenile court may be composed of two Justices of the Peace, a Special Justice, a Special Magistrate or a Judge of the Local and District Criminal Court specially appointed to exercise jurisdiction under the Juvenile Courts Act. While making decisions in relation to a child the court has at its disposal background reports prepared by the officers of the Department for Community Welfare. Depending upon the locality and volume of cases, a court sits at intervals ranging from daily to bi-weekly. It is only in rural areas that Justices of the Peace may be called upon to exercise the jurisdiction of the juvenile court.

The judge in the Adelaide Juvenile Court has responsibility for the functioning of juvenile courts throughout the state. This arrangement is intended to effect co-ordination of such courts, to enable a person of judicial status, knowledge and experience to specialize in this field, and to provide guidance and leadership to other persons sitting in juvenile courts. Section 66 of the Juvenile Courts Act allows a judge of the Adelaide Juvenile Court to hear an application

for reconsideration of an order made in any juvenile court in the State. This court is also called upon to hear various applications to estreat and vary bonds and to remove orders for disqualification of driver's licence made in this and other courts.

3. Treatment Facilities

The Department for Community Welfare is responsible for providing services to meet the requirements of the Juvenile Courts Act. Many of the department's social work services are of a statutory nature, and are concerned with children formally under the care of supervision of the Department; they may also provide services of a supportive nature to other children, young persons and families with special problems. The operation of juvenile aid panels, dealing with the majority of first offenders in a pre-judicial setting, together with increased community and preventive work, has meant fewer children and young people coming before the courts, and consequently lesser numbers of children being placed under the care of the department.

The services that are provided by the department can be categorized as follows:

a) Counselling to children and to their families where there is evidence of poor social functioning.

b) Supervision by an officer of the department.

c) Youth Project Centres: these provide intensive non-residential treatment facilities for young offenders. The programme provides for youths to attend such centres after school or work and on weekends, thus allowing for the minimum interruption of employment, schooling or family life. Group, individual and family counselling sessions are conducted. In addition to the participation in groups, youths undertake a wide range of community projects on Saturdays.

d) Residential Treatment Centres: children come to these centres

— through a court which places the child under the care and control of the Minister, or

— directly through an application by a parent or guardian to the Minister (in the case of children over 15 years of age the child's consent must be obtained).

There are several residential centres in the State. Facilities at the centres include a variety of workshops, schooling and recreation. Usually, the centres comprise several units. The process of care and treatment follows the following lines:

i) careful and full assessment by the assessment panels within each centre;

ii) determination of the treatment programme by programme panels;

iii) overview of the treatment plan for each youth and the determination of policy issues by Review Boards;

iv) providing family counselling whilst the youth is at the centre, and assisting in finding employment.

Besides these centres the department provides various other residential care facilities, viz., Cottage and Family Group Homes, Hostels, Private Children's Homes, etc.

e) Assessment and clinical services: psychologists, medical officers and consulting psychiatrists provide assessment and clinical services for the department. The objective of these services is to develop appropriate diagnostic and treatment techniques for children in need of care.

Appendix to chapter 9

STATISTICS OF THE SOUTH AUSTRALIAN SYSTEM

TABLE 1: JUVENILE AID PANEL APPEARANCES, YEAR ENDED 30 JUNE 1973
OFFENCE ALLEGED AND AGE OF JUVENILE

	6		7		8		9		10		11		12		13		14		15		Total	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Homicide a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Assault a	—	—	—	—	—	—	—	—	—	—	—	—	2	—	6	—	6	—	2	—	16	—
b	—	—	—	—	—	—	—	—	—	—	—	—	2	—	6	—	5	—	2	—		
Robbery a	—	—	—	—	—	—	—	—	—	—	2	—	—	—	—	—	—	—	—	—	2	—
b	—	—	—	—	—	—	—	—	—	—	2	—	—	—	—	—	—	—	—	—		
Rape a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—		
Other heterosexual a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	3	—	1	—	9	—	13	—
b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	3	—	1	—	7	—		
Homosexual a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	—	—	1	—
b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	—	—		
Break and enter a	—	—	—	—	12	—	24	1	38	1	57	2	69	4	101	9	91	4	59	2	451	23
b	—	—	—	—	6	—	10	1	26	1	38	2	42	4	65	6	54	2	36	2		
Vehicle theft a	—	—	—	—	—	—	1	—	1	—	8	—	12	1	35	—	51	3	43	3	151	7
b	—	—	—	—	—	—	1	—	1	—	6	—	11	1	30	—	38	3	27	2		
Other theft a	—	—	—	—	6	—	28	6	58	16	74	19	153	50	211	125	200	142	120	112	850	470
b	—	—	—	—	4	—	18	6	43	11	53	18	112	39	145	100	159	109	90	88		
Wilful damage a	—	—	—	—	10	—	12	—	8	—	18	—	23	2	39	1	15	1	25	1	150	5
b	—	—	—	—	7	—	9	—	8	—	16	—	21	2	33	1	15	1	24	1		
Receiving a	—	—	—	—	—	—	2	1	1	1	8	1	20	4	21	2	20	1	14	2	86	12
b	—	—	—	—	—	—	2	1	1	1	7	1	17	4	20	2	20	1	11	2		
Fraud a	—	—	—	—	—	—	—	—	1	—	3	—	3	—	3	4	4	1	19	6	33	11
b	—	—	—	—	—	—	—	—	1	—	2	—	3	—	3	3	3	1	6	3		
Drug offences a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—		
Driving and traffic a	—	—	—	—	—	—	—	—	4	—	1	3	12	—	21	4	90	—	160	14	288	21
b	—	—	—	—	—	—	—	—	2	—	1	1	6	—	13	3	40	—	80	9		
Transport and communications a	—	—	—	—	1	—	3	—	3	1	5	—	3	—	5	—	7	1	1	—	28	2
b	—	—	—	—	1	—	3	—	2	1	4	—	3	—	5	—	6	1	1	—		
Liquor a	—	—	—	—	—	—	—	—	—	—	—	—	1	—	—	—	16	3	15	3	32	6
b	—	—	—	—	—	—	—	—	—	—	—	—	1	—	—	—	15	2	13	3		
Unlawfully on premises a	—	—	—	—	3	—	4	—	13	1	17	1	27	—	20	2	28	—	15	—	127	4
b	—	—	—	—	3	—	4	—	12	1	13	1	21	—	19	2	27	—	15	—		
Indecent behaviour a	—	—	—	—	—	—	—	—	1	—	1	—	1	—	2	1	3	—	9	—	17	1
b	—	—	—	—	—	—	—	—	1	—	1	—	1	—	2	1	3	—	7	—		
Drunk, disorderly a	—	—	—	—	—	—	—	—	1	—	—	—	4	—	8	—	13	2	25	—	51	2
b	—	—	—	—	—	—	—	—	1	—	—	—	3	—	8	—	13	2	23	—		
Other a	—	—	—	—	1	—	1	—	4	1	7	2	20	3	24	5	39	7	51	8	147	26
b	—	—	—	—	1	—	1	—	4	1	7	2	18	3	23	5	30	7	36	8		
Uncontrolled a	—	—	—	—	—	—	—	—	—	—	—	—	1†	—	1†	—	1†	—	—	1	3	1
Truant a	1	3	1	2	4	1	2	4	—	1	4	2	3	3	8	12	22	10	—	—	45*	38
Total offences	1	3	1	2	37	1	77	12	133	22	205	30	354	67	508	165	608	175	567	132	2 491	629
Total appearances	1	3	1	2	18	1	42	12	88	15	137	27	217	54	320	130	394	133	327	110	1 545	487
Number of individuals	1	2	1	2	17	1	38	12	85	15	131	27	211	52	298	128	379	130	321	110	1 482	479
Number of first offenders	1	2	1	2	17	1	38	12	85	15	131	27	211	52	298	128	379	130	321	110	1 482	479

a—Number of offences

b—Number of offenders—Totals are not provided for offenders since a juvenile can appear in more than one category, making totals meaningless

*—Two truants were also charged with offences

†—Voluntary matters

Source: Report of the Director General of Community Welfare for the Year ended 30 June 1973, p. 41.

TABLE 2: JUVENILE AID PANEL APPEARANCES, YEAR ENDED 30 JUNE 1973

Result of Appearances	
Child warned and counselled	1,615
Referred for supervision by the Department for Community Welfare	40
Referred for psychiatric help	6
Undertaking signed by child	303
Undertaking signed by parents	19
Undertaking signed by child and parents	49
Referred to the Juvenile Court	80
Total	2,112

Source: Report of the Director General of Community Welfare for the Year ended 30 June 1973, p. 16.

TABLE 3: JUVENILE COURTS DATA — ALL COURTS — YEAR ENDED 30 JUNE 1973
TYPE OF OFFENCES AND AGES OF OFFENDERS

		8		9		10		11		12		13		14		15		16		17		Total	
		M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
Homicide	a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—		
Assault	a	—	—	—	—	1	—	—	—	1	—	3	—	3	—	17	1	56	5	49	3	130	9
	b	—	—	—	—	1	—	—	—	1	—	3	—	3	—	16	1	51	4	40	2		
Robbery	a	—	—	—	—	—	—	—	—	3	—	1	—	3	2	6	—	4	—	3	1	20	3
	b	—	—	—	—	—	—	—	—	2	—	1	—	3	2	5	—	4	—	3	1		
Rape	a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	3	—	—	—	3	—
	b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	3	—	—	—		
Other heterosexual	a	—	—	—	—	—	—	1	—	1	—	1	—	7	—	24	—	44	—	43	—	121	—
	b	—	—	—	—	—	—	1	—	1	—	1	—	6	—	15	—	33	—	33	—		
Homosexual	a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	1	—
	b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—		
Break and enter	a	7	—	9	—	21	—	69	—	125	9	172	13	202	15	203	17	238	3	135	6	1 181	63
	b	1	—	5	—	16	—	29	—	52	3	85	10	97	13	112	11	137	3	85	4		
Vehicle theft	a	—	—	1	—	5	—	7	—	24	1	66	4	161	8	166	14	206	15	140	7	776	49
	b	—	—	1	—	4	—	7	—	17	1	42	4	83	7	100	10	124	11	84	5		
Other theft	a	—	1	11	1	15	4	42	3	84	14	104	34	119	35	110	46	253	94	257	80	995	312
	b	—	1	5	1	11	4	29	3	59	11	65	22	80	25	86	31	190	71	196	63		
Wilful damage	a	—	—	1	—	2	—	14	—	14	—	27	2	23	1	37	3	64	3	56	5	238	14
	b	—	—	1	—	2	—	11	—	11	—	23	2	20	1	27	2	52	3	38	4		
Receiving	a	—	—	—	—	—	—	4	—	3	—	14	1	15	3	10	3	32	6	27	9	105	22
	b	—	—	—	—	—	—	4	—	3	—	14	1	15	3	10	3	22	5	26	8		
Fraud	a	—	—	—	—	—	—	—	—	1	—	12	4	5	8	21	3	42	30	29	36	110	81
	b	—	—	—	—	—	—	—	—	1	—	3	2	4	5	13	2	22	18	21	18		
Drug offences	a	—	—	—	—	—	—	—	—	—	—	—	—	—	1	1	2	7	6	22	5	30	14
	b	—	—	—	—	—	—	—	—	—	—	—	—	—	1	1	1	4	3	12	5		
Driving and traffic	a	—	—	2	—	—	—	1	—	9	—	12	—	41	2	93	1	163	1	217	1	538	5
	b	—	—	1	—	—	—	1	—	6	—	12	—	32	1	60	1	104	1	138	1		
Transport and Communications	a	1	—	2	—	3	—	7	—	5	—	9	—	5	—	5	—	9	—	5	—	51	—
	b	1	—	2	—	2	—	5	—	4	—	7	—	5	—	4	—	8	—	4	—		
Liquor	a	—	—	—	—	—	—	—	—	—	—	1	—	8	4	15	3	93	14	177	13	294	34
	b	—	—	—	—	—	—	—	—	—	—	1	—	8	2	12	3	84	14	160	8		
Unlawfully on premises	a	—	—	1	—	—	—	4	—	8	—	8	—	13	2	12	—	31	—	26	1	103	3
	b	—	—	1	—	—	—	4	—	7	—	7	—	12	2	11	—	27	—	26	1		
Indecent behaviour	a	—	—	—	—	—	—	—	—	—	—	6	—	9	4	14	9	31	9	51	11	111	33
	b	—	—	—	—	—	—	—	—	—	—	5	—	5	2	12	8	27	7	47	10		
Drunk, disorderly	a	—	—	—	—	1	—	1	—	—	—	4	—	20	3	31	3	105	20	130	11	292	37
	b	—	—	—	—	1	—	1	—	—	—	4	—	15	2	26	3	96	11	113	9		
Other	a	—	—	—	—	2	—	6	—	5	1	19	9	39	22	67	26	154	31	161	13	453	102
	b	—	—	—	—	1	—	5	—	5	1	16	6	34	21	50	24	125	30	135	12		
Number of offences		8	1	27	1	50	4	156	3	283	25	459	67	673	110	831	131	1 535	237	1 529	202	5 552	781
Number of appearances		2	1	11	1	29	4	70	3	132	14	220	41	328	73	417	86	911	173	958	141	3 078	537
Number of individuals		2	1	8	1	26	4	55	3	104	12	179	39	263	63	329	83	723	161	830	131	2 519	498
Number of first offenders		1	1	6	1	18	4	32	3	57	10	94	27	132	43	161	58	409	121	472	94	1 382	362
Uncontrolled		—	—	—	—	—	—	—	1	—	—	—	4	1	3	—	7	—	6	—	1	1	22
Truant		—	—	—	—	—	—	—	—	1	—	1	1	1	4	—	—	—	—	—	—	3	5
Absconder		—	—	—	—	—	—	—	—	—	—	2	—	6	—	1	—	2	—	—	—	11*	—
Breach Bond		—	—	—	—	—	—	1	—	—	—	—	—	3	—	1	—	7	—	4	1	16†	1
Number of appearances		—	—	—	—	—	—	1	1	1	—	3	5	11	7	2	7	9	6	4	2	31	28

Notes by Research Officer—* 9 of these were also charged with offences. † 6 of these were also charged with offences. a Number of offences. b Number of offenders—Totals are not provided for offenders since a juvenile can appear in more than one category, making totals meaningless.

See Table No. 19 for an explanation of the offences included in the above categories.

The figures for first offenders cannot be regarded as accurate because the item "Number of previous court appearances" on the statistical return form was frequently not completed or was incorrect. New clerical procedures to be adopted will ensure accuracy during the year ending 30th June, 1974.

Source: Second Annual Report on the Administration of the Juvenile Courts Act, 1971 for the Year ended 30 June 1973, p. 20.

TABLE 4: JUVENILE COURTS DATA — ALL COURTS — YEAR ENDED 30 JUNE 1974
OFFENCE TYPE AND AGE OF OFFENDERS

		6		7		8		9		10		11		12		13		14		15		16		17		17+		Unknown		Total		
		M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	
Homicide	a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	1	—	—	—	2	—	
	b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—			
Assault	a	—	—	—	—	—	—	—	—	—	—	1	—	1	—	5	—	15	2	28	4	79	5	44	2	14	1	—	—	187	14	
	b	—	—	—	—	—	—	—	—	—	—	1	—	1	—	2	—	10	2	22	3	60	4	35	2	13	1	—	—			
Robbery	a	—	—	—	—	—	—	—	—	—	—	—	—	3	—	5	—	1	2	3	—	6	—	7	—	5	—	—	—	30	2	
	b	—	—	—	—	—	—	—	—	—	—	—	—	1	—	2	—	1	1	3	—	5	—	5	—	3	—	—	—			
Rape	a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	—	5	—	—	—	—	—	—	—	7	—	
	b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	—	4	—	—	—	—	—	—	—			
Other heterosexual	a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	3	1	11	—	8	—	24	—	17	—	7	—	—	—	70	1	
	b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	1	7	—	6	—	15	—	13	—	6	—	—	—			
Homosexual	a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	1	—	1	—	—	—	—	—	3	—	
	b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	1	—	1	—	—	—	—	—			
Break and enter	a	—	—	—	—	—	—	—	—	29	—	71	4	83	10	162	2	204	3	193	6	237	13	180	8	30	2	—	—	1 189	48	
	b	—	—	—	—	—	—	—	—	14	—	23	1	41	4	78	1	101	3	92	4	118	10	98	6	21	2	—	—			
Vehicle theft	a	—	—	—	—	—	—	—	—	1	—	26	—	23	3	83	7	165	8	192	19	285	12	145	15	32	—	—	—	952	64	
	b	—	—	—	—	—	—	—	—	1	—	7	—	13	1	42	5	78	7	106	9	154	11	84	10	22	—	—	—			
Other theft	a	—	—	—	—	—	—	—	—	16	2	31	2	50	6	81	13	128	19	154	19	310	102	187	65	36	5	—	—	993	233	
	b	—	—	—	—	—	—	—	—	8	2	14	2	26	2	50	6	72	14	99	16	226	81	148	48	22	4	—	—			
Wilful damage	a	—	—	—	—	—	—	—	—	8	—	8	—	8	—	9	1	8	—	32	1	70	4	57	4	7	1	—	—	207	11	
	b	—	—	—	—	—	—	—	—	4	—	5	—	8	—	9	1	5	—	24	1	53	4	45	4	7	1	—	—			
Receiving	a	—	—	—	—	—	—	—	—	—	1	—	—	1	—	4	1	16	2	11	1	27	2	24	4	3	1	—	—	86	12	
	b	—	—	—	—	—	—	—	—	—	1	—	—	1	—	4	1	10	2	11	1	26	2	20	3	2	1	—	—			
Fraud	a	—	—	—	—	—	—	—	—	—	—	2	9	—	—	1	2	5	4	32	14	64	52	55	36	13	5	—	—	172	122	
	b	—	—	—	—	—	—	—	—	—	—	1	1	—	—	1	1	4	3	12	6	33	26	30	20	7	2	—	—			
Drug offences	a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	3	—	13	6	23	9	3	2	—	—	42	19	
	b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	1	—	7	3	10	6	2	1	—	—			
Driving and traffic	a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	27	—	50	—	109	—	183	5	205	5	16	1	—	—	590	11	
	b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	17	—	20	—	59	—	117	2	128	4	15	1	—	—			
Transport and Communications	a	—	—	—	—	—	—	—	—	1	—	6	—	3	—	9	—	—	—	—	—	4	—	10	—	1	—	—	—	34	—	
	b	—	—	—	—	—	—	—	—	1	—	3	—	3	—	7	—	—	—	—	—	4	—	10	—	1	—	—	—			
Liquor	a	—	—	—	—	1	—	—	—	1	—	—	—	—	—	—	1	9	—	28	4	142	25	157	15	21	3	—	—	358	48	
	b	—	—	—	—	1	—	—	—	1	—	—	—	—	—	—	1	8	—	18	3	130	23	142	15	18	3	—	—			
Unlawfully on premises	a	—	—	—	—	—	—	—	—	2	—	10	—	4	—	10	1	14	4	23	2	36	2	34	—	5	—	1	—	139	9	
	b	—	—	—	—	—	—	—	—	1	—	5	—	4	—	7	1	12	4	18	1	34	2	30	—	5	—	1	—			
Indecent behaviour	a	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	7	—	20	4	47	4	42	3	11	1	1	—	129	12	
	b	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	7	—	14	3	42	4	42	3	11	1	1	—			
Drunk, disorderly	a	—	—	—	—	—	—	—	—	—	—	—	—	—	1	2	—	19	2	45	14	131	12	113	14	36	4	1	—	347	47	
	b	—	—	—	—	—	—	—	—	—	—	—	—	—	1	2	—	15	2	37	7	110	8	105	11	33	3	1	—			
Other	a	—	—	—	—	—	—	—	—	—	—	5	1	2	2	19	11	41	14	94	26	216	22	151	17	26	6	—	—	554	99	
	b	—	—	—	—	—	—	—	—	—	—	2	1	2	2	13	8	31	13	64	20	170	18	124	14	21	5	—	—			
Number of offences		—	—	—	—	1	—	—	—	57	3	160	16	178	22	421	40	693	62	978	114	1 180	266	1 453	197	267	32	3	—	6 091	752	6 843
Number of appearances		—	—	—	—	1	—	—	—	23	2	49	3	80	10	178	27	295	45	443	63	1 088	191	829	136	193	27	1	—	3 180	504	3 684
Number of individuals		—	—	—	—	1	—	—	—	18	2	34	3	62	8	135	23	216	39	342	55	820	167	727	126	156	21	1	—	2 512	444	2 956
Number of first offenders		—	—	—	—	1	—	—	—	12	2	16	3	32	6	53	20	100	29	179	38	496	140	484	103	25	5	—	—	1 398	346	1 744
Uncontrolled		—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	3	1	4	—	3	—	4	—	—	—	—	—	—	1	14	15*
Truant		1	—	—	—	2	—	2	—	3	—	3	—	6	1	2	6	5	8	—	—	—	—	—	—	—	—	—	—	24	15	39
Breach of bond		—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	—	—	—	2	4	6	—	3	—	2	1	7	—	22	5	27†
Number of appearances		1	—	—	—	2	—	2	—	3	—	3	—	6	1	4	9	6	12	2	4	6	4	3	—	2	1	4	—	44	31	75
Number of individuals		1	—	—	—	2	—	2	—	3	—	3	—	6	1	4	9	6	12	2	4	6	4	3	—	2	1	4	—	44	31	75

* Including two heard with other offences.
† Heard with other offences.
a Number of offences.
b Number of offenders — Totals are not provided for offenders since a juvenile can appear in more than one category, making totals meaningless.

Source: Third Annual Report on the Administration of the Juvenile Courts Act, 1971 for the Year ended 30 June 1974, p. 23-24.

	15		16		17		17+		Unknown		Total		
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	
	—	—	—	—	1	—	1	—	—	—	2	—	
	—	—	—	—	—	—	—	—	—	—			
2	28	4	79	5	44	2	14	1	—	—	187	14	
2	22	3	60	4	35	2	13	1	—	—			
2	3	—	6	—	7	—	5	—	—	—	30	2	
1	3	—	5	—	5	—	3	—	—	—			
—	2	—	5	—	—	—	—	—	—	—	7	—	
—	2	—	4	—	—	—	—	—	—	—			
—	8	—	24	—	17	—	7	—	—	—	70	1	
—	6	—	15	—	13	—	6	—	—	—			
—	1	—	1	—	1	—	—	—	—	—	3	—	
—	1	—	1	—	1	—	—	—	—	—			
3	193	6	237	13	180	8	30	2	—	—	1 189	48	
3	92	4	118	10	98	6	21	2	—	—			
8	192	19	285	12	145	15	32	—	—	—	952	64	
7	106	9	154	11	84	10	22	—	—	—			
9	154	19	310	102	187	65	36	5	—	—	993	233	
4	99	16	226	81	148	48	22	4	—	—			
—	32	1	70	4	57	4	7	1	—	—	207	11	
—	24	1	53	4	45	4	7	1	—	—			
2	11	1	27	2	24	4	3	1	—	—	86	12	
2	11	1	26	2	20	3	2	1	—	—			
4	32	14	64	52	55	36	13	5	—	—	172	122	
3	12	6	33	26	30	20	7	2	—	—			
2	3	—	13	6	23	9	3	2	—	—	42	19	
1	1	—	7	3	10	6	2	1	—	—			
—	109	—	183	5	205	5	16	1	—	—	590	11	
—	59	—	117	2	128	4	15	1	—	—			
—	—	—	4	—	10	—	1	—	—	—	34	—	
—	—	—	4	—	10	—	1	—	—	—			
—	28	4	142	25	157	15	21	3	—	—	358	48	
—	18	3	130	23	142	15	18	3	—	—			
4	23	2	36	2	34	—	5	—	1	—	139	9	
4	18	1	34	2	30	—	5	—	1	—			
—	20	4	47	4	42	3	11	1	1	—	129	12	
—	14	3	42	4	42	3	11	1	1	—			
2	45	14	131	12	113	14	36	4	1	—	347	47	
2	37	7	110	8	105	11	33	3	1	—			
4	94	26	216	22	151	17	26	6	—	—	554	99	
3	64	20	170	18	124	14	21	5	—	—			
2	978	114	1 180	266	1 453	197	267	32	3	—	6 091	752	6 843
5	443	63	1 088	191	829	136	193	27	1	—	3 180	504	3 684
9	342	55	820	167	727	126	156	21	1	—	2 512	444	2 956

TABLE 5: JUVENILE COURTS DATA — ALL COURTS — YEAR ENDED 30 JUNE, 1973

Major Orders Made in Respect of 3,840 Children and Details of Person Presiding

Orders Made	Judge		S.M.		J.P.		Unknown		Total	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
Care and Control and ancillary committal . . .	176	31	155	29	—	—	1	—	332	60
Care and Control . . .	220	40	150	44	—	—	—	—	370	84
Bond with supervision .	226	46	279	49	5	4	—	—	510	99
Bond	146	32	194	48	12	1	—	—	352	81
Fine	227	14	706	75	104	18	—	—	1,037	107
Dismissed	163	61	347	104	21	6	2	—	533	171
Applications—										
Granted	58	10	21	1	—	—	—	—	79	11
Refused	5	—	9	—	—	—	—	—	14	—
Total . . .	1,221	234	1,861	350	142	29	3	—	3,227	613

S.M. = Special Magistrate; J.P. = Justice of the Peace.

Source: Second Annual Report on the Administration of the Juvenile Courts Act, 1971 for the Year ended 30 June 1973, p. 21.

TABLE 6: JUVENILE COURTS DATA — ALL COURTS — YEAR ENDED 30 JUNE, 1974
Major Orders Made in Respect of 3,950 Children and Details of Person Presiding

Orders Made	Judge		S.M.		J.P.		Unknown		Total	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
Committed for trial or sentence	2	—	—	—	—	—	—	—	2	—
Care and Control and ancillary order	251	54	52	10	—	—	—	—	303	64
Care and Control	193	49	55	35	1	—	—	—	249	84
Bond with supervision	342	79	144	14	9	2	—	—	495	95
Bond	326	73	115	13	10	5	2	—	453	91
Fine	561	67	431	24	111	8	1	1	1,104	100
Dismissed	457	125	171	20	18	4	—	—	646	149
Applications—										
Granted	88	9	9	3	—	—	1	—	98	12
Refused	4	1	—	—	—	—	—	—	4	1
Total	2,224	457	977	119	149	19	4	1	3,354	596
									3,950	

S.M. = Special Magistrate; J.P. = Justice of the Peace.
Source: Second Annual Report on the Administration of the Juvenile Courts Act, 1971 for the Year ended 30 June 1974, p. 25.

TABLE 7: JUVENILE COURTS DATA — ALL COURTS — YEAR ENDED 30 JUNE 1973

Total Appearances in Juvenile Courts

	Male	Female	Total
From Table 6—			
Offences	3,078	537	3,615
Uncontrolled	1	22	23
Truants	3	5	8
Absconders (not charged with other offences)	2	—	2
Breach of bond (not charged with other offences)	10	1	11
From Table 7—			
Neglected	40	37	77
From Table 8—			
Applications to the Court (excluding those where offences were also dealt with)	93	11	104
Total	3,227	613	3,840

Source: Second Annual Report on the Administration of the Juvenile Courts Act, 1971 for the Year ended 30 June 1973, p. 21.

TABLE 8: JUVENILE COURTS DATA — ALL COURTS — YEAR ENDED 30 JUNE, 1974

Total Appearances in Juvenile Courts

	Male	Female	Total
From Table 6—			
Offences	3,180	504	3,684
Uncontrolled	1	12	13
Truants	24	15	39
From Table 7—			
Neglected	45	54	99
From Table 8—			
Applications (excluding those where offences were dealt with)	102	13	115
Total	3,352	598	3,950

Source: Third Annual Report on the Administration of the Juvenile Courts Act, 1971 for the Year ended 30 June 1974, p. 25.

TABLE 9: JUVENILE COURT AND JUVENILE AID PANEL DATA — STATE WIDE FIGURES — YEAR ENDED 30 JUNE 1973
JUVENILE OFFENDERS — PER 1,000 OF TOTAL POPULATION — LAST CENSUS FIGURES

	8		9		10		11		12		13		14		15		16		17		Total 8-17 Years	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.
Total Population	12 027	11 391	12 060	11 681	12 471	11 974	12 106	11 747	12 138	11 745	11 907	11 322	11 736	11 302	11 458	10 922	11 225	10 604	10 784	10 440	117 912	113 128
Court Data—																						
Number of court appearances*	2	1	11	1	29	4	70	3	133	14	221	42	331	77	418	86	916	173	962	142	3 093	543
Appearances per 1 000 population	0.17	0.09	0.91	0.09	2.33	0.33	5.78	0.26	10.96	1.19	18.56	3.71	28.20	6.81	36.48	7.87	81.60	16.32	89.21	13.60	26.23	4.80
Number of individuals*	2	1	8	1	26	4	55	3	105	12	180	40	266	67	330	83	728	161	834	132	2 534	504
Individuals per 1 000 population	0.17	0.09	0.66	0.09	2.09	0.33	4.54	0.26	8.65	1.02	15.12	3.53	22.67	5.93	28.80	7.60	64.86	15.18	77.34	12.64	21.49	4.46
Juvenile Aid Panel Data—																					Totals 8-15 Years	
Number of appearances	18	1	42	12	88	15	138	27	216	54	320	130	394	133	327	110					1 543	432
Appearances per 1 000 population	1 50	0.09	3.48	1.03	7.06	1.25	11.40	2.30	17.79	4.60	26.88	11.48	33.57	11.77	28.54	10.07					16.09	5.23
Number of individuals	16	1	34	12	82	15	124	27	206	50	276	126	364	127	315	110					1 417	468
Individuals per 1 000 population	1.33	0.09	2.82	1.03	6.58	1.25	10.24	2.30	16.97	4.26	23.18	11.13	31.02	11.24	27.49	10.07					14.77	5.08

* Excludes neglected and uncontrolled children, traffic offences and various applications to Court.

Source: Second Annual Report on the Administration of the Juvenile Courts Act, 1971 for the Year ended 30 June 1973, p. 25.

TABLE 10: JUVENILE COURT AND JUVENILE AID PANEL — STATE-WIDE FIGURES — YEAR ENDED 30 JUNE 1974
JUVENILE OFFENDERS — PER 1,000 OF POPULATION AT 30 JUNE 1974 (EST.)

Age	10		11		12		13		14		15		16		17		17+		Subtotal		Grand Total
Sex	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	
Estimated population at 30th June, 1974	11 915	11 091	12 054	11 404	12 100	11 635	12 456	11 895	12 051	11 721	12 103	11 811	11 833	11 306	11 708	11 234	11 410	10 881	107 630	102 978	210 608
Court Data—																					
Number of court appearances*	23	2	49	3	80	10	178	27	295	45	443	63	1 088	191	829	136	193	27	3 178	504	3 682
Appearances per 1 000 population	1·93	0·18	4·06	0·26	6·61	0·86	14·29	2·27	24·48	3·84	36·60	5·33	91·94	16·90	70·80	12·10	16·91	2·48	29·52	4·89	17·48
Number of individuals*	18	2	34	3	62	8	135	23	216	39	342	55	820	167	727	126	156	21	2 510	444	2 954
Individuals per 1 000 population	1·51	0·18	2·82	0·26	5·12	0·68	10·84	1·93	17·92	3·33	28·26	4·65	69·30	14·77	62·09	11·21	13·67	1·93	23·32	4·31	14·02
Juvenile Aid Panel Data—																					
Number of appearances*	92	13	163	37	247	84	384	131	499	187	473	133	—	—	—	—	—	—	1 858	585	2 443
Appearances per 1 000 population	7·72	1·17	13·52	3·24	20·41	7·21	30·83	11·01	41·41	15·95	39·08	11·26	—	—	—	—	—	—	17·26	5·68	11·60
Number of individuals*	85	11	149	37	222	79	352	117	457	176	460	132	—	—	—	—	—	—	1 729	553	2 282
Individuals per 1 000 population	7·13	0·99	12·36	3·24	18·35	6·79	28·26	9·83	37·92	15·01	38·00	11·17	—	—	—	—	—	—	16·06	5·37	10·83

* Excludes neglected and uncontrolled children, children under 10 and various applications to courts.

Source: Third Annual Report on the Administration of the Juvenile Courts Act, 1971 for the Year ended 30 June 1974, p. 29.

CHAPTER 10

USSR: EFFECTIVENESS OF TREATMENT MEASURES AND PROBLEMS OF THE TYPOLOGY OF JUVENILE DELINQUENTS *

by G.M. MINKOVSKY

In recent years in the USSR a considerable broadening of the range of measures of early prevention of juvenile delinquency has taken place. There is eloquent testimony to the value of preventive measures effected under the leadership of party organization by the local soviets, as well as by agencies of public education, social organizations, courts, the procuracy and the Ministry of Internal Affairs: stabilization and reduction of the proportion of crimes committed by minors; the fact that the proportion of grave crimes — murder, rape, grave bodily injury, robbery — in the structure of juvenile delinquency as a whole has not increased and that the rate of some of them is tending to decrease; the fact that there is no change for the worse in the indices of the number of girls committing crimes, juvenile group criminality and juvenile recidivism.

Nonetheless, further improvement in the effectiveness of the preventive system continues to be an important task. It includes the following steps: (*a*) all objective social processes should be comprehensively studied; (*b*) methods

---

* Reprinted from Recent Contributions to Soviet Criminology, UNSDRI Publication No. 8, October 1974. Juvenile Commissions and Public Educators in the USSR are described in a paper by Klotchkov and Shupilov to be published later this year by UNSDRI.

of social prediction should be made use of; (*c*) it should be assured that the programme and scope of measures correspond to the real situation; (*d*) the forces and means available should be manoeuvred opportunely; (*e*) when assigning and applying punishment the totality of facts important for the implementation of the aims of punishment should be comprehensively studied.

Accordingly it seems of particular importance that certain characteristics of the juvenile delinquent's personality be analysed and evaluated when his treatment is " programmed ". This would make it possible to guarantee in each case the optimal correlation of aims and means and the adequacy of the criminal punishment or alternative measures applied.

Approach to the Classification (Typology) of Juvenile Delinquents

To be successful, the struggle against criminality should not proceed from the incorrect notion that the set of juvenile delinquents is homogeneous, that it can be taken " on the average ". The elaboration of a typology becomes of course more complicated in view of the fact that in the personality structure of these minors there is a combination of characteristics peculiar to their particular age, of traits characteristic of people committing a certain category of crimes, and of traits characteristic of juvenile delinquents *per se*. In many instances juvenile delinquents are distinguished by a considerable gap between the contents of the criminal act and their personality. Therefore classification of juvenile delinquents should never be approached from single characteristics taken separately and mechanically summed up, but should proceed from the whole personality, " with its social experience and motivation of behaviour " (2, vol. 1, p. 420). In fact the complex of peculiarities of the personality should be seen in terms of their role in the

choice of alternative behaviour, paying special attention to whether in the commission of a crime the leading role belonged to an " inner readiness " to commit a crime or to the pressure of the situation.

In Soviet criminological and psychological literature four systems of classification have been suggested, based on:

(*a*) psychological data;

(*b*) conditions of life and education;

(*c*) criminal law criteria;

(*d*) combined complexes of characteristics.

The first type of classification focuses attention on the moral-psychological aspects of the minor's personality, a particular psychological trait usually being characterized as the leading one. In practice this classification is abstracted from the peculiar social-demographic and legal characteristics of the population studied and from the content of the act committed. The erroneousness of this contraposition is evident in the degree to which social neglect manifests itself in the behaviour of the individual. At the same time the merit of all the versions of " psychological " descriptions of minors committing crimes is that attention is focused on vital moments and stages of the perverted development of the personality of the juvenile delinquents. This indicates the usefulness of such classifications when elaborating and differentiating concrete directions in preventive work.

What has been said of the significance of " psychological " classifications could be repeated in respect of classifications based on differences in conditions of life and education, on criminal law criteria, and on social-demographic characteristics. (Social-demographic classifications — that is place of birth and residence, sex, age, etc. — obviously can be sufficiently widely used in the

practice of research in dynamics, structure and causes of criminality, but they cannot be considered as one of the main types of classification.)

There has also been suggested a typology of juvenile delinquents constructed in terms of differences in family situations: a homeless minor, minor living in family exerting negative influence on him, minor living in normal family. Such a classification is useful for the study of the causes of crimes committed by minors, but it cannot become the basis of their typology since any group singled out in accordance with these characteristics can include both hardened criminals and chance offenders.

Different variations of the classification of juvenile delinquents based on differences in the nature of the act committed have their sphere of application as well — when analysing the dynamics of concrete categories of crime, of the effectiveness of measures to combat these categories of crimes, when regulating the regime of punishment, etc.

However, neither can these be used as the main system of classifying juvenile delinquents. On the one hand, traits characterizing the acts committed do not fully reflect the totality of criminologically significant features of the criminal's personality. On the other hand, the variations of this typology have no universal significance because they are by nature so undetailed. Such categories are perfectly adequate for the elaboration of systems of punishment regime or for the analysis of statistical data on the rate of certain categories of crimes, but a universal typology of juvenile delinquents should be more differentiating.

All of the above leads us to the obvious conclusion that a general classification of juvenile delinquents must be based on a complex of characteristics involving in their totality the moral-psychological, social-demographic and legal characteristics of minors committing crimes, and the conditions of their lives and education. As P.I. Lyublinsky (1, p. 138) wrote as far back as 1923, the crime " of an adolescent is the result of a complex interrelation of his personal characteristics and the impact of the milieu, the prevailing role of one factor or another not being sufficient for classification ".

It is the integrated approach to the classification of juvenile delinquents, based on a total evaluation of the act committed, its motives and causes as well as of the personality of the offender, that has been formulated in the legal norms defining the grounds for the application of measures alternative to criminal punishment to minors who have committed a crime (e.g., article 8 of the RSFSR Code of Criminal Procedure). In the same way article 21 of the RSFSR Statute on Commissions for Cases of Minors provides that " when applying measures of treatment the commission should take into consideration the nature and causes of the offence committed, the age of the juvenile and the conditions he lives in, the degree of his participation in the offence as well as his behaviour at home, at school and at his place of work ".

The disposition of the individual personality and its attitudinal orientation * seem to be the most general expression of its social-demographic, moral-psychological and legal characteristics. It is by evaluating the disposition and orientation of the personality of the minor who has committed a crime that we are able to judge whether he commits crimes generally — and the given crime in particular — as part of a regular trend and the degree of that trend. So we use this characteristic in the construction of the general system of classification (typology) of

* What we have in mind is not the subconscious willingness to engage in a psychological activity, for instance readiness to a selective perception of certain factors, but readiness of the individual for a certain stereotype of behaviour involving active search of a situation suitable for effectuating the stereotype.

juvenile delinquents because it summarily expresses their complex characteristics.

To our mind the system of classification should:

(*a*) be suitable for use both in scientific analysis, and in preventive work and assigning and applying punishment in concrete cases;

(*b*) serve as a foundation for particular classifications designed for use in solving some specific problems of combating juvenile delinquency;

(*c*) characterize all the main aspects of the different types of personality defined, including the degree the situation is controlled;

(*d*) characterize the complex of personality peculiarities not only from the point of view of their presence but also from the point of view of their mutual co-ordination and their role in personality structure *;

(*e*) identify the relation between on one hand the personality types as stages in the development of a negative disposition — each being characterized by a comparatively definite condition of the typology — and on the other hand the system of dominating traits. This makes it possible on one hand to make a retrospective analysis of the course that led each of the minors to crime and based on this to consider the question of improving the effectiveness of early preventive measures, and on the other hand to evaluate the probable further behaviour of the adolescent in order to make the choice of the most opportune educational-preventive measures.

* " Not only is the probability of antisocial phenomena explained by the depth, stableness, ' tension ' of antisocial views and attitude in combination with other forms, but also the degree of social danger, ease with which the individual chooses a course of action of that kind, which in its turn makes it feasible to speak of different categories or types of criminals " (4, p. 163).

When characterizing the personality traits of a minor who has committed a crime one should consider data on him not only for the moment the crime was committed but also for the period preceding it and the period immediately following. Such a linking of the personality characteristics of adolescents in terms of periods of time guarantees that a comparatively stable system of characteristics will be defined. We have here of course not a " dangerous condition " but deviant behaviour on the basis of which the probability of the development of the personality in a certain direction is predicted and measures of treatment provided for by the law (mainly control and social assistance) are used in order to prevent such development.

Taking the above into consideration we construct a typology of juvenile delinquents based on comparison of the following data: (*a*) data on shifts in the psychological needs, interests, views, and character traits of the minor, (*b*) data on shifts in the social-demographic characteristics, (*c*) data on the circumstances of the criminal act, the situation it was committed in, actions preceding and following it. The totality of these data define the " decision-making mechanism " of criminal behaviour, or in other words, the general disposition (orientation) of the personality and its correlation with the act committed make it possible to evaluate the causes of social inadaptability and to elaborate an individualized programme of correction of the personality and normalization of the milieu.

In the final analysis four types of minors committing crimes can be described in terms of what the socially dangerous act means for them: (*a*) the casual act, running counter to the general disposition of the personality; (*b*) the predictable act, taking into view the general unstableness of the personality orientation, but casual from the point of motive and situation; (*c*) the product of a generally

negative orientation of the personality; (*d*) the product of a criminal attitude.

The typology suggested not only shows the main possible variations in the disposition of the adolescent's personality at the time of commission of the crime, but also reflects the gradual formation and growth of the socially negative personality traits of those adolescents who repeatedly commit crimes; it also shows the gradual transition from isolated elements of personality deformation to a whole " chain " of these elements. Of course, here we have cases when measures to prevent a concrete person from embarking on the road of crime were not taken or when these measures proved insufficient. In principle, however, such measures based on the system of social relations in Soviet society make it possible to " put an end " to and eliminate the distortions of personality development.

Types (Categories) of Juvenile Delinquents

Juveniles with a criminal attitude are characterized by a comparatively stable system of values and relations stimulating the preference of antisocial behaviour (including not only the simple exploitation of a situation but its organization as well). In the personality structure of such adolescents primitive and vile requirements prevail. The sphere of their interests includes the habit of spending time idly, following a parasitic way of life, gambling, following exaggerated fashions, etc. In the sphere of views and values a decisive role is played by egoism, indifference towards the feelings of other people, negative attitude towards positive surroundings, perverted conceptions of bravery, comradeship, etc.; such individuals are distinguished by aggressiveness, lack of restraint and cruelty. Their criminal acts are characterized by persistence, disregard of consequences and vile motivation. Lack of

connexion with the neighbourhood they live in is typical for the criminal activity of these adolescents, whereas for criminal acts committed by minors in general, the opposite is true. In the community they usually play the role of a " crystallizing " centre for groups with antisocial behaviour.

Various sample data show the percentage of juvenile crimes prepared in advance (10-20 per cent), the percentage of convicted juveniles who persistently resist educational treatment during the term of punishment (more than 10 per cent), and the percentage of individuals who during a long period did not study or work (5-10 per cent). These sample data make it possible through the method of indirect evaluation to come to the conclusion that among all juvenile delinquents the proportion with a formed criminal attitude is approximately 10 to 15 per cent. It is with the utmost difficulty that such adolescents yield to correction and re-education, but they too are corrigible. An adolescent is characterized by the gradual evanescence of his emotional experiences and impressions and by his personality's being " mouldable " in respect of the requirements of the milieu. Even in those cases when the general criminal orientation approaches in depth and intensity the attitudes of adult criminals, it is always by nature less stable. This is evidently taken into consideration in the legislation, which does not find it necessary to extend the notion of especially dangerous recidivism to the crimes committed by minors.

Next to the type of minor described may be placed that with a negative disposition which has not, however, reached the extent of a general criminal attitude. The stereotype of the behaviour of adolescents of this type also includes the habit of passing the time aimlessly and a proneness to drink. But most of the crimes committed by these adolescents are not the result of active preparation; rather they are something drifted into in the

channel of the general disposition of the personality. The place, time, nature and consequences of the crimes committed largely depend on the situation. The prevalence of the type of juvenile delinquents under consideration can be indirectly estimated by the percentage of adolescents committing crimes who have demonstrated a stable, negative characteristic (who before committing crimes were registered in the children's room of the police, etc.), which by sample data comprises 30 to 40 per cent.

In respect of the type of juvenile delinquents described (taking into account that their negative habits are clearly expressed), measures should to our mind be taken which include an intensive and continuing treatment of the individual and alteration of the situation (milieu) in order to change the adolescent's system of social relationships and values.

The third type of juvenile delinquents — adolescents with an unstable personality disposition — is characterized by a " competition " of aims and motives conditioned on the one hand by the demands of positive surroundings and on the other, by antisocial influences. Such adolescents most often commit crimes motivated by prestige, imitation, adaptation to the peer-group; a decisive role is played by insufficient moral and emotional-volitional education. These adolescents are not characterized by any considerable deviant behaviour at the places where they live, study or work, though they are not sufficiently socially active (participation in public activities of adolescents from the control group is 70-80 per cent, that of offenders about three per cent). Being held responsible for criminal acts, such adolescents usually express remorse for what they have done (though usually not very deeply, for they are prone to self-justification). By estimate their percentage of all juvenile delinquents is 25 to 35.

The last type of the classification under consideration is adolescents who commit casual crimes despite the positive

general disposition of their personality. Here a determining role in the criminal behaviour is played mainly by age peculiarities in combination with light-mindedness and an incorrect evaluation of the act committed and its consequences (so-called " childish motivation "). The proportion of this type of juvenile delinquents is about 25 to 35 per cent of the whole.

Conformity of Sentencing Practices to the Typology of Juvenile Delinquents

The analysis conducted makes it possible to draw several significant conclusions regarding juvenile sentencing practices. The requirement to take into account the inner heterogeneity of the set of juvenile delinquents seems to be controlling in this respect. In these terms the view does not seem quite precise that juvenile status should in itself bring about a considerable mitigation of punishment and that the " overwhelming majority " of juveniles can be corrected or firmly put onto the way of correction in as brief a period as a few months.

The legislation and practice of the last years consequently proceed from the necessity to differentiate in each case of a juvenile the limits of responsibility, the measure and regime of punishment and the aims of punishment in terms of the totality of characteristics of the act committed, the personality of the adolescent and the motives and causes of the act, but by no means in terms of the age factor taken alone. Suffice it to refer to the differentiation of types of colonies for juveniles and to conditions of confinement depending on the gravity of the crime committed and the personality of the offender.

In the years 1966-67 a certain correction of the structure of application of punishment took place including a reduction of the percentage of alternative educational

measures ordered instead of criminal punishment. In 1965 these measures were applied to 50 to 55 per cent of juvenile delinquents sentenced in the cases studied, in 1966-67 to 31 to 35 per cent. It is important to stress, however, that: (*a*) this correction is by no means a one-sided " tightening of the screws " and was aimed precisely at strengthening the differentiation of punitive practices; (*b*) application of alternative measures in approximately one third of the cases of juveniles rather precisely corresponds to the structure of juvenile criminality and the characteristics of the delinquents; (*c*) further reduction of the application of alternative measures does not seem advisable.

The ratio of deprivation of liberty to conditional sentencing of juveniles has been nearly stable in recent years, although the percentage of conditional convictions has slightly decreased compared with 1963.

This tendency seems to be connected in the practice of several courts with the application to juveniles of short terms of deprivation of liberty on a relatively large scale (in one tenth of all the sentences analysed the adolescents were sentenced to terms of less than a year and in one third of the sentences to terms of from one to two years.) It should be noted that we are considering here not grave but comparatively less dangerous crimes. As far back as 1963 the Plenum of the Supreme Court of the USSR warned of the danger of applying to juveniles short-term deprivations of liberty which " instead of a positive influence can have a negative impact on correction and re-education ". This suggests the conclusion that there exist certain possibilities of wider use of measures of punishment not involving deprivation of liberty — first among them conditional sentencing in cases of juvenile delinquents — of course taking into consideration the actual circumstances of every case.

Possibilities to Raise the Effectiveness of Conditional Sentencing and Conditional Early Release

Research of different kinds has established that there exists a stable inverse correlation between the percentage of juveniles conditionally sentenced that have been put under lasting control by a collective of workers or a social educator and the rate of recidivism in the conditionally sentenced group. Therefore a sharp decrease of recidivism could be brought about by applying the forms of control mentioned in every case of conditional sentencing (meanwhile they are being used in approximately one third of the cases), as well as by timely registration of those conditionally sentenced with the children's rooms of the police. Another way to enhance the effectiveness of conditional sentencing involves the court's formulating concrete behavioural requirements for those conditionally sentenced that would contribute to a purposeful correction of their personality (for instance, to resume studying, to stop drinking, not to stay out late, etc.). Such a " programme of behaviour " does exert a lasting restricting influence on the adolescent and clarifies the meaning of the probation period for him. Certainly the problem of applying to juveniles such forms of treatment as the combination of conditional conviction with obligatory corrective tasks (taking into account by all means the juvenile's age) deserves to be studied in detail.

Criminologial research of the past few years has made it possible to find some other weak points in the practice of assigning punishment in juvenile cases that directly correlate with the rate of recidivism. It is particularly noteworthy that the average period the juvenile sentenced to deprivation of liberty actually spends in confinement is 11 to 12 months according to sample data; however, a fourth of this already short period is spent in preliminary confinement institutions where conditions for educational treat-

ment are of course relatively less favourable. More than that, it is precisely in preliminary confinement institutions that the minor in a number of cases comes into contact with negative influence.

Nonetheless, the time spent in the preliminary confinement institution can become an effective first stage of correction. To achieve this it is recommended that, as suggested, the law provide for separate confinement and differentiated methods of educational treatment for different categories of juvenile delinquents deprived of liberty, including training, assignment to at least the simplest forms of production labour and resumption of general education. Secondly, it is recommended to establish reduced terms of investigation and of detention as a measure of restraint for juvenile cases. Limiting these terms is made possible by the fact that the courts and procuracy assign specialized investigators and judges to deal with juvenile cases. The time spent by the juvenile in the preliminary confinement institution could and should be used for a comprehensive, planned personality study of the accused juvenile, and the documented results of the study should be filed in the case records.

An analysis of the social outlook of adolescents who had been granted conditional early release (parole) from institutions of deprivation of liberty has shown that a considerable proportion (20-40 per cent) is characterized by acceptance of improper forms of leisure. Let us give an example. The 17-year-old A., convicted for taking part in group thefts, had been released from a colony for minors after having served the minimum compulsory term. While in the colony he went to school, did not oppose professional training, had no penalties imposed upon him that had not been remitted. In spite of this, A. did not resume studying after release, did not take any job, quickly renewed old ties and in the course of one month committed three grave offences. A causal attitude in evaluating the degree

of A.'s correction produced grave consequences. This situation seems to arise because of the fact that conditional early release is often based on a system of indices (progress at school, mastering a professional qualification, no penalties incurred, etc.) that are not aimed at evaluating the durability of the positive habits formed. Moreover, it is not taken into consideration that a quick adaptation of the adolescent to the conditions of the regime does not always bespeak a real reorientation of the personality — far from it. Let us take for instance the attitude towards studying. Satisfactory progress at the schools of colonies amounts to 90 per cent and more; however, according to the data of sample research, less than 20 per cent continue to study after being released. Thus when deciding whether an individual should be put on early conditional release, the current indices of progress at school should not be regarded as a decisive factor. The conclusion that the individual's interest in study and proper attitude towards it are renewed can only be reached on the basis of the results of at least one complete school year. The question of evaluating the effectiveness of professional training should be decided in the same way. The attitude towards making amends for the harm caused (show of concern, voluntary compensatory payments, etc.) also deserves to be included in the list of characteristics determining the reality and durability of correction.

Problems of Legal Education of Persons Convicted and of Preparing Them for Release

The study of convicted juveniles has shown that there exist important gaps and deficiencies in their legal consciousness. Nearly 70 per cent of those questioned see law as a system of formal demands and prohibitions, but the social obligation and advisability to comply with the norms of the law remain vague for them. Even after having completed a " practical course " of acquaintance with the

criminal law, most convicted adolescents do not know that responsibility is mitigated when an individual gives himself up or helps to clear up a crime (RSFSR Criminal Code article 38 (9)). Two thirds of those questioned did not know anything of the existence of criminal responsibility for failure to report a crime (articles 88-1 and 190), or for making or carrying weapons (article 218). Eighty per cent were of the opinion that a state of drunkenness mitigates responsibility. About half of those questioned thought their punishment was too severe or altogether unjust. Therefore there is no doubt about the usefulness of a special programme of legal education of convicted persons, aimed not only at familiarizing them with the legal norms in force but also at imparting to them the conviction that law is just and should be followed.

Nearly 10 per cent of the colony inmates questioned persistently resisted positive influence, violated the rules of the regime (on the average adolescents of that kind incur more than five penalties a year). The range of treatment measures at the disposal of the colony administration is designed for a certain average degree of unsatisfactory development of the inmates; however, in more severe individual cases these measures alone are incapable of changing the disposition of the adolescent's personality. Questioning a group of such inmates has shown a typical attitude for them: " What can they do to us ? We shall be home in due time anyway ". It is evident that when inmates are being released from a colony with the clear appreciation that they are not corrected, this gives other inmates and those released themselves the notion that socially negative behaviour is permissible whereas the public gets the impression that measures to combat crimes are not sufficiently effective.

In principle it seems these problems can be solved by a policy of not counting as part of the term of punishment the time the individual spent in the preliminary confinement institution or the colony during which he maliciously violated the rules of the regime (refused to work and study, got drunk, wrecked an educational project, etc.). The punishment " deprivation of liberty " consists in isolation in combination with a lasting educational-preventive treatment of the convicted person (USSR Fundamentals of Correctional Labour Legislation article 7). When a person maliciously evades such treatment it means that during that time the punishment is not actually taking place.

Of course a number of questions connected with the court's decree of judgement need to be considered; and experimental study regulated by a local normative act is indispensable. It is possible that a more advisable alternative to eliminate this weak point of punitive practice will be to introduce additional stages of intensified regime for inmates who maliciously violate the normal one. In any case the principle of broadening the range of treatment of adolescents that are notoriously immune to ordinary means of correction and re-education seems wise.

Our research has further shown that many inmates are psychologically unprepared for release. They easily acquire the idea that the position of a released person has its advantages, that it is the duty of all and sundry to help them find a job. At the same time, in the course of the explanatory activity effected to prepare the inmates for release the idea is not stressed that a released individual should prove to people surrounding him that he is corrected, that he should earn their esteem and take the full responsibility for his behaviour. The result of such one-sided orientation was indicated by research in the Byelorussian Soviet Socialist Republic which found that more than a third of colony inmates did not take a job or start studying within two months of release even though there were no objective obstacles. Being without any definite job for a long time

is one of the quickest acting stimulants to re-establishing the former stereotypes of behaviour, with all the consequences that follow.

On the Development of the System of Supervision

Since the conditions of life of an inmate after release undergo spasmodic changes he should be subjected to continuing supervision. But even at the present time, according to various sample data, 20-30 per cent of those released are not being registered by the commissions for cases of juveniles and by the children's rooms of the police whose job it is to effect such supervision. Undoubtedly when supervision of all former inmates is ensured (including a periodic comparison of the data of colonies and police children's rooms where the released persons live) the practice will be directly reflected in the results of the battle against recidivism.

The achievement of this result, however, supposes that a question of criminal and corrective labour law, both theoretical and practical, will be solved: out of the whole set of criminals, not only juveniles, but also young adults (18-21 years) should be singled out, as has already been done by the legislatures of a number of socialist countries. This question has repeatedly been raised in connexion with the execution of punishment, but the matter is no less important for assuring the social adaptation of persons released from colonies. The point is that two thirds of these individuals are 17 years and older and therefore the children's rooms and commissions either simply have " no time " to register them and organize supervision, or they cross them off the registers after several months because they have come of age, thus leaving them to their own devices. But research shows that in contradiction to the prevailing opinion the times in which the danger of recidivism is greatest are not only the period of immediate

adaptation of the adolescent after release (the first six months) but also the period of " delayed " adaptation (after 12-19 months) when the memory of punishment becomes attenuated and the individual ceases to feel that his behaviour is under special control.

No less important is to choose the correct form of supervision in each concrete case. According to the concurring data of different samples approximately 10-15 per cent of persons released from a colony are in need of intensive supervision; 20-25 per cent are in need of everyday control and leadership in view of their unstable behaviour; 60-70 per cent are in need of help during the first days of arranging their affairs and of periodic checks subsequently. The effectiveness of continuing supervision can be shown by the following example. The 16-year-old Victor K. was registered after release from a colony. Urgent measures taken to get him a job and have him resume studies succeded without any difficulties. Nevertheless the inspector of the children's room made subsequent checks as well. One of the checks unexpectedly showed that K. had been seen in a drunken state and had begun to miss lessons at the evening school. It appeared that K.'s accomplice had by that time been released, too, and had begun to influence him in a negative way. At the same time K. got into a conflict at home. The inspector for a time strengthened the intensity of the control over the way K. spent his time; parallel with this he made it possible for K. to prepare for school at the school building and made arrangements for him to receive guidance. As the result of this K. successfully finished school and entered an institute. The possibility of a " break-down " was completely averted.

Regretfully the hierarchy of forms of supervision has not yet been regulated by norms of law, nor has the hierarchy of measures of timely and sufficient reactions to incorrect behaviour of those released. And the probability of such behaviour is sufficiently great if the results of research

on the motivations of juvenile delinquency are considered. In the greater number of cases the motivation of behaviour was formed over a long period of time, so that during the adolescent's stay at the colony it can often be weakened but not completely eliminated.

The indispensability of a differentiated, one- to two-year supervision of released and conditionally-sentenced adolescents is also shown by the fact that their family and home surroundings are as a rule characterized by the following factors:

(*a*) In the prevailing number of cases the parents of these adolescents hold an incorrect pedagogical attitude (in no less than 75 per cent of the cases they meet practically all the wishes and whims of their children; in 70 per cent they are tolerant towards their children's drinking alcoholic beverages; in 30 to 40 per cent rudeness and impoliteness towards other people are a constant feature of the family setting).

(*b*) In most cases the educational level of the parents is low (over three fifths of the parents have only elementary education). This factor materially reduces the probability of the parents' positively influencing the sphere of interests and associations of the adolescent. It is no casual remark by the teacher L.M. Pechurina (3), to whose credit is the re-socialization of more than one " difficult " adolescent, that one of the important tasks of supervision is to compensate for the deficiency of cognitive information which the adolescent gets in the family. " For the sake of this I used to attend sporting competitions and motor races where my children took part. I had to read much about things that interest children. They have so many queries, ' Why ? ' "

(*c*) In the sphere of free time activities the adolescent offenders show a clear tendency towards passive (parasitic) forms of leisure and correspondingly towards associations with people having the same tendency.

In view of all this it is necessary to further develop the institution of supervision in the direction of defining the obligations of the people involved, broadening the range of measures at their disposal, taking care to select personnel in such a way that the function of supervision can be genuinely fulfilled. It is felt that in the future all laws affecting juveniles will become an independent branch of legislation dealing with the education of youth and its protection from harmful influences.

* * *

Analysis of the development of legislation dealing with criminality and the protection of juveniles from harmful influences shows that the Soviet legislator does systematically adhere to the idea of a differentiated approach to juvenile delinquents based on the types of their social-psychological characteristics. Possibilities to increase the effectiveness of educational-prophylactic and treatment measures for juveniles are to a great extent connected with this idea systematically implemented in the practice by investigative, judicial and educational-corrective bodies of early prevention of juvenile offences.

CHAPTER 11

METHODOLOGY OF THE UNSDRI/WHO PILOT SURVEY, AND IMPLICATIONS FOR FOLLOW-UP RESEARCH

by SATYANSHU MUKHERJEE, UNSDRI

Background and Aims of the Pilot Survey

The possibility of conducting joint research on juvenile justice was first considered by UNSDRI and WHO in late 1972, and was formally discussed at an inter-staff meeting in January 1973. It was decided at that time to design a pilot study which would be carried out simultaneously in a number of countries in order to obtain descriptive information on systems and thus provide the basis for a comparative, interdisciplinary evaluative research programme. This pilot study would consist of a series of preparatory activities corresponding to the following three aims:

1. Selection of suitable research sites:

a) exploration of local conditions, including the availability of official data;

b) identification of local research teams;

c) obtaining governmental support and approval;

d) identification of possible sources of additional research support.

2. Review of the literature, specially literature produced in the countries selected for the survey.

3. Development and testing of research instruments.

Although these objectives were simple and straightforward, it was evident that the pilot survey would involve considerable time and sustained individual efforts. In fact, it would not be possible to rely on yes/no answers to specific questions, and while no rigorous methodology was required, it was essential to obtain some sort of uniformity of responses in order to develop a cross-cultural comparative research strategy.

The Survey Guide

The first step was thus to elaborate a survey guide which could be used by all the countries selected for the pilot study; this guide not only tried to elicit direct responses to the aims of the pilot survey, but also asked for factual information and data to substantiate and, wherever necessary, to supplement these responses. The survey guide is reproduced as Appendix A at the end of this chapter [1].

It will be noted that the survey guide limits the scope of the study to one or two specific locations within each country. This limitation was imposed by time and several other factors. Specifically, it was found during our search for suitable research sites that:

i) nationwide juvenile justice systems (i.e. systems consisting of a set of mechanisms to deal with juveniles separately from adults) did not exist in all the countries; situations ranged from instances where no separate system existed to instances where a special juvenile justice system applied uniformly to the entire country; in some countries,

[1] An additional questionnaire, focussing primarily on mental health problems and programmes, was subsequently elaborated by WHO, and sent by it to several countries.

juvenile justice systems operated only in major cities or in some of the states within a federation;

ii) not all countries had a uniform and nationwide legislative basis for their juvenile justice system; in some countries the legislative mandate derived from a number of enactments, while in others a single law governed the entire country; at times, the law was not implemented or enforced in the entire geographic jurisdiction for which it was enacted; it was also noted that legal provisions for differential handling of juveniles sometimes emanated from the general penal code of the country, and not from special legislation;

iii) not all countries had a uniform and nationwide juvenile justice service, covering a variety of operational components and institutions; it was often observed that the national capital or a few large cities provided more elaborate facilities than the rest of the country.

Given these circumstances, the survey guide sought to obtain for each country fairly complete data from one or two areas where a juvenile justice system has been in operation for at least a few years; wherever possible, however, a nationwide description of the juvenile justice system was also requested.

Specific data to be elicited by the pilot studies included:

1. A description of the juvenile justice system, detailing the various provisions of the law, as well as any administrative rules and regulations governing the system. This included the definition of various categories of juveniles dealt with under these provisions. It was also attempted to obtain a description of the origin, powers, jurisdiction, etc., of the particular norms and institutions involved. At the organizational level, the guide sought information on the structure of various bodies, number and type of personnel, and types of treatment programmes and services. The country teams were also asked to provide their impression on

the day-to-day working of the system, highlighting salient differences between legal provisions and practice.

2. A collection of basic demographic data, consisting primarily of age and sex distribution of the population in the areas under study.

3. Detailed statistics on the number and type of juveniles referred to the system, the method of disposition, and the types of treatment given during a specific period.

4. A brief description of some of the new or recent approaches for dealing with juveniles.

Together with these data the country teams were asked to give their opinion as to whether systematic sample surveys and evaluative studies could be possible.

Country responses to the Survey Guide

Not all countries to which the survey guide was sent were in a position to respond to it. On the other hand, it appeared in the course of the study that in several countries (some of them not covered by the survey) sustained research efforts were already underway on juvenile delinquency, juvenile courts, juvenile correctional institutions and related programmes [2]. Details on these research projects were obtained through site visits and correspondence. Most of the countries included in the survey were visited by members of UNSDRI staff, and in some cases the country team leaders visited Rome for consultations.

The results of the pilot study are contained in reports from various countries [3], and have not been comparatively

[2] Except for the developed countries, however, current literature on the subject was found to be scarce, General development of social sciences, language, and lack of resources for well-conceived inquiries seem to affect the quality and volume of literature.

[3] A list of contributors and field correspondents is enclosed as Appendix C to this chapter.

tabulated or correlated; given the difference in the quality and quantity of the data, such a comparison would not have been significant or scientifically valid. Of course juvenile justice systems, within the broad parameters stated earlier, exist in all the countries surveyed. But the quality of the system-related and demographic data was found to be adequate only in France, India, Italy, Japan, Mexico, Scotland and South Australia. In others, sufficient groundwork still needs to be done before systematic research can be conducted.

In all countries in which the pilot study was conducted we found significant government and local support. This reflects on the one hand the concern with the problems of juvenile maladjustment and delinquency, and on the other hand a definite improvement potential. While in most countries surveyed local research expertise was found to be adequate, in some co-ordination and assistance would be desirable for any follow-up research.

Innovative approaches: A preliminary assessment

The pilot survey indicates that in recent years a variety of proposals and innovations were developed to correct the most obvious shortcomings of existing juvenile justice systems. These new approaches reflect various concerns. Current efforts toward diversion of juveniles from the traditional systems, for instance, are expected simultaneously to enhance the effectiveness of treatment, to reduce system overloads, to involve the community and to ensure more humane conditions at the various levels of the system. Depending upon the perspective one takes, each of the systems described in this publication presents some components which are substantially different from the others, and some which are similar. Diversion, in the sense of using a different method or a different measure than what has been tradi-

tionally used in dealing with children, seems to be an explicit or implicit concern in most of the countries surveyed.

The systems currently in operation in these countries can be divided into two groups: approaches which are markedly different from the systems operated in the past either locally or in other countries, and approaches which rely on modern developments in social and other sciences to improve on existing systems. In the former group the two most significant examples are Scotland and South Australia; in the latter Japan, Mexico and India deserve special attention [4].

Beyond these innovations and improvements to systems which are essentially deviance-oriented, and which therefore always rely on a separation between " good " and " bad " (or " normal" and " deviant ") individuals, referring the latter to specialized processes and institutions, there is another and more fundamental alternative in which youth problems are handled without resorting to such a dychotomy, by strengthening or developing ordinary social structures and agencies (peer group; educational system). Deliberate efforts in that direction, with a resulting drop in the number of referrals to juvenile justice, are reported from a variety of countries (e.g. the Netherlands and Sweden). Some pilot work in that connection was conducted under the joint auspices of the National Board of Health and Social Welfare of Sweden and UNSDRI. A preliminary report on the Swedish inquiries is being considered for separate publication; UNSDRI attaches great importance to further work in this area.

While the basic objective of the various approaches described in this volume remains more or less the same in all the countries, the reports indicate that current trends in dealing with juveniles involve a differentiation according to

[4] A case can be made for Afghanistan and Indonesia as well. The 1969 Afghan law and the proposed Indonesian law draw greatly from the systems in Japan and India.

the age of the juvenile and the type of problem for which he is referred. Thus both the South Australian system and the Japanese system attempt to separate the juveniles of younger age brackets from the older. Similarly, both in the South Australian system and in the Indian (Delhi) system there is a conscious effort to separate the non law-violating juveniles from those who violate the criminal law.

While significant changes, both philosophical and systemic, have taken place during recent years in almost all the countries, their impact on various components of the system has not been consistent. The greatest changes seem to have occurred at the adjudication level, i.e. in the structure, function and methods of juvenile courts. Compared to them, new developments at the apprehension or treatment level appear to have been less frequent and significant. This is not to say, however, that no innovations have occurred in these areas. The juvenile liaison scheme in Scotland, the special police forces for juveniles in Japan and India, the Youth Project Centres in South Australia and the increasing use of child guidance clinics and community-based treatment programmes almost everywhere are ample evidence of a changing mood and concern.

Consistently with these changes, significant improvements have taken place in the manner and quality of record-keeping. There is evidence that information available on record is increasingly utilized to aid in decision-making. Also, officials and professionals in most countries were found to be keenly interested in learning about control and prevention mechanisms applied elsewhere.

Implications for Future Research

A number of inferences with regard to future research orientation, priorities and methods can be drawn from this background. A first conclusion is that scientific inquiry and the search for further changes and improvements in dealing

with juvenile problems should be continued at a cross-cultural level. While cultural peculiarities cannot be disregarded they do not, in a modern setting, justify an attitude of cultural exclusivity. Generally, the issue is not so much whether a given improvement is or is not fully consistent with the cultural or normative value systems in different societies, but rather whether these societies have the resource potential for implementing and if necessary adapting the improvements within their particular cultural matrix. Thus the purpose of research is not only to make available to the policy-and decision-makers knowledge necessary to increase the effectiveness of juvenile justice systems, but also to relate the proposed improvements to existing and potential resources available within the country. In that connection, it is not necessarily true that the inadequacy of resources — both manpower and financial — is an exclusive attribute of developing countries; it was found, for instance, that one of the developed countries covered by our survey was facing an extreme shortage of skilled manpower.

It can also be concluded that, if many of the processes of change and the improvements disclosed by our survey appear to have occurred in a haphazard way, without adequate knowledge or awareness of past experience and of the overall context in which they are intended to operate, future research should first of all attempt to fill that gap by providing decision-makers with adequate information on overall system performance, flows and needs. This should include an assessment of the operation and potential of non deviance-oriented social structures and agencies in coping with youth problems — particularly the educational system (cf. above, p. 248). Against such a background it will then be possible to conduct evaluative research not only at the systemic level, but also with regard to specific improvements or innovations — especially those which have already been implemented as pilot experiments, or in a different country or setting.

In line with these considerations, we believe that future cross-cultural research on juvenile maladjustment and justice should give priority to:

i) in-depth systemic descriptions and assessments (the Naples study, Chapter 7 above, constitutes a valuable core model for this type of research); the descriptions should include trend data over time, and be subjected to a multi-system comparative analysis;

ii) the identification and description of promising innovations and system improvements, including non deviance-oriented approaches; it will be particuarly important to capture the dynamics of such innovations and improvements, and the factors which promoted or inhibited change;

iii) the development of evaluative research models to assess system and particularly sub-system improvements and innovations; these research models should on the one hand be compatible with the available data basis and realistic time parameters, and on the other hand take into account the multiple (and often conflicting) objectives relevant at systemic and sub-systemic level, whether they be explicit or implicit.

A structured outline of future juvenile research considered by UNSDRI is attached as Appendix B to this chapter.

SURVEY GUIDE

A. GENERAL COMMENTS

1 Purpose and Scope

The preliminary UNSDRI/WHO programme, designed for completion by mid-1975, is intended to set the stage and to develop appropriate methods for long-term cross-cultural research on the various ways in which society copes, or may cope, with various types of juvenile maladjustment and deviance. It is proposed to begin this in 1974 by preliminary surveys in several countries. These surveys will be conducted by local research teams, but UNSDRI and WHO will co-ordinate their efforts and, where required, provide assistance to the field teams.

The present survey guide represents a general model proposed to the country teams. While it is not expected that each preliminary country survey will cover all the proposed issues, or follow identical methods of inquiry, it is nevertheless hoped, by suggesting a basic model, to achieve a substantial level of comprehensiveness and comparability.

2. Focus

Although the purpose of the long-term research is to examine the entire juvenile justice system and all types of juveniles referred to it, the preparatory study will focus on identifying various categories of juveniles

appearing before the system, viz. categories within the delinquent group and categories within the non-delinquent group. By and large, the delinquents form a clear-cut group of subjects who, through their behaviour, have violated certain laws. Nevertheless, whithin this group there are those whose unlawful behaviour is trivial compared to others. It is, however, the non-delinquent group which not only constitutes the bulk of referrals to the juvenile justice and comparable specialized administrative bodies, but also the categories of juveniles in this group are less defined. This group includes such diverse categories of juveniles as maladjusted, out of control, irregular, dependent, in need of special care and protection, etc. It is also the group in which improvements and alternatives to traditional juvenile justice systems appear most needed and most feasible. It may in fact be hypothesized that juveniles comprised in this large group are not fundamentally different in personality and behaviour from their peers; their referral to juvenile justice often denotes the inability of the social environment to cope with their problems (problems which, in other settings or in more affluent social classes, are dealt with by approaches other than juvenile justice), or an over-estimation of the treatment potential of the juvenile justice system by families and the public in general.

3. Type of Research

We have enumerated in Part B of this memorandum the principal areas of descriptive information needed for an understanding of the system and of actual or potential improvements to it. Some of this information will be available from official records, from the literature or from other secondary sources. Other information may require original research. In all instances, however, it is suggested that for the preparatory study the research teams begin with a scanning of available literature and by an informed opinion survey. Beyond this, data gathering methods and research approaches may vary from country to country, depending upon the availability of records and other relevant conditions. The UNSDRI/WHO staff will be available for consultations in that connection, and will whenever necessary visit with the country teams

4. Area of Research

It is realized that it will in most instances not be possible to conduct the country surveys on a national scale. It is therefore proposed to focus the main research on one or two representative areas: the pilot study conducted in Naples (cf. 5 below), for instance, was conducted in the area of jurisdiction of the Naples juvenile court. The proposed surveys may, in fact, produce two types of data: firstly some general descriptive and quantitative data relating to the entire country, and some more specific information (comparable to that obtained in the Naples pilot study) relating only to one or two selected areas. The information content in the preparatory study will be only so much as would help in the selection of country and development of the basic model for the long-term cross-cultural research.

5. Pilot Studies

Two UNSDRI sponsored studies are currently underway and may be considered in terms of their relevance to the preparatory study. It is not expected, however, that the preparatory study in the countries proposed will be a replica of these pilot studies. As may be seen, the Naples pilot study has a broader scope and covers a larger substantive area than the planned preparatory study. The value of these pilot studies lies not as much in serving as a model for the preparatory study as in aiding the development of a basic model for the long-term research.

a) *In-depth assessment of the current juvenile justice system in Naples (traditional juvenile justice*

pattern, which includes a very large number of juveniles referred to it as "socially maladjusted", "out of control" or "in need of special care and protection").

b) *A survey of innovatory approaches in Scandinavia: in collaboration with local experts, UNSDRI is examining selected programmes and their specific objectives, and will seek to assess the degree to which these objectives are attained.*

B. Proposed Issues for the Preparatory Study

1. General Descriptive Data

It is proposed to collect data under the subtitles listed below. Emphasis will be on collecting sufficient data, not necessarily in depth, so as to enable us to examine the possibilities of carrying out the steps suggested under items 2, 3 and 4 below. It is not planned in this preparatory study to select elaborate samples. However, in order to pre-test instruments to be developed for the long-term research, small samples from various categories will be chosen at a later stage of this preparatory study

1.1 *Description of the juvenile justice system*

a) *at normative level (substantive and procedural laws and regulations);*

b) *at organizational level (manpower, tools, institutions, etc.);*

c) *at practice level.*

1.2 *Relevant demographic data on the survey areas (census, sample surveys, informed guess, etc.)*

a) *relevant characteristics of the entire population of the area*

b) *relevant characteristics of individuals defined as juveniles by the system.*

1.3 *Case-flow during a specified period*

a) *from intake to disposition of the case with all possible distinctions related to the different categories of subjects;*

b) *from disposition to release from the system, according to different types of measures, particularly institutionalization.*

2. Clinical Profile of Juvenile Justice Populations (personality; mental health)

2.1 *Sample: several types of samples are suggested for this clinical analysis:*

a) *a representative sample of juveniles presently committed to institutions* [1];

b) *a representative sample of juveniles treated by means of measures other than institutionalization* [1] *(if any);*

c) *a representative sample of juveniles released from institutions, preferably 5 years prior to the date of the present study* [1];

d) *a representative sample of juveniles who have been subjected to non-institutional measures, preferably 5 years prior to the date of the present study* [1].

2.2 *Issues for the clinical survey*

2.2.1 *For the first two sample groups it is proposed to focus the clinical examination on mental health aspects. More specifically, this would involve assessment of the*

[1] *Among the variables to be taken into account in constructing the sample are: age, sex, socio-economic background, type of behaviour which led to the referral, length of time already spent in institutions, estimated length of the remaining period of the present commitment, etc.; for samples* b), c) *and* d) *length of treatment or institutionalization.*

mental state at the moment of institutionalization (or alternative measures), and of the impact of institutitionalization on the mental health of the juveniles, including reactions to the adopted measures, to the execution of such measures, and the consequent changes in their personality. (The WHO team is preparing a document on this topic).

3. Social Context

3.1 *Sample: same juveniles as* 2.1 *(possibly subsample); their referral sources.*

3.2 *Issues for the sociological survey*

3.2.1 *Impact of referral (for samples 2/3/4: social, occupational and school reintegration).*

3.2.2 *Tracing of real (not only formal) source or sources of referral for each individual in the samples. (We can assume that a majority of the referrals stem directly from the families).*

3.2.3 *Reasons for referral:*

a) *what were the problems posed by the juveniles as perceived by the juvenile himself and by his referral sources, and*

b) *why has the referral source selected the channel of juvenile justice instead of making recourse to other societal controls.*

4. Perceptions

How do the operators of the system (judges, social workers, treatment personnel) perceive its functioning, efficacy and impact, and how do the juveniles themselves perceive it ?

For the preparatory study, it will be enough to formulate a set of questions which should try to obtain

certain basic information necessary for the preparation of a detailed instrument.

5. Innovatory Approaches

5.1 *Description of innovatory approaches for coping with juvenile maladjustment or deviance, either within the existing system or by alternative systems; specific objectives of each programme; have these objectives been obtained ? What is their significance in the general context of the juvenile justice system ?*

5.2 *Description of innovatory approaches suggested or under consideration in each country.*

The word " innovatory " is used in a broad sense. A programme may be considered innovative in one country and not in another. For example, in a given country side by side with a juvenile court another body viz. Child Welfare Board, is planned to be set up for certain categories of juveniles. The concept of Child Welfare Board is not innovative but for the country envisaging such a scheme it may be a new idea.

A FOLLOW-UP RESEARCH PROPOSAL

(Elaborated by UNSDRI staff, 1975) *

Introduction

Much of the research on control of juvenile misbehaviour, maladjustment and delinquency has tended to focus on specific phenomena and their etiological aspects. Other studies have attempted to evaluate particular control programmes in terms of success or failure. By contrast, the functioning of juvenile justice as a system, and its real capability to serve a positive social role in preventing and controlling juvenile maladjustment and deviance has received little systematic attention.. The proposed research is intended to fill this gap by providing a systemic description and analysis of juvenile justice in certain cultures.

A pilot survey conducted by UNSDRI and WHO in 1973-1975 in several countries demonstrated this need for further systemic analysis. While it revealed similarities and differences in the structure of the system in various countries, it also suggested that an analysis of the actual operation of these systems had to refer to a series of decision-making processes, decision points, types of decision options, kinds of decision resources, and the characteristics of decision-makers.

---

* *UNSDRI wishes to express its gratitude to Professor Harvey Brenner, Professor Paul Lerman and Dr. Saleem Shah for their valuable advice and assistance in the drafting of this proposal.*

Such an analysis must, of course, take account of the fact that systems as well as procedures and programmes are often derived from other cultures. Not only in the field of juvenile justice, but in development in general, there is a tendency to borrow without adequate regard to the consistency of the borrowed institution with values, needs and traditions of the receiving country and, on a more practical level, without considering the availability of manpower and other resources.

Objectives of the Study

The proposed research would make an initial effort to compare approaches in different cultures, and to examine critically the entire process of handling problem juveniles. The goals would be:

1) *To describe and analyse the juvenile justice system and to identify its components in selected cultures.*

In most of the countries covered by our pilot survey substantial descriptive information has already been obtained. It seems necessary, however, to supplement it by specific data on:

a) *the resources actually or potentially available in the particular community for prevention, treatment and rehabilitation, and generally for coping with juvenile problems;*

b) *profile of the population referred to the system or diverted from it;*

c) *direct cost of the operation of the system: manpower; training; operational and capital costs;*

d) *due process and human rights safeguards, and their implementation;*

e) *methods used for screening juveniles;*

f) *involvement of, and collaboration with non-deviance oriented institutions or agencies;*

g) *type and amount of information available on the operation and impact of the system;*

h) *mechanisms for ensuring accountability;*

i) *community perception and acceptance of the system. This is an important subject of investigation, specially relevant to the viability of change and improvements. But while the proposed research would be expected to generate specific hypotheses and suggest follow-up studies, it would not focus on this area except as time and local resources might permit.*

2) *To identify and specify critical points of decision by accurately describing decision processes, operating criteria, and rates of decision flow within and between components of the total system — from a national and cross-cultural perspective.*

Although ideally decisions taken outside the juvenile justice system (e.g prior to referral to it) should also be included, practical considerations suggest that this research be in the main limited to decision points within the system — i.e. ranging from referral and the point of first contact to the moment of discharge.

Identification of critical decision points would begin with the obvious decisional moments in the system. Often a simple decision point, e.g. the police, involves more than one critical decision. Routine filling out of a variety of forms at the police level may signify multiple — and possibly conflicting — decisions: for example, a patrolman may record information on one form and the station officer may use another.

The analysis of processes would focus, inter alia, *on:*

a) *legal as well as non-legal bases for decision-making;*

b) *whether decision-makers know what resources are available for a particular type of measure, and extent to which their decisions are influenced by this;*

c) *education and training of decision-makers;*

d) *express decisional criteria and system goals;*

e) *rôle perceptions and individual goals of operators.*

We propose to consider both crime rates and system rates in the analyses of flows. The volume of crime and delinquency in a given jurisdiction is computed on the basis of the number of known incidents per unit of population. When data is available age-, sex-, crime-, and neighbourhood-specific rates are also established. But these rates do not necessarily reflect the actual flow to or within the criminal or juvenile justice system. We believe that the measurement of such flows, a true description of the functioning of the system at various levels, and an assessment of its effectiveness would have to consider also system rates. The basis for computing such rates is the total number of referrals to the system. Starting from the clearance rate, i.e. the ratio of crimes solved to crimes known to the police, apprehension rates, juvenile detention rates, processing rates, release rates and reabsorption rates would appear as system rates (see Methods of Data Collection). The police is used only as an example, especially in situations where they are the first point of contact.

3) *To identify and analyse in a cross-cultural setting some common problems and promising innovations, and to explore the conditions under which information or operational experience can be transferred.*

It is hoped that the results of this research would also:

a) *help to fill the information gap and provide interested citizens with a more informed view of the ways in which juvenile justice is administered in their own and other countries;*

b) *help administrators of the juvenile justice system to acquaint themselves with the functioning and output of the various stages of the juvenile justice process in their own country, and help them to understand the*

functioning of structurally similar systems in different socio-cultural settings;

c) *provide a factual basis for international organizations (including the United Nations) and bilateral programmes to improve the quality of the advice or technical assistance which may be sought from them;*

d) *help to develop and improve methods for informational ability, accountability and monitoring of the system.*

Methods of Procedure

A. Definitions and Clarifications

The kinds of agencies and intervention mechanisms which function under the umbrella of juvenile justice systems present variations as well as similarities between cultures. While in the United States such agencies may include the police, juvenile courts, social service divisions of state governments, training institutions and services, the system recently introduced in Scotland includes sheriff's courts, reporters, children's hearings and police juvenile liaison schemes. In Scandinavia it includes child welfare councils. Japan has established a three-tier system of juvenile referrals: the police, the family courts and the child guidance clinics, with ancillary programmes and services. The Mexican system similarly relies on a variety of agencies.

For the purpose of the proposed research, it seems desirable in principle to adopt a broad definition of " juvenile justice system ". Thus, the term " system " would include all special referrals, adjudicatory and treatment mechanisms concerning non-adult deviance, regardless of whether their ostensible nature was legal/adjudicatory, welfare or health services or educational. This definition suggests that the juvenile justice system would include not only judicial authorities, police, institutions and ser-

vices dealing with juveniles, but also administrative boards dealing with special categories of juveniles; informal mechanisms used to cope with them may, if significant, also be included.

The special nature of the juvenile justice system hinges both on the type of clientele and on the nature and goals of the intervention mechanisms; these need further clarification.

As regards the type of clientele the definition must refer not only to special categories of juveniles but also to age groups. The age groups considered are those of non-adults. Because of the cross-cultural variations of the borderline between youth and adult, we do not propose a universal age limit. Although how the age limit for a non-adult is determined is itself an important issue for investigation, for the purposes of the proposed research the statutory definitions will be taken as given. It should be noted that in some countries (e.g. Japan) a further distinction is made within the non-adult subjects in terms of a younger and an older age group; this differentiation is reflected at all stages of the system.

Even if there are some differences in the definition of situations which warrant a special intervention (e.g. delinquent acts, maladjusted behaviour, need for care and protection), in general the following categories of subjects are channelled to the system:

A) 1) *Offenders who have committed acts which if committed by adults would be crimes, and who are dealt with as such by the juvenile justice system* [1].

2) *Juveniles who have committed acts which if committed by adults would be crimes, but who are* not *dealt with according to the procedures specifically designed for offenders. Both the concept of de-penalization, as*

[1] *In some systems there are certain limited exceptions according to which juveniles who have committed very serious crimes (e.g. murder) with full cognizance, are diverted from the juvenile justice system to the adult system and dealt with as normal criminals.*

well as current discriminatory practices in the system, could be responsible for such differences.

B) *Non-offenders who have not violated any penal law but are maladjusted, i.e. whose behaviour, although not of a nature warranting penal action, does not conform to the accepted pattern of youth behaviour or to general societal expectations, or who are out of control, i.e. whose parents or guardians are unable to guide their conduct, truants, etc.*

C) *Non-offenders, who are neglected, destitute, dependent, mentally ill or defective, in need of special care and protection, and who are subject to procedures different from those used for offenders.*

As regards the " type of intervention mechanisms ", we are concerned with referrals, adjudication and other types of measures designed specifically to be applied to the categories of juveniles described above. In some countries (e.g. The Netherlands, Scandinavia) the current trend seems to be to refer to juvenile justice primarily Category A cases, or even only serious offenders.

In the majority of systems, referrals include also the last two categories, i.e. those which, by hypothesis, may often be increasing in number and importance as a result of general social, cultural and economic dislocations (e.g. disintegration of extended family structures, geographic mobility, inter-generation and value conflict).

The key to our proposed research is the analysis of the decision-making process at various levels. This, we believe, will provide a more significant and comprehensive description of the functioning of the system. Identification of critical decision points would be relatively easy, though often a decision is not based on only one individual's judgement: besides possible legal and non-legal considerations, recommendations from specialists may also have to be taken into account. A case in point could be the decision of an intake agency: disregarding for a moment the location of such an agency in the system, we have observed in the pilot survey that, at least in prin-

ciple, intake agencies are generally composed of specialists from various disciplines, viz., education, psychology, psychiatry, etc. Since the availability of decisional resources naturally affects the quality of decisions made, determining for instance the ratio of specialists to clients, we propose to examine the actual availability of expertise at various stages of the decision-making process; it would be equally important to consider the education and training of specialists, as related to the requirements of their actual rôle.

Assessment of existing and backup resources for a particular type of measure is another crucial issue in our research. For example, if children should be placed on probation, are there resources available to ensure a careful probation supervision? If not, does this discourage recommendations for probation that would otherwise be made? Similarly, if the police decide to release a child without referring him to the court, does this imply that for that particular child the normal societal responses are adequate? Or simply that the system is too congested or overloaded to deal with him?

B. Research Sites

It is proposed that the research be carried out simultaneously in a few selected countries. Although the mapping of the juvenile justice system in each country would require nation-wide data, the focus of the proposed research would be on urban settings — in principle two, one large and one small or intermediate, in each country. This emphasis is dictated by the fact that the political decisions and innovative trends are often based on urban experience.

C. Research Methods

The juvenile justice system consists of several organized parts or sub-systems, primarily police, courts and corrections. We have observed that variations exist within

the system in different countries, though the sub-systems are not independent of each other. In principle, what each of these does, and how it does it, has a direct effect on the work of the other. It is evident that the juvenile justice process must be viewed as a continuum — a progression of events — ranging from referral, hearing and adjudication to treatment, release, probation, and so on — and that it involves many decision points. In a schematic but oversimplified representation of this process the referral agency promptly brings the juvenile to an appropriate hearing body, e.g. a juvenile court; the juvenile court hears the case and makes a decision, and the juvenile then receives the disposition. In actual fact some cases proceed in this way, while others may follow a different course. It is thus possible that the processing of a case may stop after referral or after hearing. The factors which influence processing are a matter for investigation.

Chart 1 illustrates the processing of certain categories of juveniles in Japan[2]*. Unlike a criminal justice system, a system for juveniles is often rendered more complex by differences in procedures for various categories of juveniles. The Japanese system presented in Chart 1, for example, relates only to juveniles who are over 14 and under 20 years of age and who have committed an offence; there is at least one more set of procedures dealing with all children of 14 years or under and all " pre-offence juveniles " of over 14 and under 20 years of age*[3]*.*

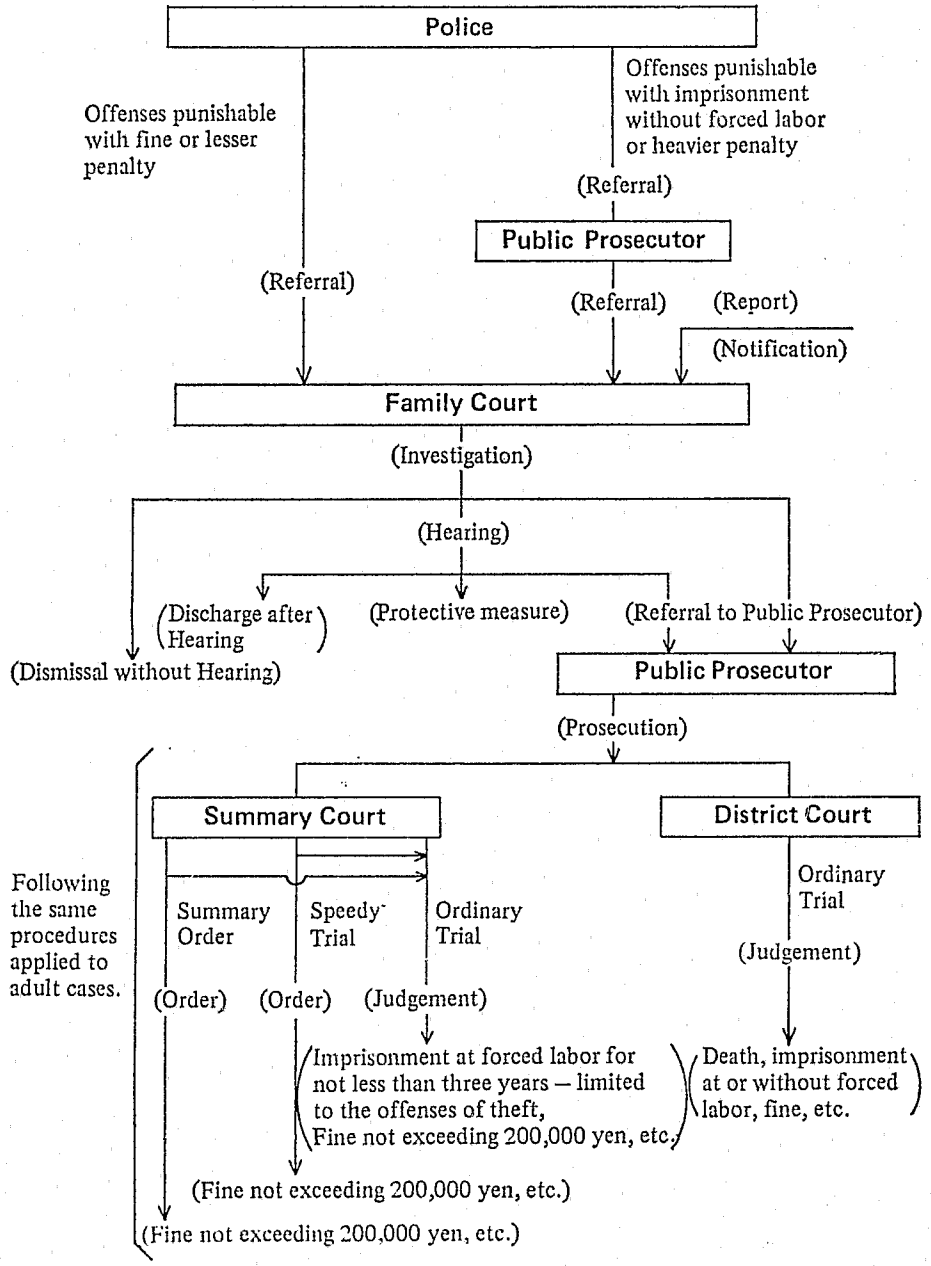
---

[2] *The choice of Japan was made because its system is both modern and comprehensive. Similar charts can be produced for other countries covered by the pilot survey.*

[3] *"A 'pre-offence juvenile', under the Japanese Law, is one who is deemed likely to commit an offence or violate criminal law or ordinance in future, in view of his character or environment". The Juvenile Law (Japan) 1948, article 2.*

OUTLINE OF PROCEDURES

Chart 1. Present Juvenile Law



The following methodology is suggested to explore further the working of the system in line with the goals of the proposed research:

1. Description of the system

The information obtained in the pilot survey would be completed by referring to existing literature, legislative and administrative mandates, and other official documents. The pilot survey has in fact produced fairly detailed descriptions of the structure of the system as recommended in legislation; but due to time and resource limitations, it was not possible to obtain sufficient data on the differences between legislative prescription and practice. The analysis of decision processes and the proposed interviews with system operators would be particularly useful to identify and analyse such differences.

It has been observed that in several countries certain juveniles are diverted to the adult system because of the seriousness or nature of their law violation. As Chart 1 shows, the Family Court can refer certain cases back to the public prosecutor. Similarly, in the new Scottish system, not all juveniles are referred directly to the Reporter for Children's Panel hearing: a certain number are referred to the public prosecutor who in turn may refer them either to the Sheriff's court or to the Reporter; some may be referred by the Reporter to the Sheriff, or by the Sheriff back to the Reporter. It seems esssential that a description of the juvenile justice system should include such cases, and reflect generally the relationship between this and the adult criminal justice system.

2. Critical decision points and decision-making processes

A series of steps are proposed to obtain information in this connection.

Analysis of case records

Some of the obvious decision points are identified in Chart 1. Broadly speaking they intervene at three levels

— police, Family Court and Public Prosecutor. For the purposes of this study decision points within each of these levels will be identified. For example, the police often weigh information and use criteria on the basis of which a case is referred to the next stage. (Note, however, that the Japanese police do not have any discretionary power: once a child is taken in charge by the police, he must be referred to the Child Guidance Clinic, the Family Court, or the Public Prosecutor.) However, decisions are not necessarily made just before referral to the next level. When a case is prepared for filing to the court, there may emerge differences — sometimes conflicts — between the patrolman who takes charge of the juvenile and the station officer who authorizes the referral. The definitions and criteria used to designate a juvenile as a law violator or a pre-offender often overlap; there is therefore a reasonable probability of differing interpretations.

At the Family Court level, it is always the judge who records a formal decision. But before reaching this decision, he examines the report on social and medical or psychiatric investigation submitted by a group of professionals. It seems important to observe how and on what considerations this group of professionals arrives at a particular recommendation to the court. Similarly, there are decisional moments related to a particular offence or problem between the time a juvenile enters a treatment programme, his release on aftercare or parole and his final discharge from the system. Thus, we assume that from entry into and exit from the system there are a number of critical decisions. Identification and analysis of the moments and processes involved will, we believe, produce a more accurate picture of the functioning of the system.

To identify these details we propose to examine the case records of a sample of juveniles in each system. In order to ensure that time between the research and the final report is minimal, we propose to use a prospective as well as a retrospective cohort approach for different samples.

As stated earlier, the system covers a period from entry to exit which is often quite long, and may in many cases exceed the duration of the proposed research. Thus, if we decided to follow only a prospective cohort approach, we would not be able to analyse decision processes for this cohort in the final release from the system. Keeping this in mind, we have opted to use a prospective cohort approach for a sample selected at the point of entry and followed through the stage when the juveniles are assigned to various treatment or correctional programmes. A retrospective cohort approach would be used for a sample selected from juveniles undergoing treatment measures, and followed through to their final discharge.

Since it is planned to concentrate the proposed research in two urban locations in each country, the case records to be analysed would pertain only to those who are inhabitants of these locations. Thus juveniles referred to the systems in these locations and transferred outside their jurisdiction at any stage during the entire process, would be excluded from this research.

i) Prospective cohort — *It is proposed, in each country, to select and analyse the case records of approximately 1000 boys and girls referred to the juvenile justice system; the actual number might, however, vary from country to country. Also, the distribution of cases in two specific urban locations would be determined according to population size and characteristics and number of referrals. The cases would be selected at the point of entry for a one-year period. Since the time taken between entry and treatment assignment is often substantial, however, we would presumably not be able to capture all the decisional moments of the sample selected during the latter part of the year. To deal with this problem we propose to compute average time taken in the procedures between these two points from a sample of the previous year's cases and, where appropriate, we would follow this sample for an additional period of time; we would assume that, barring exceptional delay, this additional period might amount to approximately three months.*

It is possible that seasonal variations in referral might occur. Samples would thus be selected from each month's referrals. Similarly, variations might occur at the police precinct level. Efforts would be made to identify such variability at whatever level it occurred. The sample would also include cases diverted to the criminal courts. The point of first contact with the system often varies among as well as within countries. We propose to capture cases from various points of first contact through appropriate sampling procedures.

We do not plan to make a special selection of cases from categories presenting specific behavioural or situational problems, but would draw our sample from all cases referred to the system. However, it is our intention to discover differences in the decision-making process by subject, decision-maker, and problem characteristics.

ii) Retrospective cohort — *This approach is proposed to cover long-term processes — treatment; parole; aftercare — which might escape observation if we limited our research to a prospective cohort observed over a relatively brief period of time.*

In each country we would select and analyse the case records of a sample of juveniles released from institutional or non-institutional treatment during a one-year period. The actual number would be determined in function of the total number of releases. We would consider release as the moment when the subject physically left the institution, or whenever supervision was treminated.

Methods of Data Collection

It is proposed to use the following methods of data collection:

a) Case records — *supplemented by questionnaires. A check list of items will be prepared to cull information from case records. Ideally it would be desirable to ask various system agencies to record informaiton on forms prepared for the study. This, however, would involve*

duplication of work for the system operators. We propose to use the check-list method and ask the investigators to record as much information as available. The missing information will be obtained with the help of supplementary questionnaires.

b) *Interviews — two types of structured interviews are planned:*

i) *Interviews with decision-makers on selected individual decisions (e.g. police officers, judges or welfare personnel, members of the intake and investigation branch, and other sources of referral within or — in appropriate cases — outside the system). From the case records we would identify decision-makers and interview individuals who made the actual decisions. We are aware that while this would be possible for the prospective sample, the retrospective sample may present problems.*

ii) *Focussed group discussions on a number of issues connected with the decision-making process. The number of groups would correspond to the number of decisional moments, and the number of individuals in each group would depend upon the number of persons participating in the particular decision-making process.*

c) *As a supplement to the analysis of the decision-making process, we would examine the flow of cases. In flow analysis, attempts would first be made to examine what proportion of the known cases enter the juvenile justice systems. This would be an impressionistic estimate rather than an accurate measurement. We presume, and our pilot survey tends to confirm, that there exists in some countries certain welfare organizations and other informal systems which extend their services to needy juveniles. Such organizations may be discharged prisoners aid societies, family welfare organizations, societies for the prevention of cruelty to children, charity organizations, etc. If such services were found to exist, the proposed research would identify them. If their activities*

were found to be significant, suggestions would be made to examine them in future work.

Maladjustment and delinquency rates would be computed for specific locations. But special efforts would be made to analyse system rates[4]*. These rates would provide us with information on how well the system as a whole had performed. Among the system rates to be considered are, for example, apprehension rates, juvenile detention rates, processing rates, release rates, reabsorption rates, etc.*

Apprehension rates refer to the first official action by appropriate personnel of the system. These rates "can be determined once the procedure exists for estimating the actual number of processable acts"[5]*. Depending upon the point of entry into the system, these rates have to be determined separately for police agencies, courts, child welfare boards, etc. Similarly, processing rates refer to the vast range of potential decisions concerning disposition. e.g. station adjustment, probation intake, court disposition. Each of these decision points will yield a processing rate that expresses the proportion of persons dealt with in a particular fashion by the system.*

The number and variety of system rates may vary from country to country and would correspond to the critical decision points to be identified during the course of the proposed research. System rates would be able to provide meaningful basis for the cross-national comparison of flows.

Beyond the information obtained in the pilot survey (e.g. the chart presented on page xviii, which is admittedly incomplete) a comprehensive system model specifying stages, functions and decisional agencies would have to be developed as a framework for the analysis and comparison of flows in the various countries covered by the research.

It is also proposed in the flow analysis to consider whether a decision made at one stage would have consistent consequences later: for example, the extent to which "taking into custody" might be followed by a particular decision pattern in subsequent stages of the process.

[4] *For details, see Klein, et. al., "System Rates: An Approach to Comprehensive Criminal Justice Planning"*, Crime and Delinquency, *Vol. 17, No. 4, October 1971, pp. 355-372.*

[5] *Ibid, p. 363.*

3. Identification of Promising Changes

It may be expected that any significant changes, improvements or innovations would be identified in the course of the system description; in particular, information about the location of the innovations in the system would emerge from the data obtained with regard to objective 2. Further inquiries to determine origins and dynamics of change (with special reference to developmental processes, time-frame and transposability) as well as the potential rôle of the particular innovation or improvement in the total system, would be conducted on an ad hoc *basis with the respective field research teams.*

CONTINUED

APPENDIX C

LIST OF CONTRIBUTORS AND CORRESPONDENTS

INDIA

Mr. S. D. Gokhale, Executive Secretary
Mrs. N. K. Sohoni, Social Scientist
Indian Council of Social Welfare
175 Dadabhai Naoroji Road
Bombay, 400 001

JAPAN

Mr. M. Shikita, Deputy Director
UN Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders
Fuchu, Tokyo
Mr. S. Tsuchiya
Research Institute
Ministry of Justice
Tokyo

SCOTLAND

Professor F. H. McClintock
Mrs. M. McIssac, Research Associate
Department of Criminology
University of Edinburgh
Edinburgh

AFGHANISTAN

Mr. M. A. Kakar
Mr. M. A. Payam
Ministry of Justice
Kabul

FRANCE

Mr. B. Poullain
Judge assigned to the Central Administration of the Ministry of Justice
Paris
Mr. L. Cirba, MA

INDONESIA

Lt. Col. Soeharyono
Secretary, Co-ordinating Board for the Implementation of Presidential Decree No. 6 (1971)
Jl. Senopati I/51
Kebayoran Baru, Jakarta

ITALY

Professor A. Paolella
Department of Legal Medicine
University of Naples
Naples
Mr. V. Esposito, Judge
Ministry of Justice
Rome

MEXICO

Lic. L. Ruiz de Chavez P.
Instituto de Investigaciones Sociales
Universidad Nacional
Coyoacan 20, D F.

S. AUSTRALIA

Mr. I. S. Cox
Director-General
Department for Community Welfare
Adelaide

USSR

Mr. G. M. Minkovsky, associated with
The All-Union Institute for the Study of the Causes and Elaboration of Measures for the Prevention of Crime
Moscow

UNSDRI Project Staff:

Peider Könz, Director
Giuseppe di Gennaro, General Consultant
Satyanshu Mukherjee, Research Expert responsible for the Project
Lawrence Christy
Kerstin Elmhorn
Eduardo Vetere

Printed by UNSDRI - Via Giulia, 52 - Rome

CONTENTS

		Page
Introduction		9
CHAPTER 1	The Juvenile Justice System in India	15
CHAPTER 2	The Juvenile Justice System in Japan	55
CHAPTER 3	The Juvenile Justice System in Scotland	83
CHAPTER 4	Afghanistan: Notes on the Juvenile Justice System	129
CHAPTER 5	France: Notes on the Juvenile Justice System	141
CHAPTER 6	Indonesia: Notes on the Juvenile Justice System	175
CHAPTER 7	Italy: Methodology of a Pilot Study on the Operation of the Juvenile Justice System in Naples; a Progress Report	183
CHAPTER 8	Mexico: Notes on the Juvenile Justice System	189
CHAPTER 9	South Australia: Notes on the Juvenile Justice System	199
CHAPTER 10	USSR: Effectiveness of Treatment Measures and Problems of the Typology of Juvenile Delinquents	221
CHAPTER 11	Methodology of the UNSDRI/WHO Pilot Survey, and Implications for Follow-up Research	243
APPENDIX A:	Survey Guide	*i*
APPENDIX B:	A Follow-up Research Proposal	*ix*
APPENDIX C:	List of Contributors and Correspondents	*xxvi*

END

7 [illegible]